Victor-Yves Ghebali, Alexandre Lambert (Eds.)

Democratic Governance of the Security Sector beyond the OSCE Area: Regional Approaches in Africa and the Americas

Geneva Centre for the
Democratic Control of Armed Forces
(DCAF)

LIT

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(Bibliographic information here)

Contents

IV.   **Conclusions**

List of Tables

Preface

The present book which results from a research project commissioned by the Geneva Centre for the Democratic Control of Armed Forces (DCAF) addresses the prospects for security sector reform and governance regimes, in particular the democratic civilian control of armed forces, beyond the region of the Organisation for Security and Cooperation in Europe (OSCE). Its objective is to assess to what extent norms, principles and procedures inspired from the relevant OSCE experience have been (or are being) set forth outside the Euro-Atlantic and Eurasian areas. The volume does not, however, examine the question whether the overall OSCE model may be "exported" to other world regions, but rather explores how other world regions approach the same issues and to what extent these approaches "beyond the OSCE area" are in line with, overlap, or contradict the OSCE approach.

In Sub-Saharan Africa and the Americas, leaders have clearly endorsed the concepts of human security/democratic security and started to address security sector governance issues at regional (continental) and sub-regional levels. Compared to this, the Asia-Pacific and Middle East regions still lag behind in addressing democratic security sector governance through multilateral channels, as their mutual relations are firmly based on the principle of non-interference in the internal (security) affairs of other states. Accordingly, the regional contexts in Africa and the Americas have been retained as two case study clusters. Six experts were requested to address a number of basic questions:

- What are the traditional roles played by military, paramilitary and security forces in Africa and the Americas?
- What significant change did the end of bipolarity introduce there?
- Do Latin American and African security services still play a significant political role?
- Are there States having adopted or are about to adopt norms for the regulation of domestic democratic civil-military relations?
- Did the States establish, at regional or sub-regional levels, some human security/democratic security commitments, arrangements and mechanisms?
- Has the trend towards security sector reform been initiated by domestic impulses or under pressure from external international actors?

–   What are the existing obstacles for the development of multilateral and/or sub-regional regimes?
–   To what extent do counter-terrorism activities entrusted to military and security forces slow down or even hamper the implementation of effective and democratic security sector reforms?

The book is structured in four parts.

In Part I, *Victor-Yves Ghebali* provides an introductory presentation of the overall security model of the OSCE.

Concerning Sub-Saharan Africa, Part II offers three contributions respectively analysing the Pan-African approaches to civilian control and democratic governance ('*Funmi Olonisakin*), the relevance of the 2000 Solemn Declaration on the Conference on Security, Stability, Development, and Cooperation in Africa (*Ajodele Aderinwale*) and, against the background of the 1994 OSCE Code of Conduct on Politico-Military Aspects of Security, the genesis, substance, present status and potential of the 2002 Draft Code of Conduct for Armed and Security Forces in Africa (*Adedeji Ebo*).

Devoted to the tenets and challenges of security sector reform in the Americas at continental, sub-regional and domestic level, Part III includes three contributions analysing the normative contents and implementation of the 2001 Quebec City Plan of Action (*Céline Füri*), the 1995 Central American Framework Treaty on Democratic Security (*Rut Diamint*) as well as a particular element of the Guatemalan Peace Accords: the 1996 Agreement on the Strengthening of Civilian Power and the Role of the Armed Forces in a Democratic Society (*Bernardo Arévalo de Leon*).

Finally, in part IV, *Alexandre Lambert* takes a global perspective on security sector governance by drawing a comparative assessment of the regional approaches in the OSCE area, Africa and the Americas.

The Editors
Geneva, June 2007

Acronyms

ACS	Association of Caribbean States
ANC	African National Congress
APRM	African Peer Review Mechanism
ARF	ASEAN Regional Forum
ASEAN	Association of South-East Asian Nations
ASSN	African Security Sector Network
CBMs	Confidence-Building Measures
CFAC[1]	Central American Armed Forces Conference
CONDECA	Central American Defence Council
CSBMs	Confidence- and Security-Building Measures
CSCE	Conference for Security and Cooperation in Europe
CSCM	Conference of Security and Cooperation in the Mediterranean
CSSDCA	Conference on Security, Stability, Development and Cooperation in Africa
DCAF	Democratic Control of Armed Forces
DDR	Demobilisation, Disarmament and Reintegration
ECOMOG	ECOWAS Cease-Fire Monitoring Group
ECOSOCC	African Union's Economic, Social and Cultural Council
ECOWAS	Economic Community of West African States
EU	European Union
FLACSO[2]	Latin American School for Social Sciences
HCNM	High Commissioner on National Minorities (OSCE)
IADB	Inter-American Defence Board
LTMs	Long Term Missions (OSCE)
MINUGUA	United Nations Verification Mission in Guatemala
NATO	North Atlantic Treaty Organisation
NDI	National Democratic Institute (USA)
NEPAD	New Partnership for African Development
OAS	Organisation of American States
OAU	Organisation of African Unity
ODECA	Organisation of Central American States
ODIHR	Office for Democratic Institutions and Human Rights (OSCE)

OECD	Organisation for Economic Cooperation and Development
OSCE	Organisation for Security and Cooperation in Europe
PARLACEN[3]	Central American Parliament
PfP	Partnership for Peace (NATO)
SADC	Southern African Development Community
SALW	Small Arms and Light Weapons
SICA	System of Central American Integration
SSG	Security Sector Governance
SSR	Security Sector Reform
TMSDCA[4]	Central American Democratic Security Framework Treaty
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNREC	United Nations Regional Centre for Peace and Disarmament in Africa
WACSOF	West African Civil Society Forum

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[1] Spanish Acronym for *Conferencia de las Fuerzas Armadas Centroaméricanas*.
[2] Spanish Acronym for *Facultad Latinoamericana de Ciencias Sociales*.
[3] Spanish Acronym for *Parlamento Centroamericano*.
[4] Spanish Acronym for *Tratado Marco de Seguridad Democrática en Centroamérica*.

PART I

INTRODUCTION

Chapter 1

Security Sector Governance
in the OSCE Region and Beyond

Victor-Yves Ghebali

Introduction

In the dawning 21st century, European security problems are subject to two
kinds of approaches – geographical and geopolitical. The Council of Europe
(which includes all the States of the Continent, except Belarus, i.e. 46 units)
and the European Union (whose membership is now constituted by 25
members) represent the major institutional settings at geographical level. In
addition, NATO and the Organisation for Security and Cooperation in
Europe (OSCE) proceed from a geopolitical approach. While the former
reflects the transatlantic link (Europe's political bonding with North
America), the latter offers a unique forum combining a Euro-Atlantic with a
Eurasian dimension: OSCE's "Europe" refers to a region encompassing not
only the whole Continent up to the Caucasus, but also North America and
the former Soviet Central Asia. Since the 1970s, this "Greater Europe" has
demonstrated an outstanding creativity in security concepts, mechanisms and
arrangements of a "politically-binding" nature through the instrumentality of
the Conference of Security and Cooperation in Europe CSCE (CSCE), or
Helsinki Process – retroactively re-baptised OSCE as from 1 January 1995[1].
Hence a basic question: to what extent could norms, principles and
procedures inspired by the relevant CSCE/OSCE experience be relevant in
other regions of the world?

The OSCE Security Paradigm

Standing at the nexus between NATO, the European Union and the Council
of Europe, the OSCE occupies a specific niche where it performs four basic
functions: security dialogue, standard-setting and monitoring of
commitments, assistance for democratisation and, last but not least, conflict

management[2]. It can be portrayed as an organisation that implements a comprehensive security programme by means of a cooperative security approach.

Comprehensive security. When the CSCE was founded on the basis of the 1975 Helsinki Final Act, it was attributed an agenda consisting of three so-called "baskets" respectively related to politico-military, economic and "humanitarian" – but actually human rights – issues. The baskets (today referred to as "dimensions") were conceived as forming an interdependent and indivisible package which, as such, required parallel and balanced progress. However, no text referred to a formal concept of comprehensive security until the 1992 Helsinki Summit Declaration. In that document, the CSCE participating States specified that comprehensive security "relates the maintenance of peace to the respect for human rights and fundamental freedoms" and "links economic and environmental solidarity and cooperation with peaceful inter-State relations"[3]. In 1999, the Istanbul Charter for European Security reaffirmed that "the human, economic, political and military dimensions of security" must be addressed "as an integral whole".[4] It also specified that "the link between security, democracy and prosperity has become increasingly evident in the OSCE area, as has the risk to security from environmental degradation and depletion of natural resources" and that "economic liberty and social justice and environmental responsibility are indispensable for prosperity"[5]. Admittedly, comprehensive (or global) security does not appear a fully original concept since the Charter of the United Nations enshrined, as early as 1945, such a regime. Nevertheless, the OSCE can be credited for having been the first *regional* organisation offering and implementing a comprehensive security programme.

Cooperative security. By contrast, cooperative security is a more original brand. The OSCE arrived at it through the sophistication of "common security", a concept coined by the Independent Commission on Disarmament and Security Issues (Olof Palme Commission). In its final report delivered in 1982, that Commission argued that, in a bipolar nuclear world, security based on deterrence and mutual assured destruction could only lead to Armageddon and that instead of being played as a zero-sum game, it should be conceived of as an indivisible cooperative endeavour bringing equal benefits to all the actors involved.[6] After bipolarity came to an end, the OSCE endorsed that approach under the label of "cooperative security" and applied it first to its politico-military dimension, before extending it to the economic and human dimensions. Thus, in the Helsinki Decisions 1992, the participating States expressed willingness to develop

"new security relations based upon cooperative and common approaches to security" and established a new specialised body for that purpose: the Forum for Security Cooperation.[7] Two years later, in the Code of Conduct on Military Aspects of Security, they recognised that "security is indivisible", pledged "[not] to strengthen their security at the expense of the security of other States" and concluded that their mutual security relations were based upon a "cooperative approach".[8] Through the Budapest Decisions 1994, they acknowledged that the OSCE was contributing to "cooperative security" in its geopolitical area.[9] Finally, in 1999, the Istanbul Charter for European Security confirmed that the participating States were building their mutual relations on "the concept of common and comprehensive security".[10]

Despite all these pronouncements, there is no OSCE-agreed definition of cooperative security. However, the approach excludes confrontation, hegemonic behaviour and unilateralism, while prescribing equal partnership, confidence, mutual accountability, solidarity, preventative action, self-restraint and military transparency[11]. Cooperative security entails a regime of soft collective security which by definition rules out coercion and promotes preventative diplomacy as a privileged form of action. At the same time, it subsumes a legitimate right of "friendly interference" in internal affairs.[12] Indeed, under the Moscow Document on the Human Dimension of the CSCE (1991), the participating States agreed that the human dimension commitments constitute "categorically and irrevocably" a "source of direct and legitimate concern" to all governments which, as such, do not pertain exclusively to the internal affairs of any concerned State.[13] As a matter of principle, gross or systematic violations of OSCE basic commitments by any participating State are not to be followed by sanctions or even public allocation of blame.[14] Rather, they generate offers of assistance aimed at helping the concerned state to redress a situation that, given the rationale of the indivisibility of security, is detrimental to itself and to the whole community of OSCE participating States. Since the aim is not to interfere but to maximise security at the global level, it is implicitly assumed that assistance offers are not supposed to be rejected. The concept of cooperative security is certainly attractive. Its Achilles heel is that it presumes goodwill and permanent good faith from States. In the absence of cooperation (as, for example, Russia in Chechnya or Belarus and Turkmenistan concerning their human rights record), such an approach is inevitably ineffective.

As a comprehensive and cooperative security organisation, the OSCE has displayed creativity in three main fields:

Conflict management. The OSCE engaged in conflict management only as from the autumn of 1992. For that purpose, it created two tailored-made instruments with no counterpart elsewhere: the High Commissioner on National Minorities (HCNM) and Long-Term Missions (LTMs). Currently considered OSCE's major "success story", the HCNM represents an instrument of a specialised nature mandated to act solely for preventative purposes and to address just a particular category of conflicts – those involving ethnic minority issues.[15] By contrast, LTMs, are entitled to intervene at all phases of the conflict management cycle and tackle conflicts of whatever nature. The concept emerged pragmatically in the autumn of 1992 out of a concern to avoid the spillover of the Yugoslav conflict. Soon after, the format was applied in the Caucasus (Georgia, Chechnya), Central and Eastern Europe (Estonia, Latvia, Ukraine and Moldova), Central Asia (Tajikistan), as well as South-Eastern Europe (Albania, Bosnia and Herzegovina, Croatia, Macedonia, Serbia and Kosovo). Furthermore, a number of LTMs – called "Centres" (in Uzbekistan, Kazakhstan, Turkmenistan, Kyrgyzstan), "Offices" (in Belarus, Armenia, Azerbaijan) or just "Missions" (in Serbia and Montenegro) were established for non-conflict management purposes – to assist States in matters pertaining to the three dimensions and, especially, to sustain democratic institution-building.[16] The LTMs established for conflict management purposes perform activities related to the categories of the United Nations' *Agenda for Peace*: preventive diplomacy, peace-making (conflict resolution) and peace-building, the major exception being peace enforcement – an avenue naturally prohibited for a cooperative security organisation. It is to be noted that peacekeeping is a type of activity performed by the OSCE, but not acknowledged as such. The OSCE did venture into actual peacekeeping through such activities as cease-fire monitoring, policing, border monitoring, etc. The Kosovo Verification Mission (1998-1999) performed as a kind of peacekeeping operation – without the name. Finally, as an integral part of UNMIK, the OSCE Mission in Kosovo (established in 1999) is involved in peacekeeping in the generic sense of that term. [17]

Politico-military dimension of security. In this framework, the OSCE addresses issues pertaining to arms control (arms transfers, non-proliferation, chemical weapons, anti-personnel landmines, small arms and light weapons, and stockpiles of ammunition), confidence and security-building measures, as well as security sector governance.[18] The OSCE texts adopted in the field of arms control concern conventional weapons with a sole exception: the 1993 Principles on Non-Proliferation. Globally considered, they define three different kinds of politically-binding

obligations: reporting on ratification processes of the relevant international instruments, exchange of information on actual transactions and policies, and technical assistance to States facing security risks related to stockpiles of conventional ammunition. The OSCE also coined the genuine concept of military "Confidence-Building Measures" (CBMs) through the 1975 Helsinki Final Act. The 1986 Stockholm Document expanded the concept into military significant and verifiable "Confidence- and Security-Building Measures" (CSBMs).[19] A subsequent instrument, the Vienna Document on CSBMs, adopted in 1990 and successively updated in 1992, 1994 and 1999, developed the existing Stockholm arrangements and established brand new measures whose package now represents the most sophisticated regime of the OSCE politico-military dimension.[20] Offering a large set of arrangements, the regime provides for information-oriented, communication-oriented, constraining and crisis management CSBMs, as well as mandatory on-site verification by means of observation, inspection and evaluation. The information required by the Vienna Document is channelled through an "OSCE Communications Network" linking the capitals of practically all of the participating States. Compliance with CSBMs as well as all OSCE politico-military commitments is regularly examined and discussed in the framework of the Annual Implementation Assessment Meeting (AIAM), the body responsible for implementation matters since 1991.

Human dimension. The concept of a "human dimension" is a typical OSCE product. It formally appeared in the Vienna Concluding Document (1989), an instrument adopted at the acme of *perestroika*, in order to merge into a single whole the Helsinki Final Act's human rights and "humanitarian" (freer flow of persons, information and ideas) commitments. Since the collapse of Communism, it has considerably expanded, going well beyond standard human rights. At present, it represents a massive and complex network of commitments including the panoply of fundamental human rights and freedoms (freedom of religion, expression and information, security of persons, etc.), the protection of vulnerable groups (national minorities, refugees and displaced persons, victims of trafficking in human beings, etc.) and the promotion of the rule of law (free and fair elections, impartial functioning of justice, prevention of aggressive nationalism, racism, chauvinism, xenophobia, anti-semitism, ethnic cleansing, etc.).[21]

Through the lens of the human dimension, the OSCE also appears as a unique intergovernmental organisation whose participating States are *committed* to conducting free and fair elections and subjecting them to international monitoring. Adopted in the aftermath of the the downfall of the

Berlin Wall, the 1990 Copenhagen Document on the Human Dimension of the CSCE offers a comprehensive list of criteria for the conduct of democratic elections.[22] A special institution, the Office for Democratic Institutions and Human Rights (ODIHR) operates as the leading regional body for election monitoring while providing electoral assistance and democratisation-building services, and championing (by means of a dedicated "point of contact") the rights of Roma and Sinti. The human dimension also performs watchdog functions on freedom of the media through an office run by a special Representative.

The OSCE Norms and Activities in Security Sector Governance

The concept of Security Sector Reform (SSR) focuses on the challenges that the State faces in the current use of the instruments of force that it disposes of to protect itself and its citizens, as well as in the dysfunctionalities of its relevant security institutions due to inefficiency, lack of professionalism, inadequate regulations, corruption or human rights violations.[23] The security sector encompasses core structures such as armed forces, police, paramilitary forces, presidential guards, intelligence and military and civilian security services, coastguards, border guards, customs authorities, reserve or local security units. It also includes security management and oversight bodies (the Executive, national security advisory bodies, legislature and legislative select committees, ministries of defence, internal affairs, foreign affairs and other ministries as well as civil society organisations), justice and law enforcement institutions (the Judiciary, justice ministries, prisons, criminal investigation and prosecution services, human rights commissions and ombudsmen) and, finally non-statutory security forces such as private body-guard units, private security companies and political party militias[24]. As it is directly linked to effective government authority, the concept is also currently referred to through the label "Security Sector Governance" (SSG).

SSG issues permeate all OSCE's dimensional and cross-dimensional activities. Fundamental for an Organisation whose workings proceed from the premise that the security of States and the security of their citizens are mutually reinforcing, they are equally crucial for conflict management activities (in particular peacebuilding) since there could be no sustainable stabilisation of a post-conflict society without good governance and rule of law. Furthermore, strong democratic institutions contribute to the prevention and combating of transnational threats, risks and challenges such as organised crime, terrorism and all sorts of illicit trafficking. Regrettably,

however, the OSCE does not address SSG frontally, but piecemeal – through norms and activities related to the democratic control of armed forces, border management and policing.[25]

Democratic control of armed forces. In an effort to update the 1975 Helsinki Decalogue, while at the same time encouraging the former communist States to develop democratic civil-military relations, the OSCE framed a Code of Conduct on Politico-Military Aspects of Security whose Sections VII and VIII establish a regime for the democratic control of armed forces. The instrument refers to five specific categories of armed forces: "military forces", "paramilitary forces", "internal security forces", "intelligence services" and "the police", without providing either definitions for any of them or hinting at a specific model for an "objective" or a "subjective" type of civilian control over the military – the standard distinction established, in 1957, by Samuel P. Huntington[26]. Nevertheless, the concept of "military forces" (regular army forces) is the basic concern of a regime coherently based on the primacy of constitutional civilian power at all times over military power, the subjection of armed forces to the norms and prescriptions of international humanitarian law, the respect of the human rights and fundamental freedoms of the armed forces personnel, and the democratic use of armed forces in the performance of internal security missions. The Code also contains provisions obliging States to determine military capabilities through national democratic procedures (§ 13) and prescribing transparency and publicity for defence and military expenditures with, however, an important additional element: the "exercise [of] restraint in military expenditures" (§ 22). Another provision calls upon governments to "ensure that [their] defence policy and doctrine are consistent with international law related to the use of armed forces, including in armed conflict, and the relevant commitments of this Code" (§ 35). Finally, the Code stipulates that "Each participating State will maintain only such military capabilities as are commensurate with individual or collective legitimate security needs, taking into account its obligations under international law" (§ 12).[27] The Code's implementation is briefly evaluated in the yearly sessions of OSCE's Annual Assessment Implementation Meeting. Since 1999, the OSCE participating States have also been bound to submit annual reports, in standardised format, on the status and actual implementation of the Code at their respective national level.[28]

Border management. Since 1998, the OSCE has performed a number of projects in several participating States in the Caucasus, Central Asia, Eastern and South-Eastern Europe whose security sector is poor or dysfunctional, and conducted border monitoring operations in the framework

of its conflict management activities in Macedonia, Albania and Georgia.[29] Border issues within the OSCE are tackled through a cross-dimensional and inter-institutional approach, with a small team of experts (established within the Conflict Prevention Centre since 2003) serving as a coordination focal point. The team provides, upon request, advice and assistance in the reform of the training system of border services. OSCE's interventions aim at promoting best practices of humane border management, cooperation between national border services (e.g. in the sharing of migration information) and institutional reforms (including the professionalisation and demilitarisation of border services). The issue of border management received fresh impetus after the 9/11 terrorists attacks. At the Maastricht Ministerial Council Meeting (2003), the OSCE participating States adopted a Strategy to Address Threats to Security and Stability in the 21st Century whose § 35 acknowledged the need to address challenges arising from the interconnection between terrorism and organised crime through, *inter alia*, the elaboration of an "OSCE Border Security and Management Concept".[30] The latter was formally adopted in 2005, at the Ljubljana Ministerial Council Meeting.[31]

Police reform and training. In 1998, the OSCE agreed to take over the monitoring of police activities in the Danube area of Croatia, viz. the area hitherto administered by UNTAES (United Nations Temporary Administration in Eastern Slavonia)[32]. The participating States soon afterwards realised the importance of monitoring local police activities in the framework of conflict management, in particular at the stage of post-conflict rehabilitation.[33] In 1999, through § 44 of the Istanbul Charter, they decided to involve the OSCE in civilian police monitoring, police training (including for anti-trafficking purposes), community policing, formation of a multi-ethnic police, etc. They also acknowledged that the development of democratic and professional police forces could not take place in the absence of political and legal frameworks within which the police could perform its tasks in accordance with democratic principles and the rule of law – that is to say independent judicial systems able to provide remedies for human rights violations as well as advice and assistance for prison system reforms (§ 45). Subsequently, the Bucharest Ministerial Council Meeting (2001) decided to strengthen the capacities of the OSCE to provide on request technical assistance on police matters to its participating States. It also recommended the holding of regular meetings of police experts from national agencies and specialised universal and regional organisations. Finally, it tasked the Permanent Council with reviewing annually OSCE police-related activities

on the basis of a special report to be annually submitted by the Secretary General[34].

By the end of 2002, the OSCE Secretariat was endowed with a *Strategic Police Matters Unit* (SPMU). The Unit now disposes of eight international staff members (including a Senior Police Adviser as head) who respond to frequent requests from participating States for assessing policing needs and planning. The SPMU experts are active in several OSCE field missions. The list of the policing activities of the OSCE[35] is as follows:

Caucasus: Armenia (creation of a modern police emergency-response system in Yerevan; implementation of a community policing model in one of the districts of Yerevan; support to the training centre for new police recruits). *Azerbaijan* (joint formulation with the Ministry of the Interior of an assistance programme for the training of police recruits; implementation of a community policing model; enhancement of the drug investigation capacity through analytical support). *Georgia* (preparation of a concept of operations and timetable for a Ministry of the Interior reform plan).

Central Asia: Kazakhstan (thematic technical assessment of criminal intelligence analysis). *Kyrgyzstan* (assistance programme for improving the quality of police investigations and police capacity for drug prohibition; setting up an efficient police emergency call-response centre; establishing a national criminal information analysis system; providing a radio-communication system for police crime investigators; improving the police's capacity to manage public conflict and disorder; introducing of community policing methods at a pilot site and expanding the curriculum of the National Police Academy). *Tajikistan* (border police assessment envisaged, but postponed following the launching of the European Commission's Border Management for Central Asia programme). *Uzbekistan* (training in investigation techniques and related criminal procedures and legislation; development of a Chair of Human Rights Studies).

South-Eastern Europe: Macedonia (recruitment and training of new police cadets selected from the ethnic Albanian minority; assistance to the police in the former crisis regions to exercise executive authority). *Croatia* (assistance to the Ministry of the Interior on recruitment, options for restructuring cross-border cooperation, witness-protection, management of ethnic incidents and hate crime, co-ordination of donor programmes and community policing). *Kosovo* in the framework of UNMIK (renovation and re-equipment of the Kosovo Police Service School; introduction of international professional police standards, human rights and modern techniques to cope with domestic violence, human trafficking and community policing). *Serbia and Montenegro* (development of a professional police service; coordination of international assistance to police reform in Serbia; creation of a multi-ethnic police element in Southern Serbia's municipalities of Presovo, Medvedja and Bujanovac).

The Influence of the OSCE Experience on Other Regions

Once established in 1975, the CSCE (or Helsinki Process) operated against a background of widespread Western public scepticism stemming from the conviction that the USSR would never live up to the Helsinki Final Act prescriptions. However, the fall of the Berlin Wall vindicated the OSCE overnight: to the Helsinki Process was attributed much of the credit for the collapse of Communism and voices began to suggest the application of its institutional and programmatic model to other regions of the world[36]. Hence the project of a Conference of Security and Cooperation in the Mediterranean (CSCM) jointly launched by Italy and Spain in 1990. The project did not materialise[37]. Indeed, the Helsinki model was unfit for a still non-peaceful region. During the Cold War period, the CSCE played no peace-making role in Europe, but one of peace consolidation through a package of political, military, economic, cultural and human rights confidence-building measures. Its initiation and successful operation became possible only after a number of preliminary major political breakthroughs took place: recognition of the German Democratic Republic, reconfirmation of the quadripartite status of Berlin, admission of the two German States at the UN, etc. Comparable basic conditions did not exist in the Mediterranean.

The failure of the CSCM project was compounded by the development, within the CSCE, of a "Partners for Cooperation" status. Given the direct interest displayed by many non-European countries vis-à-vis the pan-European process, the CSCE granted partnership status to most of the States of the Mediterranean basin, and also to some Asian States. Initially, the CSCE process did include a token Mediterranean component reflected in the Helsinki Final Act's provisions on "Non-participating Mediterranean States" (Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria and Tunisia). In 1993, under US pressure, the OSCE removed from the list three of them (Syria, Libya and Lebanon) and later on established the formal status of "Mediterranean Partners for Cooperation" for the others.[38] In addition, the CSCE attributed a status of "Partner for Cooperation" to Japan as early as 1992 and extended it successively to South Korea (1994), Thailand (2000), Afghanistan (2003) and Mongolia (2004).[39] Under the partnership status, the Mediterranean and Asian Partners participate as observers in OSCE's official meetings and conferences. Noticeably, and in sheer contrast with standard observers, they are allowed to join OSCE's election observation missions and even to second personnel to field missions[40]. Furthermore, the Partners for Cooperation are called upon to voluntarily implement OSCE principles and commitments.[41] Regular

political dialogue is conducted in the framework of two dedicated informal "Contact Groups" composed of OSCE States and Vienna-accredited diplomats of the relevant countries[42]. The major interaction happens during yearly seminars, conferences or workshops (held in Mediterranean or Asia locales), where all involved countries share experiences and best practices.

Partnership status aside, the OSCE's experience in both the politico-military and human dimensions has had, to a certain extent, a bearing on the States of the American continent. As from 1994, special inter-American conferences led to the institutionalisation of some OSCE-type CSBMs (accompanied by political, diplomatic, educational and cultural-type CSBMs) in the Hemisphere. The Buenos Aires OAS Governmental Experts' Meeting on CSBMs (March 1994) developed an initial illustrative list of military and non-military CSBMs to be implemented on a bilateral, sub-regional and regional level. As a follow-up, the Santiago Regional Conference on CSBMs (10 November 1995) adopted a special Declaration calling *inter alia* for the gradual arrangement of OSCE-type measures such as advance notification of military exercises, exchange of information on defence policies and doctrines and invitation of observers to military exercises. The San Salvador Regional Conference on CSBMs (February 1998) identified additional CSBMs and advocated the institutionalisation of the dialogue on that issue. The Miami Experts Meeting on CSBMS (February 2003) offered a consolidated catalogue of over 50 military and non-military CSBMs and recommended the establishment of a permanent Forum for CSBMs. [43]

Furthermore, following the path opened by the 1991 Moscow Document on the Human Dimension of the CSCE, the OAS member States established, through the Inter-American Democratic Charter (2001), a mechanism for collective action in the case of a sudden or irregular interruption of the democratic political institutional process or of the legitimate exercise of power by the democratically-elected government in any member States. Art. 21 of the Charter stipulated that "when the special session of the General Assembly [of the OAS] determines that there has been an unconstitutional interruption of the democratic order of a member state, and that diplomatic initiatives have failed, the special session shall take the decision to suspend said member state from the exercise of its right to participate in the OAS by an affirmative vote of two-thirds of the member states in accordance with the Charter of the OAS" and that "the suspension shall take effect immediately".[44] The Charter also included standards for free and fair elections akin to those of the Copenhagen Document on the human dimension of the CSCE (1990). Its Art. 3 prescribed "the holding of

periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organisations, and the separation of powers and independence of the branches of government, collectively in defence of democracy".[45]

Africa provides an even more significant case. In 1990-1991, an endogenous NGO (the Africa Leadership Forum) organised, in collaboration with the Organisation of African Unity (OAU) and the United Nations Economic Commission for Africa (UNECA) gatherings of African people from governmental and non-governmental circles aimed at formulating guidelines for an African strategy in response to the emerging post-Cold War challenges. The participants advocated the initiation of an overall security process along the lines of that offered by the CSCE.[46] The Africa Leadership Forum also recommended governments to envisage CSCE-type CBMs: exchanges of information on troop locations and movement, joint military training, and joint studies and seminars on sub-regional and regional security.[47] However, it was not until July 2000 that the OAU member States achieved, at their Lomé Summit, consensus on a "Solemn Declaration" calling for a Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA).[48] In the same year, the African governments endorsed a Declaration on the Framework for an Organisation of African Unity Response to Unconstitutional Changes of Government.[49] At sub-regional level, the Parliamentary Forum of the Southern African Development Community (SADC) adopted, in 2001, Norms and Standards for Democratic Elections inspired by the election standards of the 1990 Copenhagen Document on the human dimension of the CSCE.[50]

As the regular intervention of the military in political life came to an end after the end of the Cold War in the American hemisphere and the African continent, *SSG normative commitments* have also emerged in both regions:

American continent. As early as 1995, the Central American Framework Treaty on Democratic Security paved the way for the concept of "democratic peace".[51] Combining democratisation, international security and internal stability issues, the concept advocated the need for an effective governance of the security sector. Echoing the OSCE's Code of Conduct, the Treaty prescribed that its Parties "establish and maintain at all times effective control over their military and public security forces by their constitutionally established civil authorities", to ensure that the latter "fulfil their responsibilities within this framework" and "clearly define the doctrine, missions and functions of those forces and their obligation to act solely in

this context"[52]; however, noticeably and by contrast with the OSCE's Code of Conduct approach, the Treaty introduced an economic development parameter linked to democracy and security issues. Later on, in the Declaration of Quebec City (April 2001), the Heads of State and Government of the OAS solemnly endorsed the principle of democratic civilian control over the security sector institutions at continental level.[53] The Action Plan annexed to the Declaration specified that "the constitutional subordination of armed forces and security forces to the legally constituted authorities (…) is fundamental to democracy".[54] In the OAS's Inter-American Democratic Charter (September 2001), they also confirmed that "the constitutional subordination of all state institutions to the legally constituted civilian authority and respect for the rule of law on the part of all institutions and sectors of society are equally essential to democracy"[55].

Although Latin American States have shifted from authoritarianism to more democratic regimes and notwithstanding the existence of sub-regional and continental commitments to the principle of security sector reform, no multilateral or partial regime for the security sector governance (or even just the democratic control of armed forces) has been developed[56]. On the one hand, such an incentive as admission to highly coveted institutions (viz. NATO/EU) is absent from the region – whose dynamics can hardly be compared to that of Europe; in addition to the hegemonic position of the United States, hemispheric political units have rarely displayed convergent security interests and no overall inter-American conflict has ever taken place. On the other hand, the military establishment in Latin America still has an appreciable *de facto* large degree of autonomy from the civil authority and continues to play some political role – a situation aggravated by the fact that the personnel of civilian governments generally lacks expertise in defence and security matters.

African continent. With the end of bipolarity, the issues of security sector reform and governance have gained increased recognition through a host of multilateral arrangements culminating in the New Partnership for African Development (NEPAD) and the Memorandum of Understanding of the Conference on Security, Stability, Development and Cooperation in Africa. Through NEPAD, launched in 2001, African governments pledged to promote sustainable security, development and good governance under the scrutiny of an "Africa Peer Review Mechanism". As to the CSSDCA's Memorandum of Understanding (2002), it committed them to adopting "the fundamental tenets of a democratic society", including "the subordination of the military to legitimate civilian authority"[57]. In the same year, as part of the reintegration process in the regular army of the armed forces which operated

during the Malian conflict (1990-1996), the United Nations Regional Centre for Peace Disarmament in Africa framed, with the participation of some government representatives, a *Draft Code of Conduct for Armed and Security Forces in Africa* presenting similarities (as well as differences) with OSCE's own Code of Conduct.[58] Although the text was forwarded to the African Union Secretariat, it has never been endorsed by governments and its status is just that of a working document. Several standing obstacles are hampering the emergence of a multilateral Code of Conduct: continued resistance from a number of governments to real domestic democratic change, poor technical capacities for the undertaking of an effective reform of the security sector, discrepancies between the priorities advanced by external donors and those actually pursued by African leaders, and finally, the backward effects of counter-terrorism activities entrusted to armed and security forces. This being posed, it would be wrong to conclude that the situation is entirely bleak. At least two positive factors should be taken into account: sub-regional dynamics and society's initiative role. The drafting of a West African Code of Conduct for Armed Forces and Security Services (WACOCAS), by the Economic Community of West African States (ECOWAS) and facilitated by the Geneva Centre for Democratic Control of Armed Forces (DCAF), represents one major manifestation of the relevance of a sub-regional approach. As to civil society, suffice it to mention here the role played by the African Leadership Forum in the conception and promotion of the Conference on Security, Stability, Development and Cooperation in Africa, and more specifically that of the African Security Sector Network (ASSN). Interestingly, sub-regional organisations and civil society also interact as demonstrated by the interface between the ECOWAS "Civil Society Coordination Unit" and the West African Civil Society Forum (WACSOF).

Those emerging SSG-related trends, in both the Americas and the African continents, are developed in detail in six contributions of this book.

Notes

[1]   OSCE's politically-binding commitments are not inferior to legally-binding ones. Both commitments are expected to be fully respected. For more details, see Peter Koojmans: "The Code and International Law", *Cooperative Security, the OSCE and its Code of Conduct*. Edited by Gert de Nooy. The Hague, Kluwer Law International, 1996, p. 34.

[2]   For more details, see Victor-Yves Ghebali: *The OSCE Between Crisis and Reform: Towards a New Lease of Life.* Geneva, Geneva Centre for the Democratic Control of Armed Forces, 2005, 22 p. (DCAF Policy Paper, No 10).

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[3]   Helsinki Summit Declaration (1992): § 21. In 1994, the OSCE Code of Conduct on Military Aspects of Security restated the concept along the same lines (§ 2).

[4]   Istanbul Charter for European Security (1999): § 9.

[5]   *Ibid*.: § 31.

[6]   *Common Security: A Programme for Disarmament. The Report of the Independent Commission on Disarmament and Security Issues.* London, Pan Books, 1982, p. ix.

[7]   Helsinki Decision 1992: § 15 of chapter V.

[8]   Code of Conduct on Military Aspects of Security (1994): §§ 3 and 4. See also the 1990 Charter of Paris for a New Europe (5th paragraph of the rubric "Friendly relations among participating States"), the Helsinki Summit Declaration of 1992 (§ 23), the Helsinki Decisions 1992 (§ 7 of chapter V) and the 1996 Lisbon Declaration on Common and Comprehensive Security Model for Europe for the Twenty-First Century (second sentence of § 7).

[9]   Budapest Decisions 1994: introductory sentence to chapter VII entitled "A Common and Comprehensive Security Model for Europe for the Twenty-First Century".

[10] Istanbul Charter for European Security (1999): § 9. The Charter associates the concepts of "comprehensive security" and "cooperative security" to those of "*common security*" and "*indivisible security*" (§§ 10 and 34).

[11] The Lisbon Declaration on A Common and Comprehensive Security Model for Europe for the Twenty-First Century (1996) affirms that the cooperative security approach "excludes any quest for domination" (§ 3) and also explicitly refers to "equal partnership", "solidarity" and "transparency" (§ 9).

[12] This argument is nevertheless being challenged by Russia since the 1999 NATO military intervention in Kosovo.

[13] Moscow Document on the human dimension (1991): ninth paragraph of the preamble. A comparable provision was included in the Helsinki Summit Declaration of 1992 (§ 8) and the Report of the 1991 Geneva Expert meeting on National Minorities (third paragraph of section II).

[14] The suspension of the Federal Republic of Yugoslavia from the OSCE in 1992 represented the only exception to the rule.

[15] For more details, see *Quiet Diplomacy in Action. The OSCE High Commissioner on National Minorities.* Edited by Walter A. Kemp. The Hague, Kluwer Law International, 2001, xvii-396 p. See also Victor-Yves Ghebali: "Le Haut Commissaire de l'OSCE pour les Minorités Nationales: Les Raisons Majeures d'un Succès Initial", *OSCE and Minorities. Assessment and Prospects. Edited by Stanislaw Parzymies.* Warsaw, Wydawnictwo Naukowe Scholar, 2007, pp. 174-194.

[16] For more details, see Victor-Yves Ghebali: "The OSCE Long-Term Missions: A Creative Tool under Challenge", *Helsinki Monitor*, Volume 15, No 3, 2004, pp. 202-219.

[17] Chapter III of the Helsinki Decisions 1992, whose substance was reaffirmed by § 46 of the Istanbul Charter, authorises the OSCE to conduct non-coercive peacekeeping operations of its own and also to mandate other European regional institutions to do so on its behalf. Up to now, the OSCE has not made formal use of such a facility. Although hammered out in all of its details by the OSCE, a pan-European peacekeeping operation aimed at deployment in Nagorno-Karabakh remained in limbo. For more details, see Victor-Yves Ghebali : "Les Opérations de Maintien de la Paix de l'OSCE – Une Pratique Au Coup Par Coup", *Guide du Maintien de la Paix* (Edited by Jocelyn Coulon). Quebec, Athena Editions, 2006, pp. 127-141. Text also available at: www.operationspaix.net.

18   Anti-terrorism measures are also part and parcel of the politico-military dimension. The *OSCE Strategy to address threats to security in the 21ˢᵗ Century* (MC(11).JOUR/2, Annex 3 of 2.12.2003), framed in response to the 9/11 terrorists attacks, aims at four major goals: elimination of the financing of terrorism, fight against all kinds of illicit trafficking (human beings, drugs, small arms, etc.), improvement of police forces performance and more effective border management.

19   For more details, see Victor-Yves Ghebali: *Confidence-Building Measures Within the CSCE Process: Paragraph-by-Paragraph Analysis of the Helsinki and the Stockholm Regimes*. New York, United Nations, 1989, v-107 p. (UNIDIR Research Paper No 3; Official Number: UNIDIR/89/14; Sales Number: GV.E.89.0.5).

20   For an analytical overview on the Vienna regime, see Zdzislaw Lachowski: *Confidence- and Security-Building Measures in the New Europe.* Oxford, Oxford University Press, 2004 (SIPRI, Research Report No 18) and Henning Spiess: "Vienna Document 1999: Review, Status and Perspectives", *The Politico-Military Dimension of the OSCE: Arms Control and Conflict Management Issues*. Edited by Victor-Yves Ghebali and Daniel Warner. Geneva, HEI/PSIO, 2005, pp. 65-107. The Vienna Document complemented by a distinct special "Global Exchange of Military Information" (GEMI) regime established in 1994.

21   For a compendium of those commitments, see *OSCE Human Dimension Commitments* (Vol. 1: *Thematic Compilation*; Vol. 2: *Chronological Compilation*). Warsaw, OSCE/ODIHR, 2005.

22   For more details, see Victor-Yves Ghebali: "Debating Election and Monitoring Standards at the OSCE: Between Technical Needs and Politicisation", OSCE Yearbook 2005, pp. 215-241 and "Free and Fair Elections", *Peacebuilding and Post-Conflict Reconstruction. A Practical Lexicon* (forthcoming, 2007).

23   *Security Sector reform and Governance. Policy and Good Practice*. Paris, OECD Development assistance Committee. 2004 (www.oecd.org/dataoecd/8/39/31785288.pdf).

24   *Ibid*.

25   They are also addressed through human dimension's activities related to judiciary reform, electoral legislation reform, media reform, national strategy against trafficking in human beings, promotion of gender equality (including the countering of violence against women) and anti-corruption measures.

26   Samuel P. Huntington in *The Soldier and the State. The Theory and Politics of Civil-Military Relations*. Cambridge, Belknap Press of Harvard University Press, New York, 1957, xiii-534 p.

27   This provision, obviously inspired from Article VI of the 1990 Treaty on Conventional Armed Forces in Europe (CFE) which sets forth a so-called "sufficiency rule" (fixing at approximately one-third the legal holdings of any single State Party in each of the five categories of the conventional armament and equipment limited by the Treaty within its area of application and which are the most relevant to launch a large-scale surprise attack), provided for the renunciation by the USSR of military domination in Europe.

28   The Code of Conduct constitutes Chapter IV of the *Budapest Decisions 1994*. For a comprehensive analysis of its contents and implementation, see Victor-Yves Ghebali & Alexander Lambert: *The OSCE Code of Conduct on Politico-Military Aspects of Security. Anatomy and Implementation*, Leiden/Boston, Martinus Nijhoff, 2005 xxi-428 p. HEI Series, No. 5.

29   Ranging from conflict prevention to peacebuilding, these activities concerned the monitoring of Albania's border during the Kosovo crisis of (1998-1999), Macedonia's northern border during and after the insurgency of ethnic Albanians (2001-2002), as well as Georgia's Chechen, Ingush and Dagestan border segments with the Russian Federation (2000-2005).

30   *OSCE Strategy to Address Threats to Security and Stability in the 21st Century*: § 35.

31   MC.DOC/2/05 of 6 December 2005. The OSCE has also launched, as a follow-up to the Ohrid Way Forward Document of May 2003, a Cross-border Cooperation Programme to address the most urgent needs of South-Eastern Europe at regional and sub-regional levels (OSCCP). Initial results of the OSCCP Programme: SEC.GAL/228/04/Rev.1 of 28 October 2001.

32   PC.DEC/239 of 25 June 1998.

33   On policing in the framework of peace-building activities, see the special issue devoted to that topic by *International Peacekeeping* (Volume 6, No 4, Winter 1999).

34   MC(9).DEC/9 of 4 December 2001. *Annual reports on police matters*: SEC.DOC/2/02/ Rev.2 of 12 December 2002 and SEC.DOC/2/04/Rev.1 of 11 June 2004. The first annual meeting of police experts took place in Vienna, in 2003.

35   Source: SEC.DOC/2/04/Rev.1 of 11 June 2004.

36   In fact the Helsinki process essentially contributed to undermining the Communist regimes in parallel with (as from 1985) the ripple effects of *perestroika*.

37   However, in 1995, the European Union created the Barcelona Process which, based on the general approach and methods of work of the OSCE, was to a significant extent a revamping of the CSCM project (http://ec.europa.eu/comm/external_relations/euromed).

38   PC.DEC/94 of 5 December 1995.

39   Notwithstanding a common formal status, the Partners for Cooperation are treated differently: while Japan enjoys a right of permanent access to OSCE meetings, all the other Partners are only invited on a case-by-case basis.

40   ODIHR.GAL/47/98 of 27 May 1998 (arrangements concerning election observation missions) and SEC.GAL/77/98 of 9 October 1998 (arrangements concerning field missions).

41   PC.DEC/571 of 2 December 2003. That decision was made as a development of §§ 23 et 51 the *OSCE Strategy to address threats to security in the 21st Century* (MC(11).JOUR/2, Annex 3 of 2.12.2003). The monitoring by the ODIHR of presidential elections in Algeria (April 1994), as well as presidential and legislative elections in Afghanistan (October 2004), are salient cases of OSCE outreach activities.

42   The Mediterranean and Asian Contact Groups were respectively established in 1996 and 2003.

43   For more details, see www.state.gov/t/pm/rls/fs/22249.htm   and also www.state.gov/ t/ac/csbm/amer/rd/oas/ (OAS CSBMs resolutions, 1996-2002).

44   For the text of the Charter, see http://www.oas.org/charter/docs/resolution1_en_p4.htm. The OSCE's Moscow Document only commits participating States to "support vigorously", in case of overthrow or attempted overthrow of a legitimately elected government of a participating State by undemocratic means, "the legitimate organs of that State upholding human rights, democracy and the rule of law…" (§17.2).

45   See also art. 23 to 25 which constitute, under the heading "Democracy and Electoral Observation Missions", Section V of the Inter-American Democratic Charter.

[46]   See http://www.sarpn.org.za/documents/d0001513/documents/Conference_CSSDCA_
       History.pdf

[47]   For more details, see http://www.state.gov/t/ac/csbm/af/ and Ian Spears: Confidence-
       Building Measures in Africa. International Security Bureau, March 2000
       (http://www.dfait-maeci.gc.ca/arms/africa/menu-en.asp).

[48]   AHG/ Decl. 4, XXXVI/(AHG/Dec. 150 XXXVI), July 2000. See also http://www.africa-
       union.org/Structure_of_the_Commission/depCsscda.htm.

[49]   AHG/Decl. 5, XXXVI/(AHG/Dec. 150 XXXVI), July 2000 (www.africanreview.org
       /docs/govern/govchange.pdf.). See also the Sirte (Libya) Summit's Solemn Declaration
       on a Common African Defence and Security Policy of February 2004 whose art. 11m
       refers to "Condemnation and rejection of unconstitutional changes of governments"
       (http://www.au2002.gov.za/docs/key_oau/au_act.htm).

[50]   Adopted by the SADC Parliamentary Forum Plenary Assembly at Windhoek (Namibia)
       on 25 March 2000, the *Norms and Standards for Democratic Elections* were updated in
       December of the same year. Text: http://www.eisa.org.za/PDF/sadcpf.pdf.

[51]   See OEA/Ser.G, CP/INF.2893/96, 13 February 1996 and
       http://www.state.gov/t/ac/csbm/rd/4368.htm.

[52]   Central American Framework Treaty on Democratic Security: art. 4.

[53]   OAS Declaration of Quebec City and Action Plan (2001): http://www.summit-
       americas.org/eng-2002/quebeccity-summit.htm.

[54]   Introduction to Chapter 4 of the Action Plan ("Hemispheric security").

[55]   OAS Inter-American Democratic Charter (2001): art.4.

[56]   However, at domestic level, a noticeable development took place through the Agreement
       on the Strengthening of Civilian Power and on the Role of the Armed Forces in a
       Democratic Society adopted as part of the 1997 Guatemalan Peace Accords
       (http://www.hartford-hwp.com/archives/47/140.html).

[57]   Paragraph B.14 of the CSSDCA's Memorandum of Understanding (www.iss.co.za/
       Af/RegOrg/unity_to_union/pdfs/au/G1_MoU.pdf).

[58]   See http://unrec.org/mcr/DRAFT%20CODE%20OF%20CONDUCT.pdf.

PART II

SECURITY SECTOR GOVERNANCE IN AFRICA

Chapter 2

Pan-African Approaches to Civilian Control and Democratic Governance

'Funmi Olonisakin

Introduction

The notion of institutionalised democracy in post-colonial Africa is relatively recent and far from taking hold in much of the continent. The practice of democratic control of the defence and security establishment is not only less recent, it is far less observed in the region. This contribution traces the development of African regional approaches to democratic governance, particularly of the security sector since the end of the Cold War. It argues that even though recent attempts to embark on democratic governance and control of the security establishment have been most often externally driven and engineered, there is a greater prospect of embedding this practice through "home-made", regionally driven and nationally sanctioned approaches and norms. Such efforts will however require a combination of inter-governmental and civil society efforts.

Inherited Trends in Civil-Military Relations and Post-Cold War Responses

In the immediate post-Cold War period, fewer than 10 of the 53 African States that made up the continental body, the Organisation of African Unity (OAU, now the African Union), could be described as possessing a semblance of democratic governance. In West Africa alone, of the 16 member States of the Economic Community of West African States (ECOWAS)[1], more than half were under military dictatorships or civilian authoritarian regimes. Governance in Africa presented at least two crucial features. The regular intervention of the military in political life was the first one. Interventions took place through direct rule by the military, often through coups d'Etat and counter coups. It also included indirect rule through a civilian authoritarian structure that relied on the military to entrench itself in power. Both forms of interventions entailed the politicisation of the military and the security establishments albeit to different degrees. Related to the first, the second feature of the governance of African States in this era was that the role of the military/security establishment was often limited to the defence of the regime's interests and its security rather than the security of the State: it was not unusual to find the entire security apparatus mobilised to fulfil these functions. This was the pattern of governance that prevailed in most of Africa, when the Cold War ended almost abruptly with the fall of the Berlin Wall in 1989.

Along with the new international order that replaced the Cold War system were a new conditionality and pressures for African States to democratise as the climate of the Cold War period, which encouraged support to client States regardless of their internal conduct, suddenly disappeared. Unlike the previous era, when African States received aid from their great power allies on the basis of their ideological stance, the new conditions for aid were good governance, accountability and transparency in African governance. The staging of multi-party elections was taken as the first step toward improving governance in these States, but in many cases it has been the only step taken, particularly by leaders resilient to change.

However, change in this context would not necessarily be peaceful. The end of bipolar rivalry opened the way for the pursuit of conflicts and tensions that had been locked within these authoritarian structures for several decades since African States gained independence in the 1960s. It was now possible to challenge regimes that had hidden behind the protection of erstwhile superpowers by pursuing ideologies suited to their backers to repress their populations or, at best, exclude the majority via the pursuit of

patronage systems. With the assistance of their superpower allies no longer forthcoming, it was now possible to bow to pressures for democratic change or for representative and accountable systems at home. This was compounded by pressures from abroad to reduce spending on the very structures through which these regimes entrenched themselves in power – the military and security establishment.

In the ensuing period from the early 1990s, change began to occur but it did not bring only positive aspects. In some States, peaceful transitions occurred (Mali, Benin). In other settings, old long drawn-out conflicts found resolution, most notably Namibia and Mozambique in the immediate post-Cold War period. Subsequently, apartheid structures were gradually dismantled in South Africa, leading to majority rule in 1994. However, change would come only by force of arms in other places, leading to civil wars in Liberia, Sierra Leone, the Democratic Republic of Congo – as well as the opening of old wounds in Central Africa (Burundi and Rwanda). In the Horn of Africa, a new war emerged between Eritrea and Ethiopia as the civil war in Ethiopia was finding resolution with Eritrea becoming an independent dominion. Thus, Africa was in turmoil with war zones created in at least one part of every sub-region. Nonetheless, for many this represented positive change from previous impenetrable structures that were not responsive to the demands of the majority. In other words, it was not without costs. Even so, some States remained rigidly dug-in in their bastions and old ideological frameworks.

Most significantly, the discourse shifted within many African States as well as within the regional and continental organisations. It was clear that new agendas and solutions would have to be found to address and respond to the deep challenges that had been brought to the fore with the ending of the Cold War. The widespread conflict and insecurity on the continent largely focused attention on peace and security issues – the root problem being, invariably, the failure to promote human development. Gradually, the types and levels of responses that emerged in the effort to address the crises occurring within African States and regions were driven by various actors and sources and they manifested themselves in a number of ways including multi-party elections, pressures for reduction in defence expenditure and security sector reform, conflict prevention as a policy response, support to institutionalise early warning in some regional organisations (e.g. ECOWAS and the African Union), as well as support and capacity for rapid response. A regime of democratic civil-military relations was becoming gradually discernable, particularly within certain national contexts although it will conceivably take a long time to achieve a region-wide regime for the reasons

discussed below. Clear movement toward democratic governance of the security sector is apparent in five types of contexts:

a) A situation of major transformation, as that in the post-apartheid context in South Africa. This perhaps represented Africa's best example of a home-grown attempt at democratic control of the armed forces.

b) Situations in which armed conflict has ended and a process of security sector reform or transformation begun as part of the negotiated settlement as seen in Sierra Leone and Liberia. This has often been externally driven and supported. It is noteworthy that while the ending of armed conflict presents perhaps the best opportunity to institutionalise a process of democratic control of the armed forces, it is not always a foregone conclusion as was the case in Liberia in 1996; there the implementation of the Abuja II peace accord did not lead to a reform of the security forces, which were in total disarray after seven years of war. The end result was the continuation of the cycle of conflict.

c) Situations linked to the ending of long-term authoritarian rule as was the case in Nigeria in 1999. In such processes, where a return to the drawing board did not occur as with collapsed States, much rested on the goodwill and commitment of the leadership.

d) Situations in which reform occurred as a natural part of the process of democratisation and overall governance reform – as was the situation in Mali, where relatively peaceful change occurred in 1990. It should also be noted that here security sector reform was not always a foregone conclusion as is the case in the Republic of Benin; there, despite some evidence of democratic change, the security sector reform has not been fully taken on board. This often betrays the depth (or the lack of) democratisation and the commitment of the leadership to reform.

e) Situations where reform has been largely driven by external actors, often with pressures from donor countries as seen in Rwanda and Uganda. The former conducted a threat assessment in response to donor pressures for a reduction of defence spending and argued that threats from its immediate borders and neighbourhood made such demands unrealistic. Uganda also began a defence reform programme in 2001. This was a culmination of external pressures and donor engagement with the government of Uganda to reduce defence expenditure.[2]

In other countries, the opportunity for reform simply did not exist. However, the first three contexts are inter-related. They illustrate the fact that a major (or sudden) change can create an opportunity not only for the reform of overall governance systems, but actually for the transformation of the way in which the security sector is governed and of civil military

relations. When changes occur, for instance following the death of leaders (General Sani Abacha in Nigeria, 1998; Laurent Kabila in the Democratic Republic of Congo, 2000; Gnassingbe Eyadema in Togo, 2005), it is possible that such opportunities are missed, as the case of Togo may prove. In many national contexts, there is still enormous resistance to change among the leadership and this is where external pressures and regionally driven processes become all the more important.

   Creating a Regime for Change. Many of the responses to the situation in Africa tend to be externally driven, but the internal change agents and processes have proven to be far more important for sustainable security and development in the region. Examples of externally driven efforts include, among others, *Poverty Reduction Strategy Papers* (PRSP) – which were introduced following what was regarded by many as the failure of the *Structural Adjustment Programme* (SAP) –, the demand for reduction of military expenditure to no more than four per cent of national budgets, and (more recently) *security sector reform* (including democratic control of armed forces). While the externally driven initiatives have often been challenged as exported ideals, which provide little opportunity for local ownership and therefore are not adequately adapted to local realities and conditions, many have nonetheless made significant contributions by opening up opportunities for dialogue albeit with little initial enthusiasm among a cross-section of Africans; they should not perhaps be expected to achieve much more than create a momentum for African dialogue and African-led processes.

   Arguably, responses to the challenges confronting Africa must begin at the level of ideas and must in large part be home-grown. Africans within national boundaries and as a collective whole must identify with the responses in order to take hold. The tangible progress realised and the emerging trends indicate that this is beginning to happen. There is recognition, for example, that the practice of democratic control of the military and security establishment will not gain ground and become acceptable culture unless a number of factors are present: a significant change in mindset among leaders at the national and regional levels, the creation of spaces for change and, finally, a grand alliance among people and their leaders which would open the way for the rebuilding of truly accountable and sustainable institutions of governance, not least in the security sector.

Emerging Normative Frameworks at Regional and Sub-Regional Levels

Current trends reveal that this desired outcome (sustainable democratic institutions) is no way near being achieved largely due to the fact that the initial preconditions mentioned above have not yet taken hold. This is visible in several areas. For example, while the culture of elections is gradually being institutionalised in more countries across Africa, we are yet to see corresponding institutional change, participatory processes, the creation of a viable opposition, among others. Indeed, there has been a tendency among many African governments to "instrumentalise" elections as a way of satisfying external constituencies such as bilateral and multilateral donors who demand this as a minimum condition for further provision of assistance. Thus, this further illustrates the impact of externally-driven processes when they are not accompanied by changed mindsets among leaders and ownership by a cross-section of local constituents.

However, the situation is not stagnant. Norms and processes of security sector governance emerge at the sub-regional and regional levels which provide the building blocks for this process of change. As stated earlier in this contribution, the driving force for this change is at the sub-regional level, although the national and regional processes are mutually reinforcing. Sub-regional powers are important as drivers of change and a critical mass of regional powers are a powerful force for change on the continent. This has been reflected in the responses to some of the region's security crises – the exit of Charles Taylor in Liberia, the response to the coups in Guinea-Bissau and Sao Tome and Principe, the unfolding developments in Togo, and the creation of key institutions such as the *New Partnership for African Development* and the African Union.

The experiences of West African leaders in Liberia in 1990 (and later in Sierra Leone and Guinea-Bissau) can be found at the root of the sub-regional drive for democracy and security in West Africa and Nigeria's leadership of the responses to these conflicts illustrates the "make" or "break" role of regional hegemons. When the ECOWAS Ceasefire Monitoring Group (ECOMOG) responded to the civil war and humanitarian crisis in Liberia, Nigeria was under military rule and this was indeed reflected in the way in which that country provided leadership to the mission. But more importantly, the experience of Liberia initiated a process of reform at the level of ECOWAS, which has gradually impacted some of its member States.

The evolution of a culture of collective security in West Africa has had as a significant component, the creation of a normative framework,

which presupposes democratic and good governance of the security sector. Beginning with a new ECOWAS Treaty (1993)[3] which highlighted democracy and the rule of law as a new framework, the Protocol for Conflict Prevention, Management, Resolution and Peacekeeping was adopted in December 1999, leading to a major restructuring of the ECOWAS Secretariat from 2000. Its supplementary Protocol on Democracy and Good Governance particularly highlights the principle of democratic governance of the security sector.

While the developments in West Africa have been some of the most innovative and most visible (perhaps also because of the magnitude of the crisis confronting the sub-region), there were evolving normative frameworks in other sub-regions. Indeed, the Southern Africa Development Community (SADC) set the scene also in the early 1990s when the end of the struggle against apartheid created the space to embark on long-term security and development. The original SADCC was transformed into the SADC[4] with a treaty that broke new ground. The new instrument went beyond requiring member States to give preeminence to democracy and the rule of law (with a provision allowing intervention in States in cases of unfolding humanitarian crisis): it provided for intervention where regimes flagrantly violate the rights of the local population. As these sub-regions were evolving a new framework for addressing the crises in their respective sub-regions, the continental body was also undergoing its own transformation and developing a new framework albeit at a relatively slower pace than in the sub-regions where unfolding events demanded rapid action.

OAU/African Union Response to Unconstitutional Changes of Government. As indicated earlier, the evolution of a regime of good governance and defence of democratic ideals on the African continent is the result of a legacy of mismanagement and policies of exclusion by authoritarian regimes. The vicious civil wars that resulted from this and from decades of unresolved conflict accelerated the process of change and the emergence of a new regime. The decision to condemn unconstitutional changes in government is a case in point. The OAU first took a position on unconstitutional changes, particularly through military coups to unseat a democratically elected government, in 1997 at its summit meeting in Harare, Zimbabwe, following the coup d'etat in Sierra Leone in which the Revolutionary United Front (RUF) rebels colluded with segments of the Sierra Leone Army to unseat President Ahmad Tejan Kabbah's regime. It condemned the coup and supported ECOWAS' efforts to address the resulting crisis in Sierra Leone. Nigeria did initially try to reverse (unsuccessfully) the coup and months later, in February 1998, a Nigeria-led

ECOMOG force defeated rebel forces following incidents in the capital city Freetown. This led to the reinstatement of President Kabbah in March of the same year.

The political position of the OAU on the issue of unconstitutional changes however set the tone for dealing with other situations on the continent. At its 35th Assembly of Heads of States and Government in Algiers on 8 – 14 July 1999, the OAU took an even stronger stance on the issue. It decided that member States whose governments were not returned to constitutional rule would not be allowed to attend the Summit of the following year. At the 36th Summit, in Lomé, Togo, on 6-12 July 2000, the Summit implemented the previous year's decision on unconstitutional changes. It agreed on a framework for an OAU response to unconstitutional changes of government.[5] As the Secretariat of the OAU reported, Côte d'Ivoire and the Comoros (recent offenders at the time) were not in attendance at that Summit.[6]

Indeed, the Declaration on the Framework for an OAU Response to Unconstitutional Changes, which emerged from the Lomé Summit in 2000, provided clarity on several issues – including articulation and reiteration of a common set of values and principles for democratic governance in member States, definitions of situations that could be considered as unconstitutional changes, as well as a set of actions to be taken by the organisation in response to such situations. The Summit agreed that adherence to the following principles as a basis for democratic governance would serve to reduce the incidence of unconstitutional change of governments in the region[7]:

a) Adoption of a democratic constitution whose preparation, contents and method of revision should be in conformity with general acceptable principles of democracy;

b) Respect for the Constitution and adherence to the provisions of the law and other legislative enhancements adopted by Parliament;

c) Separation of powers and independence of judiciary;

d) Promotion of political pluralism (or any other form of participatory democracy) and the role of African civil society, including enhancing and ensuring gender balance in the political process;

e) The principle of democratic change and recognition of a role for the political opposition;

f) Organisation of free and regular elections, in conformity with existing normative texts;

g) Guarantee of freedom of expression and freedom of the press, including access to the media for all political stakeholders;

i) Constitutional recognition of fundamental rights and freedoms in conformity with the Universal Declaration of Human Rights of 1948 and the African Charter on Human and Peoples' Rights of 1981;

j) Guarantee and promotion of human rights.

Additionally, the Summit outlined situations that would constitute unconstitutional change of government. These included military coups against a democratically-elected government, interventions by mercenaries to supplant an elected government, takeover of power from a democratically-elected government by armed dissident groups and rebel movements, and an incumbent government's refusal to hand over power to the winning party after "free, fair and regular elections".[8] Should any of these situations occur, the actions to be taken by the Organisation would include public condemnation of such acts, suspension from participation in the work of the Organisation and targeted sanctions. Furthermore, a decision was taken on the establishment of a Sanctions Sub-Committee of the OAU Central Organ to monitor compliance with decisions relating to situations deemed as unconstitutional changes.

The adoption of this framework by OAU leaders sealed the process that began nearly a decade before in response to poor governance on the continent and ushered in a regime of democratic change and defence of democracy at the continental level. Since 2000, the OAU has itself been rapidly transformed to reflect the emerging normative order, indicating the region's readiness to abide by a new code of conduct at all levels of governance, with the adoption of the Constitutive Act of the African Union. Article 30 of the instrument reinforced this trend by stating that governments which assume power through unconstitutional means would be prevented from participating in the work of the Union. However, some concerns were initially expressed as to whether and how the principles articulated by the OAU and the work of the Central Organ Sanctions sub-Committee would apply under the new African Union.[9] Subsequent developments have since alleviated them.

It should be noted, however, that the Algiers Declaration and the Lomé Framework were part of a larger move toward instituting good governance in Africa. Collectively, a number of frameworks have slowly steered Africa along this path. Even before the African Union formally emerged, the *New Partnership for African Development* (NEPAD) had already given an indication of things to come. NEPAD was launched in Lusaka (Zambia) in 2001 and endorsed by African leaders at the establishment of the African Union in Durban (South Africa) in July 2002. It represented a pledge by African leaders to work towards the achievement of

sustainable security and development on the continent. Underpinning this pledge was the assumption that sustainable development cannot be achieved in the absence of peace, security, democracy and good governance.[10] Both NEPAD and the African Union documents reflected the principles of democratic accountability which were outlined in Algiers, Lomé and before then. NEPAD outlined three major preconditions for the sustainable development of Africa: peace and security, democracy and political governance as well as economic and corporate governance.[11] A significant aspect of the NEPAD plan is the pledge by African leaders to submit their governments in all areas of activity outlined to what was to be known as the *Africa Peer Review Mechanism* (APRM). As indicated in Aderinwale's contribution to this volume, the idea of the APRM originated from the Conference on Stability, Security and Development Cooperation in Africa (CSSDCA), which predates both NEPAD and the new African Union, and which was influenced in part by the OSCE.

Regionalism as a Driver of Change. The Algiers Declaration and the subsequent adoption of the framework for a response to unconstitutional change did not only articulate a code of conduct with clarity: they actually served to build the block for a regime of democratic governance and set the pace for innovation in a collective African approach. They also highlighted the importance of regionalism as solid drivers of change. A gradual shift in mindset is taking place across the African region, all of which will lead to incremental change toward good governance not least within the security establishment. The following are some of the instances in which African leaders have sought to ensure the implementation of the code of conduct that they outlined for themselves in Algiers and Lomé and elsewhere.

Responding to the situations in Sao Tome, Guinea-Bissau and Togo. The developments in Sao Tome and Liberia in July and August 2003 and subsequent responses from African leaders signalled a new era in the African approach to conflict prevention and promotion of democratic governance. In Sao Tome, the democratically-elected leader, Fradique de Menezes, had been ousted in a coup in July 2003. This coup was widely condemned, with Nigeria's President Olusegun Obasanjo putting pressure on the coup plotters to return power to Sao Tome's democratically-elected leaders. The coup was reversed within a week. In September 2003, Guinea-Bissau's President Koumba Yala was overthrown by the army following several years of public dissatisfaction with his rule and gradual slide into state collapse. Prior to this, parliamentary elections had been delayed for about 10 months, civil servants had gone unpaid for months, public officials had been regularly dismissed and the press harassed.[12] President Yala had dissolved Parliament

in November of the previous year after a "Vote of No Confidence" was passed against him, subsequently postponing parliamentary elections about four times. In the end the Chief of Staff of the Army, General Verissimo Correia Seabra, took over power in a bloodless coup. While recognising that Yala had become so unpopular at home and that his regime had failed to uphold the democratic principles for which it was elected, African leaders choose to uphold the principles to which they agreed in Algiers and Lomé. The coup was condemned by the then Chair of the African Union, Mozambique's President Joaquim Chissano, who urged ECOWAS to persuade the new military leaders to restore the country to constitutional rule. ECOWAS leaders invoked the Algiers Declaration and the ECOWAS Protocol on Democracy and Good Governance in response to the situation in Guinea-Bissau, warning that it would be suspended from ECOWAS and the African Union if the military presided over the country.[13] They managed to secure the resignation of Yala and the commitment of the military that it would not assume political power. Instead, a broad-based transitional government was formed, which was composed largely of civilians. A businessman emerged as transitional President in a 56-member Transitional Council.[14]

The most recent case of unconstitutional change of government in Africa has been the situation in Togo. The sudden death of Africa's longest serving Head of State, Togo's President Gnassingbe Eyadema in early February 2005 led the Parliament to hastily install his son, Faure Gnassingbe, as his successor with the backing of the military. The process leading to that appointment was widely condemned as the constitutional procedures were reversed to ensure Faure Gnassingbe's installation. In what had by now become a noticeable trend, the current Chair of the African Union, Nigeria's President Olusegun Obasanjo, rejected the move as unconstitutional, arguing that what took place in Togo was tantamount to a coup. The sub-regional organisation, ECOWAS, also acted quickly to condemn the coup and warned Togo's new government that sanctions would be imposed on the country if it did not return to constitutional order.[15] ECOWAS subsequently imposed sanctions such as suspension of membership, a travel ban on key officials and an arms embargo.[16] The united position of ECOWAS and the African Union also made it possible for the wider international community to provide support for these positions – e.g. the European Union and the United States. Within two days of the imposition of sanctions, the Togolese Parliament voted to reverse the constitutional amendment that installed Faure Gnassingbe as President. Elections were subsequently conducted in Togo in April 2005, which

returned Faure Gnassingbe by a landslide. While the ECOWAS response has been criticised as inadequate in several quarters because the elections have simply maintained the status quo, there can be no doubt that the practice of stamping out unconstitutional change in government is beginning to take hold in Africa.

The Complementary Role of African Civil Society. Regional action in driving change has been prominent not just at inter-governmental levels but also at civil society level and a mutually reinforcing pattern in which regional governments and regional civil society networks are driving change at the national level is emerging. There can be no doubt that some of the efforts to develop normative frameworks for the pursuit of a code of conduct in Africa have been driven by civil society activism. Significantly, however, they were aided by more responsive leadership and the emergence of a critical mass of leaders committed to the pursuit of democratic ideals. This has seen the development of greater collaboration between regional organisations and civil society actors in ways that are unprecedented.

An example of regional organisation and civil society collaboration is the establishment of a Civil Society Coordination Unit in the ECOWAS Secretariat in Abuja, following ECOWAS and civil society consultations in May 2003. Among other things, the Unit in ECOWAS also serves as an interface with the West African Civil Society Forum (WACSOF), which comprises a number of West African groups that work with ECOWAS. This formalised a process of *ad hoc* interaction between the ECOWAS Secretariat and West African civil society groups. The creation of regional civil society networks is particularly valuable as a facilitator of change in particular national contexts, where local civil society actors might face restrictions in operating because the democratic space for expressing alternative ideas and policies does not yet exist. The formation of regional and sub-regional security sector reform networks, such as the African Security Network, is crucial in this regard. It is expected that it will *inter alia* contribute to the development of standards in security sector governance across the region.

Dealing with Continuing Challenges. Despite the positive move toward democratisation in most of Africa, considerable obstacles remain. What is perhaps the most difficult challenge is the continued resistance to democratic change in some States. Such resistance is often demonstrated by a reluctance to create spaces for opposing views and ideas and to create a representative and participatory form of governance, which would entail at the minimum the staging of free and fair multiparty elections. Interestingly, Togo was listed among such States prior to President Eyadema's death. Countries like Mauritania and Guinea remain sources of concern given the

limited degree of change in those environments. However, given that such countries are now the exception, and that in much of Africa, States have made a move toward democratisation even if the only evidence is the successful staging of multi-party elections and the apparent existence of a legitimate opposition. Compared to the late 1980s, when elected governments were a rarity in Africa, a majority of African governments have emerged through elections (albeit with questionable processes in some cases) rather than through force of arms or military coups. There is also a growing alliance of elected leaders, a key factor that has led to the emergence of new normative frameworks for democratic governance. But this notwithstanding, there are several challenges to be addressed.

Gaps Between Norms and Implementation. Although African governments have largely subscribed to the principles of democratic governance through the various instruments discussed in this and other contributions of this volume, serious gaps remain between the stated norms and ideals to which the leaders have committed themselves and the reality on the ground. As discussed above, elections do not always lead to genuine transformation of institutions of governance. In countries that are recovering from various stages of conflict, there are noticeable justice gaps as root causes of old conflicts often remain unaddressed due to a failure to reform governance. States sign agreements, but fail to ratify them for a number of reasons including, for example, lack of genuine interest among leaders, and/or a lack of capacity to implement change. Evidently, the lack of interest is often a key reason for the absence of local participation and ownership. In any case, the opening up of democratic space in itself is not always sufficient and could not necessarily ensure democratic control of key institutions such as the security sector. Nevertheless, it provides a much-needed opportunity to facilitate a change of mindset among critical actors, the building of harmonious inter-group relations and, ultimately, the promotion of institutional change that leads to greater accountability.

Sustainability Through Increased Local Ownership. The gap between stated norms and actual practice is most visibly demonstrated by the fact that the real drivers of the emerging normative order are *not* State actors, but rather, civil society actors, in collaboration with representatives of regional organisations, sometimes with the backing of international actors – often bilateral donors. An example is the active collaboration between West African civil society and the ECOWAS Secretariat mentioned earlier here. Unfortunately, collaboration often encounters a road block at the State level when the same leaders who sign up to regional conventions do not uphold them at home. However, the influence and impact of the alliance of regional

civil society networks and representatives of regional organisations should not be underestimated. Some of the progress realised thus far would not have been possible without the key role of these actors acting in concert with regional leaders, who are reform-minded and can influence the process of change at the national and regional levels. The evolution of the CSSDCA process (Conference on Security, Stability, Development and Cooperation in Africa) addressed in Aderinwale's contribution to this book is a case in point. The pace of progress would depend very much on a changed mindset among a greater part of the leadership at the national level.

Linkage Between Improved Democratic Governance and Changed Mindsets. A culture of democratic governance of the armed forces and other parts of the security establishment can only come about when an overall culture of democratic governance begins to take hold on the continent. A process of democratic governance of key institutions must be accompanied by a change in mindset among critical leaders and actors given that, arguably, only changed leaders can create or lead changed institutions. Thus, transforming the mindset of leaders who operated for long periods under old authoritarian structures can be a daunting but not insurmountable task. While reform-minded leaders are committed to change and readily provide effective leadership to steer their countries through a democratisation process (as seen in Mali and South Africa), it has been a challenge to get the commitment of leaders who continue to operate in the old authoritarian mode. Among such leaders, there is a tendency to pay lip service to the idea of developing better normative standards, when in reality they are not interested or committed. They do just enough to demonstrate commitment by adhering to minimum acceptable standards, which often include the staging of elections and signature of requisite conventions and international agreements. In the same vein, it is possible for a reform-minded leader to subscribe to an international treaty but not get the sufficient domestic support to implement this at home.

However, it does not seem impossible to bring about a change in mindset among critical actors over time. Influential States and key international actors can create openings and indulge national leaders toward recognition of the importance of reform. Powerful regional States especially have a useful role to play. It is conceivable that a democratic South Africa or a democratising Nigeria will be a source of positive influence on smaller States that are reluctant to embark on reform. Conversely, a revision of the democratic process in Nigeria or in South Africa might impact smaller States negatively. In this regard, the mutually reinforcing nature of national and regional processes is of particular importance. This applies to both State and

civil society actors along regional and national lines. Thus, the existence of a critical mass of leaders committed to change at the regional level can influence change within a national context, where the process of change might have otherwise remained stagnant.

The existence of regional civil society networks has been particularly useful not just in creating an interface with the regional organisations – as with the West African Civil Society Forum (WACSOF)[17] or the African Security Sector Network (ASSN) at the sub-regional levels and at the African Union – but also in supporting change processes in States where democratic processes are not yet open. For example, it was virtually impossible for civil society actors in Togo under the old regime to openly criticise it for the lack of democratic space, but the sub-regional network of civil society groups could do this on behalf of their counterparts in Togo. Even when the democratic space is created and leaders are committed to the process of reform, several other factors make it difficult to achieve quick results. These include among several other factors, competing concepts of what reform entails, and a lack of capacity to undertake comprehensive reform. Where these factors are present (often with external support), reform must be viewed within a longer term perspective in order to achieve sustainability. This has been evident, for example, in the area of security sector reform. Although the idea of such reform did not emerge from within Africa (but has largely been driven by external actors), there is an emerging consensus on what the concept of security sector reform or the key principles of democratic governance of the security establishment should entail. It is now generally accepted that reform in that field is aimed at providing for:[18]

a) Accountability of the security sector to elected civil authorities and the establishment of oversight institutions;
b) Adherence of the security sector to domestic and international law;
c) Transparency which allows information on security sector planning and budgeting to be widely available;
d) Civil authorities capable of exercising political control;
e) A civil society able to monitor the security sector and to provide constructive input into the political debate;
f) An adequately trained, professional and disciplined security personnel;
g) An environment conducive to regional and sub-regional peace and security.

Such a situation is far from existing in Africa. While national Constitutions generally imply these aims, in practice many elected governments have yet to achieve this level of democratic control. A gradual movement toward the

attainment of these goals is however discernable. South Africa, which embarked on an open and public process of security sector reform, is perhaps the most visible example of an African State that has made real progress in achieving the above. Mali is another example. Consolidating democracies like Ghana and Senegal have also shown some movement toward this objective. Nigeria is still in the process of transition and still at an early stage in its effort to achieving democratic governance of the Nigerian security establishment. Countries emerging from war, such as Sierra Leone and most recently Liberia, have provided an opportunity to overhaul the security establishment and build from scratch. It is too soon to tell whether the processes in various national contexts will lead to an SSR regime on the continent.[19]

Conclusion: The Way Ahead

Drivers of change exist at all levels, from local to national and international. All of them are an important part of the effort to ensure that the above-mentioned emerging framework becomes daily reality in Africa. However, if real change is to come soon enough, there must be an alignment between the agendas of external actors and African leaders. At this stage, there are visible discrepancies in a number of areas, which need to be addressed. One of them is the potentially conflicting objectives of African leaders and their external partners – the latter often focusing on short-term agendas, while the former pursue longer-term goals; Africans must confront a range of other challenges as they continue to develop a process and a culture of democratic governance particularly including democratic control of the security establishment. Another discrepancy (which could potentially reverse whatever tangible progress is being realised) concerns the lack of coherence among external actors, particularly donor States and institutions: it is important that appropriate support is provided to ensure standardisation of principles and practice in several areas. Furthermore, leading States or regional powers may not always assume the responsibility and leadership that should be naturally theirs, and this potentially has adverse effects on embedding good practice. Finally, there is an inadequate knowledge base within African civil society despite the latter's role as a key driver of change. Such a deficiency is liable to stall the process of obtaining a greater buy-in from society and in particular slow down the process of preparing successor generations for the right type of leadership. This is also compounded by the potential for the African security, democratic and developmental agenda to

be hijacked by the global counter-terrorism agenda. External influences and pressures to embark on counter-terrorism activities threaten to reverse the slow process of change. In the area of security sector governance for example, it could trigger a return to old methods, with greater attention focused on intelligence institutions which played a major role in the suppression of citizens critical of a regime. In order to avoid such reversals, the process of reform on the African continent needs to be carefully monitored.

Notes

[1] Since the formal withdrawal of Mauritania (which is also a member of the African Maghreb Union) in 2000, ECOWAS now includes 15 member States. See http://www.reliefweb.int/rw/rwb.nsf/0/c17e5daccdf7c120852569c3006c7ff3? OpenDocument.

[2] For further background information on the Uganda Defence Reform Programme, see Dylan Hendrickson: "Assessment of Security System Reform in Uganda", Country Case Study prepared for the Geneva Centre for Democratic Control of Armed Forces (DCAF) and the Swedish Ministry of Foreign Affairs, Geneva/Stockholm, December 2004.

[3] A revised ECOWAS Treaty, designed to accelerate economic integration and to increase political cooperation, was signed in July 1993.

[4] The original organisation known as the Southern African Development Coordination Conference (SADCC) was formed in 1980 as a functional cooperation association of nine majority-ruled countries: Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe. SADCC was transformed into the Southern African Development Community (SADC) on 17 August 1992.

[5] Doc. AHG/Decl.5 (XXXVI).

[6] See Directorate: OAU Department of Foreign Affairs, *Profile of the Organisation of African Unity*, 28 August 2000, p.16. The Constitutive Act of the African Union was adopted at this Summit.

[7] Doc. AHG/Decl.5 (XXXVI).

[8] *Ibid*.

[9] For example, see Jakkie Cilliers, "Towards the African Union", *African Security Review*, Vol. 10, No. 2, 2001.

[10] NEPAD is a both a *vision* and *strategic framework* for Africa's renewal. The NEPAD strategic framework document arises from a mandate given to the five initiating Heads of State (Algeria, Egypt, Nigeria, Senegal and South Africa) by the Organisation of African Unity to develop an integrated socio-economic development framework for Africa. The 37th Summit of the OAU in July 2001 formally adopted the strategic framework document.

[11] NEPAD *Strategic Framework Document*, Point 71, p. 16, (http://www.nepad.org/2005/files/documents/inbrief.pdf).

[12] IRIN News, 14 September 2003.

[13]   ECOWAS Executive Secretary's Briefing to Parliamentarians and Ambassadors on the Security Situation in West Africa, 22 September 2003 (ECOWAS Briefing No. 101).

[14]   United Nations: doc. S/2003/919 of 29 September 2003 (Letter from Ghana to the President of the UN Security Council forwarding a communiqué issued by ECOWAS on the situation in Guinea-Bissau).

[15]   BBC News, Thursday 17 February 2005.

[16]   BBC News, Saturday, 19 February 2005.

[17]   http://www.wacsof.org.

[18]   Nicole Ball and Kayode Fayemi (Eds.), *Security Sector Governance in Africa: A Handbook*. Lagos, Centre for Democracy and Development, 2004.

[19]   For an analysis of the evolution of the security sector in West Africa towards democratic governance, see Alan Bryden, Boubacar Ndiaye and 'Funmi Olonisakin: "Democratising Security Sector Governance in West Africa: Trends and Challenges", *Conflict, Security and Development*, 2007 (forthcoming).

Chapter 3

The Relevance of the 2000 Solemn Declaration on the Conference on Security, Stability, Development and Cooperation in Africa

Ajodele Aderinwale

Introduction

Africa's quest for political and socio-economic development has been one of mixed fortunes. Many such experiences threatened the fabric of societies, with the plethora of conflicts that have erupted and are still raging in several parts of the continent. Over the last decade, some of these wars have produced complex emergencies, which have led to various combinations of genocide, famine, destruction of infrastructures, enforced displacement of populations and regional destabilisations. From Somalia to the Democratic Republic of Congo, Rwanda, Liberia, Sierra Leone and recently in Côte d'Ivoire (hitherto regarded as a "peace haven"), the phenomenon of armed conflicts remains a great challenge. According to Landsberg and Kornegay, in 1996 alone, 14 African States were afflicted by armed conflict. From 1955 to 1995, such conflicts plagued 53 countries. During the same period, more than 8 million Africans died as a result of violent conflicts. If one takes into account the figures for 1995-2002, the estimate may well be over 11 million people who have died as a result of deadly conflict in Africa. Sadly, 90 per cent of the victims were women and children.[1] The structural instability in the Great Lakes region, with around 800,000 deaths during the current decade, has been the spark which has drawn global attention to Africa.[2] The direct financial costs (excluding the impact on the economic growth rates of States GDP', GDP per capita, infrastructure, etc.) are well beyond $900 billion. This is more than 14 times the NEPAD (New Partnership for African Development) estimate of $64 billion per annum that

is needed to put Africa on a stabilisation course. Indeed, it is difficult to give any close figure for the real costs; deeper enquiry may produce figures of trillions of dollars.[3] Clearly, the achievement of peace and security remains a major challenge to sustainable development in many parts of the region. Regrettably, far from showing signs of improvement, the continent has been witnessing profound upheavals and crises, as new and unexpected conflicts continue to erupt, while internal conflicts, which had subsided, are flaring up anew. Attempts at political, economic and social progress have remained largely unsuccessful, instability and insecurity remain the hallmark of several countries within the continent.

One of the immediate outcomes of the perennial armed conflicts is the easy access to small arms. The proliferation of the latter has meant that armed criminals continue to make life hazardous in many parts of Africa, especially in urban centres. Consequently, law enforcement agencies such as the police are more often than not faced with bandits and other adversaries who are better armed. In a continent where a large number of young people are out of school or employment and without hope for the future, banditry can never be short of recruits. Given the idiosyncratic tendencies of youth, in particular their vulnerability to manipulation by all manners of ideologues, the ease of access to arms is simply a recipe for disaster. In consequence, African countries are confronted with a major and undeniable security imperative which is so central to government policy that it often imposes a heavy burden on the national treasury, with security and defence establishments ranking first or second in budgetary allocations in many countries. Oddly enough, most African countries do not face major threats with respect to their external security, but rather to their internal security. These challenges may be broadly grouped into two categories: those to personal or human security (as a condition of decent livelihood) and those to public order. The crucial questions to resolve are as follows: what are the factors fuelling the incessant conflicts and internecine wars that continue to undermine development efforts in Africa and how can peace and political stability be achieved in the region? Are these concerns effectively reflected in the several attempts at redesigning Africa's security architecture at the continental level? How is the Conference on Security, Stability, Development and Cooperation in Africa process (CSSDCA) aiding current efforts to redress these challenges?[4]
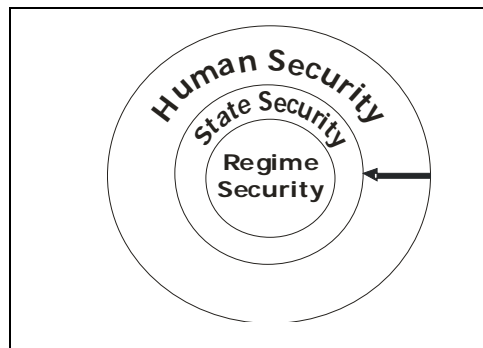
Africa and the Security and Stability Challenge

Arguably, the most proximate cause of conflicts and political instability in contemporary Africa is the competition for scarce resources in a context of economic underdevelopment and political transitions often marked by clearly disruptive political manipulation. In a nutshell, Africa's developmental challenges and insecurity issues remain essentially an outfall of bad governance. All else is simple academic theorisation and an attempt at deploying complex, confusing and confounding theoretical frameworks for simple and straightforward phenomena. Until recently, in many African societies, due to the long years of military or one-party authoritarian regimes, security was and still is often perceived in purely military terms. As a general rule, the overall objective of security policies is that of regime security. The human dimension of security, that should form the centrepiece of the State's policies, often suffers gross neglect and the resources that should be deployed to socio-economic dimensions are consistently diverted into security interest, commonly aimed at regime perpetuation or castigation of the opposition parties. Many of these regimes were driven to gross violation of human rights and lack of respect for the international human rights conventions. The linkage between security, stability and development as a precondition for sustainable transformation of society is often neglected and in fact has neither been recognised nor accorded the required level of consideration and priority.

Basically, security can be approached from three major dimensions, which can be said to form three concentric circles: State security, political regime security and human security. Although the boundary between regime security and State security is very fluid, it exists. A more than cursory analysis often reveals the tensions existent between the three approaches and the correspondent realities. Often the issue has been where the focus should be, whether on the State, the regime or on the people. Though it has been argued in the past that a triangular relationship characterises the interactions of State security, regime security and the security of the people[5], it is better to conceptualise it as a concentric relationship. Security of the State and that of the people is inextricably linked, encapsulated in the regime's security. The regime controls the decision-making machinery and the well-being of the other dimensions is determined by the activities of the hegemonic fraction of the dominant faction of its power elite – the regime. All this can be illustrated by a figure in which the regime security is at the centre, followed by State security and lastly by human security. The psychology and approach of the power elite in this instance is to use the instruments of

power and authority to concentrate resources on their own survival rather than on the survival of the State and the people. The corollary of this is that the rupture of the fabric of human security will introduce the regime instability virus into the body politic, build up pressure against the security of the state, weaken and eventually consume the regime.

Figure I: Regime-Centric Security

New policies aimed at improving the security and stability situation in Africa require first and foremost a deconstruction of the extant security architecture, or at least the conceptual basis of extant frameworks in the hope that the new approaches will be broadened enough to conceptually envisage a robust engagement of the three dimensions of security through a "reversed" concentric circle of security shown in Figure II below:

Figure II: Human-Centric Security
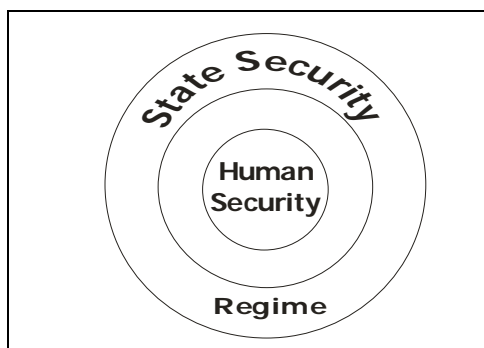
Under this new framework, human security occupies the inner concentric circle, followed by State security and the outer circle will have regime security. The basis for this concept lies in the fact that a more secure people is a sure guaranty for the continued existence of the State and reproduction of a conducive environment for sustainable development (as will be shown in the latter part of this contribution). That security and political stability are preconditions for sustainable development can easily be established by looking at the conditions that the mass democratic movement has been fighting against since the 1960s. Instead of meeting the people's expectations at independence, which comprised the human dimension of security (expanded freedom and material prosperity), most of the post-colonial governments in Africa became overly oppressive and have aggravated poverty rather than reducing it. With authoritarianism, perpetual rule and the privatisation of the State in the interest of the ruler and his entourage, the major tendency was towards socio-economic conflicts, political crises and civil, wars rather than socio-economic development. Personal rule and military dictatorships became the prevalent form of government in the African party-States and this was often accompanied by clientelism, nepotism and brutal repression of dissent. In some countries, there was a highly developed system of terror and repression, including administrative restraints on freedom, the use of private armed groups attached to State agencies and a large network of spies, assassins and thugs.

Instead of freedom and material prosperity, the majority of the people of Africa found themselves in greater insecurity and in an endless economic crisis, with all the related consequences in terms of social unrest, proliferation of religious sects and the rise of social and religious intolerance. On a more positive side, the crisis gave rise to a vibrant

democracy movement (crusading for democracy, good governance and convinced that a close relationship does exist between the lack of good governance and the lack of development) which has been partly responsible for the transformation of many military and one-party authoritarian regimes and the consequent spread of political liberalisation across the continent.

The Challenge of the Security Sector Governance in Africa

Until the end of the East-West hostilities, most African countries were under military and one-party authoritarian regimes. In several places, variants of dictatorship held sway and were in total control of all spheres of national life. Democratic frameworks and norms were abrogated and the principles of accountability and transparency subjugated through arbitrary promulgation of military edicts and decrees. The immediate concern of most of these institutional conspiracies, masquerading as governments, was political survival. As could be expected, excessive budgetary allocation went to the security sector, while the other sectors were starved. Unfortunately for the ordinary African, the international community was yet to forge a global consensus on the imperatives of good governance as a mainstream developmental agenda. Throughout the Cold War era, good governance was never a criterion for development assistance and security sector activities in most nations of the world were shrouded in secrecy. Moreover, the intervention and support of most development agencies was largely uncritical. Security assistance from foreign countries was based on the traditional "train and equip" strategies, with no consideration for the roles of the military in the political and economic systems of countries receiving this assistance. The goal of most development assistance was based on security considerations, either to win new allies or to strengthen the existing ones. The implication of this for Africa was that military and authoritarian regimes were not under any compulsion, great threat or significant pressure to democratise. Free from the encumbrances of liberal democratic principles and norms, the security sector in many countries was autonomous and could act in many respects in ways that undermined the affinity between State security and the security of the people. The security sector was regarded as an island, with no correlation to the other sectors. Security considerations topped the agenda of many countries. A huge chunk of the national resources was earmarked for the security sector, whereas the political and socio-economic aspects, which constitute the breeding ground for socio-economic rivalries, tensions and conflicts, suffered great neglect. Many regimes were seized with the quest for perpetuation and under such circumstances regime

security remained the overriding security challenge. Dissenting views and opposition groups had to be suppressed and the security of the citizens became peripheral, having given way to regime security.

The protracted period of authoritarian regimes in many African countries also fostered a lack of transparency that characterised security sector governance in many countries. Apart from the State's security exigencies, the overriding interest of the regime-ruling elite was to safeguard its security and thus shroud all information about the security sector in secrecy. Neither the public nor civil society experts were allowed to participate in security dialogues and discussions or make inputs into security decision-making. Invariably, the interconnectedness of military security and human security, economic and political stability were largely neglected, and this was partly responsible for the widening gulf between rich and poor and the prolonged absence of political stability in many parts of the region. The most significant implication of the end of bipolar hostilities, particularly for the African sub-region, was perhaps the shift towards good governance on the development agenda. While domestic forces were the major influence on the progress of both political and economic reforms in many countries, the global movement towards greater freedom from the arbitrary power of the State and external financial pressures provided the enabling environment for civil society agitation for political liberalisation. Whereas in Latin America a major influence was the drying up of access to international finance after 1982, donor pressure for economic and political reform was a key factor in sub-Saharan Africa.

The end of the Cold War, having removed the proxy cover for leadership and administrative inadequacies in and around Africa, also confronted the continent and its leadership with a discernible sense of loss of confidence in the various institutions of governance generally and fundamentally even in the basic nature and rationality of their existence as institutions of State. In Africa, a continent that has remained volatile and vulnerable to external factors and factions, a need has emerged over the years to initiate a process capable of operationalising emerging paradigms, concepts and new attitudes as a means of increasing the capacity of the continent to make appreciable progress and impact. Such an agenda must be developed within the overall framework of an African collective solidarity on issues of stability, integration, human security, socio-economic development and democratisation.

African political leaders through the various regional institutions responded to these emerging trends through a variety of initiatives. In the first instance, there appeared to have been a consensus that the OAU, Africa's major political continent-wide framework, had recorded

demonstrable successes in pursuit of the objectives of article 2(d) of its Charter. Those achievements paved the way for a recommitment to unity and solidarity, the defence of territorial integrity and independence of the various States and the coordination and intensification of individual efforts to achieve a better life for African peoples. In a similar vein, the OAU posted varying degrees of success in pursuit of the objectives articulated in article 3 of its Charter, in particular in the areas of diplomatic and political cooperation as well as cooperation in other spheres such as economic, transportation, communication, health, science, technology, defence and security. Yet the continent and its major political framework could not deal decisively with the challenges of peace and security. Indeed, the premium on social and political stability was rising rapidly at a time when the changing international political framework had begun to marginalise the African continent and its concerns. There was also a growing awareness that the progress that the continent had recorded in the sphere of economic development left much to be desired and that poor economic performance underlined the rising wave of domestic conflicts.

In spite of the foregoing, a number of African scholars and development experts were innovative in dealing with the concept of security. In fact, African scholars as well as practitioners have been the foremost proponents of new definitions of security. Their contributions predate the notions of human security eventually adopted by multilateral and development agencies in the mid-1990s. The move towards an all-inclusive definition of security was only launched by the United Nations General Assembly's 51st session (1997), named *"Renewing the United Nations: A Programme for Reform"*, which concluded that "the concept of global security must be broadened from the traditional focus of security states to include the security of people and the security of the planet".[6] Basically, the African contributions dealt with the linkage between the concepts of security and development. For instance, Nadir Mohammed posited that security is about creating an environment conducive to development plans, while Baffour Agyeman-Duah argued for a redefinition of national security in human development terms. Molutisi on the other hand, went further and considered that "security is about democracy and development" and that insecurity in Africa is a consequence of poverty and moral and material deprivation.[7] The discussions particularly addressed the provision and management of security in Africa. A couple of years before the UNDP introduced the term "human security", the Kampala Document, containing the *Proposal on the Conference on Security, Stability, Development and Cooperation in Africa,* initiated and sponsored by the Africa Leadership Forum**,** declared that security "embraces all aspects of the society, including

economic, political and social dimensions of individual, family, community, local and national life ….”[8]. This formulation, this author posits, anticipated the notions of "human security" and "common security" that emerged in the international arena in the mid-1990s, viewing security in very broad terms.

Responding to the Challenges. In designing a new strategy for confronting the critical challenges of the new international milieu, the political leadership took cognisance of the need for closer linkage between the requirements of economic development and the objective demands of peace and security. In essence, the policy thrust and operational framework at the continental level seemed to have been predicated on these considerations. This realisation inspired the decision of the Heads of State and Government to adopt the landmark 1990 “*Declaration on the Political and Socio-Economic Situation in Africa and The Fundamental Changes Taking Place in the World*”[9] . The text gave more that a somewhat objective analysis of the state of affairs within the continent. It contained a range of suggestions on modalities for redefining African reality and tackling some of the apparently intractable challenges that the continent seemed confronted with. In the Declaration, the Heads of States and Government stated: "we are fully aware that in order to facilitate this process of socio-economic transformation and integration, it is necessary to promote the popular participation of our peoples in the processes of governance and development… We therefore assert that democracy and development should go together and should be mutually reinforcing". This new thinking was captured in part by the *African Charter for Popular Participation in Development* signed in Arusha in February 1990. In that instrument, the Heads of States and Government moved a little step further. They pointedly declared: "we realise at the same time that responsibilities of achieving these objectives we have set will be constrained as long as an atmosphere of lasting peace and stability does not prevail in our continent. We therefore renew our determination to work together towards the peaceful and speedy resolution of all the conflicts in the continent". Coming out of an organisation often labelled (wrongly or rightly) as a conservative club of African political oppressors, the Arusha Charter broke fresh grounds as it presented a frank and honest assessment of African reality since the first wave of independence.

From the 1990s, development agencies began to set conditions for both political and economic reform before releasing aid to developing countries. Governance emerged as a central issue and emphasis had to shift from security assistance to good governance. The global refocusing of development agenda also had a significant impact for the African region in many respects. First, it lent credence to and intensified civil society agitation

for inclusive government and helped in spreading the wave of political liberalisation across the region (by 1997, some 30 African States had adopted the democratic system of governance); unfortunately, most of these experienced reversals within a short period. Second, the shift led to a great decrease in the volume of security assistance; accordingly, it became difficult for African governments to continue to use development assistance for military purposes. Third, the same trend also pushed the challenge of security sector governance onto the agenda of African countries and because of the dependence of many of these countries on development assistance, they were forced to reform their security sectors and focus more efforts on the human security dimension. By the end of the 1990s, security sector governance had found its way into the development agenda, as donor countries began to focus on the need to build the capacity of the State for tackling key socio-economic challenges and on fostering a vibrant civil society. It became very clear to development practitioners that achievement of "democratic principles and sound management practices"[10] would be almost impossible "when security sectors operate autonomously, with scant regard for the rule of law…"[11]

While evidently necessary, the challenge of security restructuring in Africa is essentially problematic. It seemed to revolve around how to fundamentally restructure civil–military relations and about the kind of processes and frameworks that should underpin such a transformation. Again, there was and still remains the major challenge of structure versus strategy, or a question of aligning or realigning strategies to fit existing structures. Rocky Williams captured this brilliantly when he intoned that "very few developing countries possess the luxury of being able to elegantly design, as a first phase, appropriate strategies and, only thereafter as a second phase, those mechanisms which will manage and oversee these diverse processes. Strategy formulation and organisational transformation almost invariable occur conterminously and the key challenge for policy planners and practitioners alike is to ensure the effective integration of both these transformational processes into a manageable work plan". [12]

Given the institutional weaknesses that characterise many countries and the prolonged history of military authoritarian regimes, security sector transformation may yet remain a daunting task. In addition, liberal democracy instituted in many African States remains very fragile, and liberal democratic norms and principles have yet to be institutionalised. What is obtainable in many countries is mere semblance of democracy, and any attempt at fundamental restructuring of the security sector may bring about a reversal and lead to a return to military governance. At the same time, failure to restructure does not help in any way, as the security sector may prove too

strong for and eventually overwhelm the fledgling democracy in many countries. It is clear that given the role the security sector played in stifling political and socio-economic development in Africa, "it will not be possible to strengthen African states without adequate75

attention to the security sector."[13] African countries are grappling with the restructuring of the security sector, and a modicum of progress has been posted. What became clear was the need to develop a community of values at a continental level as a means for driving and institutionalising required reforms at the national level. African political leaders seemed to have taken cognisance of this strategic approach and began a series of moves and initiatives in this direction.

At the regional level, the defunct OAU (now the African Union) adopted a framework for an "OAU Response to Unconstitutional Changes of Government" in Harare, Zimbabwe, in 2000.[14] With this, African leaders resolved to decline recognition to any government that lacks constitutional backing, and this was demonstrated during the struggle for power in Madagascar in 2002. The African Union barred Madagascar following disputed elections on the island, which pitted Marc Ravalomanana and Didier Ratsiraka against one another. It declared the change of government in Madagascar to be unconstitutional. Madagascar was however readmitted into the Union in July 2003.

Following the inauguration of the African Union in Durban (South Africa), in 2002, African leaders took significant steps to transform the security sector in the region. First came the adoption of the *African Common Defence and Security Policy*, which paved the way for the creation of the African Union Peace and Security Council, the *Draft African Non-Aggression Pact and the African Standby Force*. Interestingly, all of these initiatives reaffirmed the commitment of African leaders to the Memorandum of Understanding of the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA). Taken together, the initiatives were aimed at entrenching good governance and ensuring human security in the African sub-region.[15]

Security Sector Governance as a Regional Challenge. Over the years, the human dimension of security gained increased recognition as a crucial aspect of the broad security concept. However, lamentably, human security is often neglected in Africa. In its fullest sense, human security includes not only protection against criminality, but also the peoples' right to basic social services (basic education, primary health care, water and sanitation, nutrition and reproductive health) and to preventive as well as relief and rehabilitation measures with respect to disasters. A major responsibility of the State is the maintenance of peace and the provision of

security against internal and external threats. Protection of personal or human security is also part and parcel of the primary responsibility of the State. The inability of any State to adopt a holistic approach to the issue of security is bound to culminate in socio-economic crises and political instability, and development cannot be sustainable under conditions of political instability, internal or external aggression. To ensure "human freedom and potential", a range of issues needs to be addressed from the perspective of "human security" focused on the individual, requiring cooperation among the various actors in the international community, including governments, international organisations and civil society.[16]

Clearly, the classical State-centric conceptions of security are no longer valid for grasping the complexities of security in the post-Cold War Africa. The search for solution to current waves of crises and conflicts has to transcend the purely traditional military conception. It has to do with a whole range of imperatives pertaining to governance, continental self-reliance and appropriate structure for inter-State relations. Consequently, efforts aimed at addressing the issue of security, and thus its other affiliates, will have to include the political, economic and social factors that define extended security concerns on the continent. If security is to be sustainable, it has to be tackled as a regional, rather than State-centred objective. Security of every African country is inseparably tied to that of all others as well as the whole continent. Security in most African sub-regions is inevitably linked with the domestic security of a number of other states because of shared geographical borders, ethno-cultural affinity and similar economic and environmental conditions.

Furthermore, the security challenges faced by many African countries are similar in nature: given the cross-border nature of many conflicts in Africa, a regional approach to security sector restructuring will not only complement the national-level efforts, it will also go a long way in ensuring that the security reform efforts of a country are not derailed by instability in a neighbouring country. Experience confirms the need for a collective approach to security challenges in Africa. The Liberian and Sierra Leonean crises offer a relevant example of the interconnectedness of security challenges in Africa and how instability in one country can ignite conflict in another. It is therefore pertinent that greater efforts be made at the regional and sub-regional levels to adopt a collective framework and strategies for tackling the challenges of security sector reform. Given the similarity of the historical evolution of many African States and the cross-border nature of security challenges, it is imperative that those States subscribe to a set of common values upon which security considerations in the region will be based. The core values must cut across the political and socio-economic

spheres and define the norms and principles underpinning political and socio-economic interaction in the region. A fundamental aspect of the core values must be an acceptance of liberal democracy as the best governance system that can guarantee an enabling environment for human and sustainable development in Africa. As Fayemi and Ball have rightly stressed, "… achievement of democratic governance in one or more country does not necessarily guarantee the entrenchment of core values of governance in a particular State, unless the nations on its borders also imbibe the values collectively." [17]

Another significant impact of the Cold War was the expansion of the concept of security. The emergent interdependent and globalising world also altered the role of the security sector. In the Cold War era, security was more or less perceived as insulation against acts of aggression. However, with globalisation, security has become more of an enabling environment for political stability and sustainable development. Under the current configuration of global order, conflicts are no longer perceived as events in the global confrontation between the superpowers. The concept and scope of security has been broadened and "adapted to global interdependence between states, which can no longer concern the economic sphere alone but must also embrace domestic political stability and, indeed, the affirmation of democracy and the free exercise of human rights."[18]

While the security sector still performs its traditional role, security systems have become more cooperative and reciprocal in nature. Regional and sub-regional security institutions such as NATO, ECOMOG (Economic Community of West African States Monitoring Group) or the SADC (Southern Africa Development Community) force have intervened in internal affairs of other countries and performed peace enforcement or peacekeeping functions at different times. The military intervention of the United States in the Gulf, under the mandate of the UN, was also part of the new development. What the current trend indicates is that security challenges can no longer be tackled solely at the national level – but as a collective agenda within the frameworks of international, regional and sub-regional cooperation. This further reinforces the need for a collective approach to the issue of security and the quest for political stability in the region. Hence, the importance of the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), a framework for regional and international cooperation introduced, at the initiative of the Africa Leadership Forum in 1991 and its founding chairman (President Olusegun Obasanjo), to tackle the challenges posed to Africa by the reconfiguration of the global order occasioned by the end of the Cold War.

The Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA)[19]

Against the general expectation that the end of the Cold War would enhance global security, that development (although improving the relations of the two super powers) rendered the "previously dependent and weak states severally vulnerable to internal contradictions and internecine warfare"[20]. It also altered the nature of conflict in Africa. The continent entered an era of State disintegration due to endogenous factors. Struggles for political and socio-economic interests began to plunge many countries into rapid disintegration. Among these were Liberia (1989), Somalia (1989), Rwanda (1990), Moreover, the end of the bipolar chasm eliminated the remaining superpower concern for many regions and their issues, thereby confronting a number of countries with new and enormous challenges. African States, for example find themselves locked in direct economic competition with Eastern Europe and East Asia inasmuch as these countries strive for global economic integration. Currently, there is an insignificant capital flow between the developed countries and Africa, as compared to that of Eastern Europe, East Asia and Latin America. In practical terms, it became imperative that Africa initiate a process capable of operationalising emerging paradigms, concepts and new attitudes as a means of increasing its capacity to make appreciable progress and impact in the new global configuration of powers. The African region needed to evolve a series of initiative to enable the continent to deal with its own problems based on an agenda, managed by Africans and designed principally to promote and foster an endogenous agenda, but with the active involvement of the international community. The time was ripe for a range of initiatives. Perhaps the most significant of the initiatives that emerged was the Kampala Document, which contains the proposals for a *Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA).*

The CSSDCA, as proposed in the Kampala Document, was not conceived as a one-off event, but as a process. It reflects the inter-linkage between peace, stability, development, integration and cooperation. It creates a synergy between the various activities currently undertaken at the level of the African continent and can therefore help to consolidate the various critical issues relating to peace, security, stability, development and cooperation. The underlying thinking of the CSSDCA process was recognition of the fact that the problems of security and stability in many African countries had impaired their capacity to achieve the necessary level of intra and inter-African cooperation that is required to attain the integration of the continent, which is also critical to the continent's socio-economic

development and transformation. The CSSDCA rests on four main pillars, called "Calabashes" (gourds): Security, Stability, Development and Cooperation. It provides a policy development and coordinating forum for the elaboration and advancement of common values within the main policy organs of the OAU/African Union.

Security Calabash. The CSSDCA's concept of security embraces all aspects of the society (be it economic, political, social and environmental dimensions), the individual, the family as well as the community, local and national life. It underscores the organic links that exist between the security of member States as a whole and the security of each of them on the basis of their history, culture, geography and their common destiny. Security also has to do with the right of people to live in peace with access to the basic necessities of life, while fully enjoying the fundamental human rights and freely participating in the affairs of their societies.

Stability Calabash. Stability implies the existence of the rule of law. The active involvement of citisens in decision-making processes is a condition for stability. It requires that all States be guided by strict adherence to the rule of law, good governance, people's participation in public affairs, respect for human rights and fundamental freedoms, as well as the establishment of political organisations devoid of sectarian, religious, ethnic, regional and racial extremism. The executive, legislative and judicial branches of government must respect their national constitutions and adhere to the provisions of the law and other legislative enactments promulgated by their National Assemblies.

Development Calabash. It posits that the attainment of self-reliance, sustainable growth and economic development in Africa can only be made possible through economic cooperation and integration. An effective diversification of the resource and production base is of vital importance to the rapid socio-economic transformation of African countries. Partnership, trust and transparency between leaders and citizens will be critical to ensure sustainable development, based on mutual responsibilities and a shared vision.

Cooperation Calabash. The last Calabash is concerned with how efforts at integration among member States could be further intensified to enable the latter to compete better in the global economy. Through cooperation and integration, African countries must learn to act collectively to develop, protect, manage and equitably utilise common natural resources for mutual benefit. They must also seek to explore further opportunities for beneficial cooperative relations with other developing and industrialised countries. That Calabash posits that the process of regional and continental integration can be facilitated by enhanced efforts at the harmonisation and

coordination of economic programmes and policies of regional economic communities.

In 1990, in response to the enormity of the political, strategic, economic and social upheavals resulting from the disappearance of the Cold War and the reconfiguration of the global order, the *Africa Leadership Forum*, in collaboration with the *Organisation for Economic Cooperation and Development* (OECD), convened a high-level experts meeting in Paris on the implications of the events in Eastern Europe and the likely impact on Africa. The participants at the Paris meeting, however, sensed that the end of the Cold War had also ominous consequences for Africa. Without the Cold War, would Africa now be left out in the cold and be on its own? Would it now have to cope, using its own means and ingenuity, while also hampered by poverty and lack of resources and a crushing debt burden, proliferating violent conflicts and wars? Would the industrialised countries, which previously had channelled considerable resources of development assistance to Africa, now turn their backs on the continent and divert aid towards countries geographically closer to them? The 1990 Paris meeting concluded that Africa had to meet to the challenge, to tackle the interrelated problems of security, stability, development and cooperation through its own means and to engage the rest of the world within a holistic and composite framework designed, owned and driven by Africans. Inspired by the experience of the Conference on Security and Cooperation in Europe (CSCE), or Helsinki Process, a scenario emerged in subsequent discussions, that Africa should pursue a similar process leading to a comparable result with implications and positive impact for the entire continent. The meeting concluded that Africa would remain in its multileveled crisis until a comprehensive solution conducive for sustainable development could be internally originated.

The Africa Leadership Forum accepted the challenge to drive this process. In November 1990, it convened in Addis Ababa, Ethiopia, in collaboration with the Secretariats of the OAU and the United Nations Economic Commission for Africa (UNECA), a meeting of prominent African personalities drawn from government, business, academia, international and non-governmental organisations to brainstorm on concrete strategies to cope with the world's new realities. Participants deliberated on a "triad of security, pluralism, and economic cooperation".[21] The meeting recognised the need to develop a framework for Africa along the lines of the CSCE. A Steering Committee, comprising about half of the conference participants, was set up to guide further activities in this direction. The committee restructured the principles into four main goals: *security*, *stability*, *development* and *cooperation*.

Again, in early 1991, as a first step, the Africa Leadership Forum and some officials of the movement who promoted the Helsinki Process at non-governmental level, particularly the German Foundation for International Development, joined forces to examine the relevance of the European process for Africa. Recognising that the CSCE initiative took some time to develop, it was considered that the African movement should rest on its own roots and that it would be better to situate it in an existing organisation – namely the OAU. Against this background, it became clear that the journey would be "winding, tortuous, long and even rough."[22] President Yoweri Museveni of Uganda, the then chairman of the OAU, agreed to host a conference in Kampala in April 1991, in close cooperation with the then Chairman of the Africa Leadership Forum, (Olusegun Obasanjo of Nigeria). Over 500 people from all walks of life (labour union leaders, representatives of the private sector, peasants and Presidents, students and professors, leaders from international inter-governmental and non-governmental organisations, ministers and other political leaders) participated in the meeting. The host President was joined by other counterparts like Kenneth Kaunda of Zambia, Joaquim Chissano of Mozambique, Omar El-Bashir of Sudan and Quett Masire from Botswana. Former President. Julius Nyerere of Tanzania, as well as the former President of Cape Verde, Aristides Pereira, and Olusegun Obasanjo of Nigeria were also there. The African National Congress (ANC), still battling the apartheid regime in South Africa, also sent Alfred Nzo as its representative. After a series of speeches, participants broke into issue areas working groups. This historic meeting adopted the Kampala Document containing proposals for a CSSDCA. The four cardinal issues were eventually grouped into the so-called "Calabashes". Subsequently, in June 1991, the Kampala Document was presented to and introduced at the OAU Summit in Abuja, Nigeria. The Summit noted the contents of the document and recommended it to the OAU Council of Ministers for further consideration in the light of comments solicited by the OAU secretariat. The Kampala text was however left to gather dust on an OAU shelf for eight solid years – a fact not totally unconnected to the threat the initiative posed to the *status quo*, viz. "the power positions of a few governments whose domestic hold on unscrupulous power rendered them vulnerable and insecure. They became the most vocal in their opposition … they shelved the initiative".[23]

As Deng and Zartman rightly pointed out, imitation was the best form of opposition to the CSSDCA. While many African leaders perceived the latter as a threat to the OAU at the onset, the 1993 OAU Mechanism for the Prevention, Management and Resolution of Conflicts was revised and

modelled on the Kampala document in parallel to the discussions of CSSDCA. In spite of the inaction of the OAU on the CSSDCA, the Africa Leadership Forum continued to discuss the Kampala texts and organised a series of conferences in this regard. After the incarceration of General Obasanjo, the Africa Leadership Forum operating from Accra (Ghana) and New York struggled hard to enlist academics, political figures and members of civil society organisations who continued to press for the adoption of the Kampala Document. Though hope for a better day was also present, the period of activism became rather long and sometimes frustrating indeed. Nevertheless, the Africa Leadership Forum never gave up its mission and vision. The liberating break then occurred in 1999, with Nigeria's return to democracy and the subsequent election of Olusegun Obasanjo as President of that country. This brought about a resurrection of the CSSDCA proposal and process to the mainstream of policy-making in Africa. At the Algiers and Sirte (Libya) OAU summits, President Obasanjo obtained the support of his fellow African leaders for the resumption of consideration of the CSSDCA, based on the Kampala Document. The Africa Leadership Forum was thereafter invited to become closely associated with the inter-governmental OAU-led process.

The CSSDCA initiative was discussed during the fourth extraordinary Summit of the Assembly of Heads of State and Governments meeting. That Summit adopted the Sirte Declaration in which, among other things, the Assembly of Heads of State and Government decided that a *Ministerial Conference on Security, Stability, Development and Cooperation* in the continent be convened as soon as possible. Held in Abuja (Nigeria), on 8-9 May 2000, the Ministerial Conference paved the way for the OAU Summit Meeting in Lomé, which adopted the *Solemn Declaration on the Conference on Security, Stability, Development and Cooperation in Africa*.[24] Since then, a flurry of activities on operationalisation of the CSSDCA process has been taking place. In furtherance of the directive of the mandate of the Lomé Summit (prescribing discussions of the various Calabashes of the CSSDCA), the March 2002 meeting of the OAU Council of Ministers in Addis Ababa resolved that two Experts Group meetings be convened: one to tackle the Cooperation and Development Calabashes, and one to address the Security and Stability Calabashes.

The first Experts Meeting was held in Midrand (South Africa) on 9–13 December 2001, while the second took place in Addis Ababa (Ethiopia) on 14–17 May 2002. Both meetings helped to situate the objectives of the CSSDCA process within the context of the emerging African Union. A Memorandum of Understanding (MoU) on the Development and Cooperation Calabashes was adopted. The MoU offered a

pragmatic framework for translating the general and specific principles of the CSSDCA into core values and key commitments that would serve as a framework for action. This framework, which was based on decisions and resolutions already adopted by the OAU, provided a tool for asserting key targets or performance indicators that would enable the Union to assess progress over any period of time in the implementation of decisions and commitments taken by member States. It also addressed the issue of complementarity with the New Partnership for Africa's Development (NEPAD). The Experts Meeting on Security and Stability also adopted an MoU, which was merged with the one on Cooperation and Development. The consolidated MoU was reviewed by the Council of Ministers and approved by the inaugural Summit of the African Union, being the 38th Ordinary Session of Assembly of Heads of State and Government in Durban (South Africa) in 2002.

The Memorandum of Understanding on the Calabashes of the Conference on Security, Stability, Development and Cooperation in Africa

The process underpinning the development of the CSSDCA is unique and dynamic. It went through a series of consultations, deliberations and agreements which resulted in the expansion of its frontiers. The MoU on the Calabashes of the CSSDCA is based on resolutions, declarations and decisions taken by the continental organisation since its establishment in 1963. It is an all-inclusive framework for a peer review structure within the African Union. The document sets out the core values, the commitments required to effect them, the key indicators for measure and performance and a framework for implementation and monitoring performance.

The Core Values of the CSSDCA. The African countries agreed to respect and abide by the following "indivisible core values, all of primary importance …":

– *Respect of sovereign equality*. Every African State is bound to respect the rights inherent in the territorial integrity and political independence of all other African States, without prejudice to the provisions of art. 4 of the African Union Constitutive Act, sections (h) and (j) and other relevant international instruments.

– *Global security*. Security is viewed as a multi-dimensional phenomenon that goes beyond military considerations and embraces all aspects of human existence, including economic, political and social dimensions of individual, family, community and national life.

– *Interdependence of the State and the individual*. Peace and security are central to the realisation of development of both the State and individuals. The security of the African people, their land and property must be safeguarded to ensure the stability, development and cooperation of African countries.

– *Indivisibility of external security*. The security of each African country is inseparably linked to that of other African countries and the African continent as a whole.

– *Halting the ordeal of refugees and displaced persons*. The plight of African refugees and internally displaced persons constitutes a scar on the conscience of African governments and people.

– *Fair exploitation of natural resources*. Africa's strategic and natural resources are the property of the people of Africa and the leadership should exploit them for the common good of the people of the continent, having due regard for the need to restore, preserve and protect the environment.

– *Acknowledgment of the threat posed by dissemination of weaponry*. The uncontrolled spread of small arms and light weapons, as well as the problem of landmines, constitutes a threat to peace and security in the African continent.

– *Good governance*. Good governance (including accountability, transparency, the rule of law, elimination of corruption and unhindered exercise of individual rights as enshrined in the African Charter on Human and Peoples' Rights and the Universal Declaration of Human Rights) is a pre-requisite for sustainable peace and security in Africa, as well as a necessary condition for economic development, cooperation and integration.

– *Interdependence of all the elements of the CSSDCA*. A fundamental link exists between stability, human security, development and cooperation in such a manner that each reinforces the other.

– *Necessity for democratic structures*. Sustainable stability in Africa demands the establishment and strengthening of democratic structures and good governance based on common tenets.

– *Rejection of unconstitutional changes of government.* Changes of that kind occurring in any African country represent a threat to order and stability in the African continent as a whole.

– *Rule of law and social justice*. Respect and promotion of human rights, the rule of law and equitable social order are the foundation for national and continental stability.

– *Eradication of corruption*. Corruption undermines Africa's quest for socio-economic development and the achievement of sustainable stability in the continent.

– *Rejection of domestic political extremism*. No political organisation should be created on the basis of religious, sectarian, ethnic, regional or racial considerations. Political life should be devoid of any extremism.

– *Free and fair elections*. The conduct of electoral processes in a transparent and credible manner and a concomitant obligation by the parties and candidates to abide by the outcome of such processes are necessary to enhance national and continental stability.

– *Linkage between development and human freedoms*. Development is about expanding human freedoms. The effort of member States at achieving development is aimed at the maximum expansion of the freedoms that people enjoy.

– *Human freedoms*. The freedoms that Africans seek and deserve include, *inter alia*, freedom from hunger, disease and ignorance, as well as access to the basic necessities for enhancing the quality of life. These freedoms can best be achieved through expansion of the economic space including the rapid creation of wealth.

– *Economic development and activities*. Economic development is a combined result of individual action. Africans must be free to work and use their creative energies to improve their well-being in their own countries. The State's involvement in the activities of individual economic actors should be supportive of individual initiatives.

– *Acknowledgement of the importance of the economic role of the State*. The State is expected not only to provide a regulatory framework, but also to actively cooperate with the private sector and civil society, including business associations and organisations as partners of development to promote economic growth, social and economic justice.

– *Elimination of poverty*. All priorities in economic policy-making shall be geared towards eliminating poverty from the continent and generating rapid and sustainable development in the shortest possible time.

– *Integration of Africa into the world economy*. Cooperation and integration between African States is key to the continent's socio-economic transformation and effective integration into the world economy.

– *Harmonisation and strengthening of the Regional Economic Communities (RECs)*. Such objective is especially needed in key areas as an essential component of the integration process, through the transfer of certain responsibilities, as well as an effective reporting and communication structure involving the RECs in continental initiatives.

– *Involvement of all stakeholders*. A strong political commitment including the involvement of all stakeholders, the private sector, civil

society, women and youth represents a fundamental principle for the achievement of regional economic integration and development.

– *Development of science and technology.* The development of all economic sectors and the raising of living standards require serious investment in science and technology.

During the Experts meetings, detailed examination of each Calabash was preceded by the presentation and analysis of a policy discussion paper in which the framework of common and existing consensus of values, commitments, obligations, action and benchmarks were comprehensively discussed. African leaders agreed within the framework of the CSSDCA process that the common values would guide all undertakings in the continent in the sphere of security, stability, development and cooperation. In the process, member States explored the legitimacy and validity of their previous commitments in the light of contemporary developments and realities. They did not only reaffirm their continued commitment to previous obligations. In some cases, they even sought to expand them in the light of international decisions taken after the original decisions and resolutions at national, regional and international levels. They also agreed on a number of key commitments to give effect to the core values.

A significant aspect of the CSSDCA process is its peer review mechanism, which the NEPAD African Peer Review Mechanism has also adopted, though without any form of acknowledgement. The peer review process is designed as a comprehensive mechanism involving vertical and horizontal approaches. The primary source of reference will be national review mechanisms, but inputs are also required from civil society, parliamentarians and the private sector. The MoU highlights sets of criteria and indicators for assessing and monitoring performance. Member States agreed on the precise requirement of common diagnostic tools and measurement criteria for assessing performance and cross-referencing inputs for assessments from all stakeholders in African States and society. The key performance indicators meet the highest regional and international standards. The expectation was that as the CSSDCA evolves, the MoU would also evolve into more binding agreements and that the CSSDCA process would serve as a monitoring instrument for the Assembly of the African Union, as envisaged in art. 9 (e) of the Constitutive Act of the Union.

The framework for implementation enunciates actions to be taken at the national, sub-regional and regional levels to achieve the objectives of the initiative. The member States also reaffirmed their readiness to stand by the commitments agreed to in very clear and unequivocal terms by stating that "we commit ourselves to respect and implement all these undertakings in conformity with Articles 9(e) and 23 (2) of the Constitutive Act of the

African Union".[25] The CSSDCA process offers seven fundamental and unique attributes:

– A standing Conference of the OAU/AU that will convene every two years to give a report to the Assembly of Heads of State and Government in Africa during the OAU Summit.

– A strategic guide and road map for sustainable development through subscription to a set of common values and measurable performance indicators.

– A mechanism for monitoring and evaluation of development performance of African states which in every way is similar to the Peer Review System being proposed under the NEPAD.

– Openness and transparency through the involvement of Civil Society Organisations in both the implementation and the periodic review process.

– A basis for integration of regional policy initiatives into the national legislation which in fact gives the parliamentarians a critical role in the overall implementation of the CSSDCA process.

– An institutional framework and linkages between the national institutions (National CSSDCA Focal Point) and the regional central political organ (OAU/AU through the CSSDCA Unit).

– A holistic framework for the strengthening of existing organs and policies of the OAU/African Union such as the Mechanism on Conflict Prevention, Management and Resolution and the Early Warning System.

Operationalising the CSSDCA Process: Status and Prospects. The CSSDCA Solemn Declaration as adopted by OAU Lomé Summit on 11 July 2000 includes a Declaration of Principles, a Plan of Action and an Implementation Mechanism. The latter provides for a biennial Standing Conference, which should meet during the ordinary session of the Assembly of Heads of State and Government. In the Solemn Declaration, the leaders also agreed to convene review meetings of the Plenipotentiaries and Senior Officials to monitor the implementation of the CSSDCA decisions in-between sessions of the Standing Conference. Furthermore, the Secretary General was directed to formalise the CSSDCA process and integrate it into the OAU structure by designating, within the Secretariat, a Unit to coordinate CSSDCA activities. When established, that Unit was incorporated into the formal structure of the Secretariat: as part of this process, two Senior Political Officers were recruited for Security and Stability and Civil Society Affairs respectively, as regular staff officers. The appointment of the Senior Coordinator and the support staff were regularised in June 2002 in order to make the Unit fully operational.

Following the Durban Summit of 2002, the CSSDCA Process was confronted with three basic operational challenges. The first was related to the need to create structures and processes for performing the CSSDCA function as the monitoring and evaluation mechanism of the African Union, and the critical challenge was to implement the MoU on Security, Stability, Development and Cooperation, as approved by the Durban Summit. The second was to consolidate the CSSDCA as the main link between the African Union and civil society. As to the third challenge, it concerned the need to build support for the CSSDCA Process within and outside Africa.

Administrative Arrangements. In the CSSDCA Solemn Declaration, African Heads of State and Government agreed to integrate CSSDCA principles into national legislation and institutions in ways that would simplify the CSSDCA monitoring activities. Member States were to initiate legislative and administrative procedures that would align national laws with the principles and ideals of CSSDCA. Articles IV and V of the Implementation Framework of the MoU further mandated member States to designate focal points within existing national institutions (States, civil society, the private sectors, etc.) for CSSDCA programmes. The focal point was to be responsible for coordinating and monitoring all activities relating to the CSSDCA. In addition, it would have to undertake, on an annual basis, monitoring of the country's compliance with the CSSDCA process. Member States were also to establish within existing national institutions a national coordinating committee, consisting of all stakeholders dealing with the various Calabashes of the CSSDCA framework, to develop and coordinate

the overall strategies and policies towards all four Calabashes. The National Focal Points are to relate with the CSSDCA Unit at the Secretariat of the African Union Commission.

Monitoring and Evaluation. Whereas the CSSDCA MoU sets out core values and commitments that will serve as agreed benchmark criteria and indices (with key performance indicators as instruments for measurement of compliance in monitoring progress), it does not include procedures for information or data collation, processing and assessment methods. Evidently, these are critical technical elements that must be handled by experts. The CSSDCA Unit had to tackle the challenge and take appropriate measures to design diagnostic tools and measurement criteria for assessing performance, taking cognisance of the prescribed timelines and deficiencies and capacity restraints that may impede performance. As a way forward, the CSSDCA Unit was engaged in a flurry of activities. Pursuant to its mandate to serve as a link between the African Union and Africa's civil society organisations, it convened the second OAU-Civil Society Conference on Developing Partnership between the OAU and African Civil Society Organisations. The main objective of the meeting was to link up with and bring civil society into the mainstream of decision-making in the Union. Following this, the Unit organised a series of meetings on OAU-Civil Society relations and created a Provisional Working Group (PWG) on the African Union Economic, Social and Cultural Council (ECOSOCC). The activities of the PWG led to the development of a draft Statute for the ECOSOCC. The statute was eventually adopted by the General Assembly of the African Union culminating in the inauguration of the ECOSOCC as one of the organs of the African Union during the first quarter of 2005. The Unit also convened two African Union-Diaspora meetings in Washington and Trinidad and Tobago as part of its outreach programme aimed at building up support for the CSSDCA process outside the continent. Furthermore, in collaboration with the Africa Leadership Forum, the CSSDCA Unit convened a Technical Workshop on the Monitoring and Evaluation Process of the CSSDCA in Abuja (Nigeria), on 2 – 4 June 2003. The objective of the Workshop was to elaborate, amongst other things, administrative arrangements overseeing the monitoring process, with diagnostic tools and measurement criteria for assessing performance as well as deficiencies and capacity restraints that impede them.

As can be inferred from the foregoing, the CSSDCA Unit has posted a modicum of progress in its role as the main link between the African Union and civil society organisations as well as in its outreach programme. It is however obvious that no concrete achievement has been made in respect of the core mandate of the CSSDCA process, particularly in its evaluation

and monitoring roles. The national focal points have yet to be created, and no activities seem to be under way for evaluation and monitoring purposes. Has the CSSDCA abandoned its role as the evaluation and monitoring mechanism of the African Union, and if not, what are the reasons for non-implementation of the MoU to the letter? What are the challenges confronting the CSSDCA as one of the two special programmes of the African Union and what is the way forward?

The CSSDCA MoU lists a range of indicators under the four Calabashes, whose implementation should be monitored and assessed. A major challenge here is the adoption of frameworks for incorporating CSSDCA norms into national laws and legislations. However, there are fundamental issues and considerations that require thinking through before the monitoring of these indicators. In the first place, the nature and character of the four Calabashes are different. At best, the Security and Stability Calabashes share certain traits that distinguish them from the Cooperation and Development Calabashes. Under the latter two, monitoring will be essentially a question of analysing data on progress made by member States as they strive to meet agreed goals based on agreed economic development indicators. Under the Security and Stability Calabashes, on the other hand, the key performance indicators require in several instances that policies and programmes be developed and implemented. In other instances, mechanisms and structures that would promote peace, stability, security and good governance on the continent would need to be put in place. It is perhaps at the level of requirement of information sources and methodological needs that the differences and the contrasts become sharper. Clearly the nature and character of information and the collection requirements would be totally different. The challenge is not exactly that of availability of data or information (although this may arise in some instances): by and large, the information for both categories would generally be available. However, the nature and character of the data to be used in monitoring progress under the Development and Cooperation Calabashes are quantitative. What is more, these can be found in both aggregated and interpreted and systematic format with multilateral agencies and financial institutions such as the World Bank, IMF and the African Development Bank among others. Additional or supplementary data may therefore be gathered and utilised as may be required.

Flowing from the above, the data gathering and analysis methodology would be significantly different. On the one hand, the data to be used under the Security and Stability Calabashes would be basically qualitative in nature. On the other hand (and perhaps with greater implication), under those same Calabashes, policy development and

implementation will be critical if goals are to be met. Therefore, in some instances, monitoring must involve a complete process of determining the requisite instruments of policy development and formulation, instruments of implementation and actual implementation plans, of identifying capacity needs and establishing follow-up procedures for tracking compliance. There will of course be instances where the policies have been developed: the challenge here will be the creation of the required action plans, the actual implementation of such plans or the construction of mechanisms for facilitating implementation and promotion or measuring compliance. It is obvious, therefore, that the CSSDCA Unit will be a major hub of activities if the monitoring and evaluation process is to achieve the desired result. Under the Security and Stability Calabashes the indicators are mostly related to political governance. Monitoring such indicators carries with it a range of very peculiar and certainly uncommon challenges. Once the issue of political governance is involved, it is to be expected that member States will raise that thin and now changing spectre of sovereignty. While it is expected that implementation will be done with a modicum of circumspection, the process itself could be seen as intrusive; nevertheless, fears of that nature are present and due cognisance must be taken of them from the outset. In any case, the overall strategic advantage of the CSSDCA process stems from the fact that the indicators themselves were derived from the resolutions, decisions and declarations of the Assembly of Heads of State and Governments of the African Union and are generally consistent with internationally accepted norms and standards relating to human rights as well as the treatment of refugees. One can therefore safely argue that the validity and legitimacy of these indicators are not in doubt and that once the challenge of building and deepening the support base for the process within and among the organised civil society, as is being done through the annual African Union-Civil Society Meeting, is consolidated, creating the required support base for the process will ordinarily be a matter of time.

The variables in the Security and Stability Calabashes can be grouped into four categories. In the first category are those variables that require the creation of a framework, general principles, guidelines and definition of common positions as a stimulus for action. These are indicators 1, 3, 9, and 15, 16, 19. The first three indicators are in the Security Calabash while indicators 15, 16 and 19 are in the Stability Calabash.[26] The second categories of indicators are those which require the signing, ratifications and accession to treaties and agreements by member States. They include indicators 2, 11, 13, 16, 17, 23, 24, 25, 26 and 27. They could also be classified further into two subsets: one basically concerned with adoption, ratification and accession to certain treaties at continental level and another

one encompassing the indicators that require action at the national level, in particular enactment of requisite national legislations that would facilitate effective and legal compliance with continental obligations. The third category comprises those indicators related to the establishment and development of programmes. The last group of indicators is the one which would require the establishment and strengthening (where applicable) of certain institutions, whose existence and proper functioning remain critical to the realisation of commonly derived objectives. The foregoing analysis is important to establish as it has implications for the analytical method that would eventually be utilised at the operational level.

It should also be mentioned that, in the MoU on the CSSDCA, precise timelines were established for all the indicators. Thus, not only were the indicators developed, they were assigned a precise time-frame within which these objectives were expected to be realised. Accordingly, States are expected to move rapidly towards the realisation of those objectives within the set time-frame. Some objectives were to be achieved in 2002, 2003, or even 2012. There was emphasis on early timelines to create the momentum for rapid action in certain cases. In some instances this has proved useful. Examples include the action on defining Africa's common defence policy (Indicator 3), strengthening Africa's capacity for peace support operations (Indicator 4), consideration of the Plan of Action on Terrorism by 2003 (Indicator 13), adoption and standardisation by 2003 of guidelines for independent and effective observations of elections in African Union member States (part of Indicator 19). However, a few others still remain unfulfilled. Examples are indicators 11 on refugees that sets 2003 for the ratification and accession to the OAU Convention on Refugees, and indicator 15 (b) that calls for all African countries to enact by 2003 legislation that provides for the impartiality of the public service.

CSSDCA and the Challenges of Security Sector Reform

In the author's view, human security must be the end goal of security sector reform. The real challenge is not over the primary referent of security. It is about what is to be made secure. Concerning the ability to strengthen the capacity of the State to provide security to its citizens, this naturally brings the issue of stability into focus. Clearly, the CSSDCA's holistic approach to the concepts of security and stability simplifies the challenges of security sector transformation in a number of ways.

The basic premise of CSSDCA is that the concept of security must be seen in its comprehensiveness: it must be taken beyond the traditional definition, which is largely military, and insists that the security of every African country and of the continent must include the human dimension. The issue of stability is equally important to development: promoting political and social stability in individual African countries is, therefore, a key component of the CSSDCA process. The Security Calabash has indeed remarkable implications for political stability. The stability of every country in the years ahead will continue to be hinged on the capacity of the State to effectively institutionalise democracy and good governance. There are two major concerns in that connection: a concern for a viable political culture and a concern for a stable political community in African States. Under the stability guidelines, all African States are to be guided by strict adherence to the rule of law, popular participation in governance, respect for human rights and fundamental freedoms. Political organisations should not be based on religious, ethnic, regional or racial considerations. There should be accountability and transparency in public policy-making and execution, as well as absence of violent and destructive fundamentalism in religious practice. Another significant aspect of the Stability Calabash is that it contains an outline for a systematic interaction between States and civil society as a means of achieving enduring political stability in Africa.

Since institutionalisation of a liberal democratic system of governance (including the rule of law, democratic control of the armed forces, protection of the fundamental human rights, etc.) constitutes one of the CSSDCA core values subscribed to by all African States, it is to be expected that strict adherence to such commitments will culminate in the consolidation and institutionalisation of liberal democratic norms and principles. This will broaden the space for popular participation and produce a more vibrant civil society, which will demand and ensure accountability and transparency from government officials, and ensure that budgeting and budgetary processes are reprioritised in ways and manners that place human security considerations above the regime or State security. The undue

prominence placed on regime security to the detriment of human and State security gave no room for considerations of security sector reform. State security organs and institutions were most often monopolised by the ruling elite and utilised for domination, regime perpetuation and annihilation of opposition groups and related concerns. While the collapse of communism did play a significant role in placing the security sector governance paradigm on the international agenda, civil society's struggle and agitations against oppressive governments, as well as the "conditionalisation" of development assistance by donor and development agencies, served as stimulants to the security sector governance discourse.

The transition to democracy in many African countries ushered in discussions on the need for security sector reform, basically with a view to preventing a relapse into another dark period of authoritarian rule. While the role of civil society in facilitating the reinstatement of liberal democracy in Africa is widely recognised, civil society and non-governmental organisations have not been so active in the struggle to redefine military–civilian relations in Africa. However, as 'Funmi Olonisakin rightly observed, civil society activism in Africa was not only in the fight for restoration of democracy: civil society has also been active in efforts to "evolve normative frameworks" for the institutionalisation of the norms and principles of liberal democracy in Africa.[27] The move to redefine civil-military relations was undertaken through a combination of initiatives involving a diverse group of actors including donor and development agencies, NGO leaders and emergent political leaders. Though there has been significant increase in collaborative efforts and networking between civil society and sub-regional/regional intergovernmental bodies on the one hand and between civil society organisations across different thematic areas on the other hand, there is a need for more collaboration and networking on security sector governance at both the governmental and civil society levels.

Basically, civil society can facilitate security sector governance reform in a number of ways. These include lobby and advocacy, as well as constructive engagement with the executive and legislative arms of government. There are several examples of such initiatives and approaches. For instance in November 1996, the Africa Leadership Forum convened in Lilongwe (Malawi) a high-level meeting of military and civil society leaders in Africa to facilitate a rethink in civil-military relations as part of defining Africa's governance priorities and structures on the eve of the new millennium. One major outcome of that meeting was a major collaboration with the UNDP and the Oscar Arias Foundation in convening an expanded high-level conference on the leadership challenges of demilitarisation in Africa in Arusha (Tanzania) in 1998. Another major outcome was the

comparative analysis of existing sub-regional security protocols in Africa. These consultations later created other initiatives on security sector governance. Other examples of civil society collaborative initiative include the civil–military relations workshop convened in January 2003 by the Sierra Leone Civil Society Organisation Campaign for Good Governance and the US National Democratic Institute. The workshop provided a platform for dialogue between Sierra Leone parliamentarians and the Sierra Leone armed forces. It engendered a civil-military Liaison Committee with a mandate to facilitate additional dialogue on the workshop recommendations.[28] The Centre for Democracy and Development also organised a series of round tables on democratic control of military and security establishments in Nigeria and South Africa in 1999 – 2000.[29]

Although security sector governance is a new concept, the protracted years of military and one-party authoritarian rule in Africa and the consequent collapse of many economies have made such an objective more pertinent for the African continent. Any attempt to reform or promote transparency and accountability in the security sector must first examine the legal arrangements backing the Constitution. It is the latter that determines the nature and structures of civil–military relations, and as such, the sections of the text dealing with the security sector must necessarily be devoid of any ambiguity. Unfortunately for many African countries, the prolonged years of authoritarian rule in Africa weakened or disregarded the constitutional provisions defining civil-military relations. Accordingly, the transition to democracy in many African countries was accompanied by constitutional reform processes whose intent was to ensure democratic control of the military, professionalise the armed forces and make further military incursion into politics impossible. The democratisation process also inspired and facilitated institutions of civil society expected to contribute more meaningfully to the development process while creating a sort of countervailing power to the institutions and activities of the State. Clearly, the overriding challenge confronting civil society organisations is that of assisting in identifying the parameters of a just order and the sensitisation of those parameters to its audience. As a corollary to this, and at the moment of democratic transition and consolidation of the objective changes, the task involves the continuous expansion and defence of the liberal political space.

While the primary objective of the CSSDCA process is not explicitly to transform the security sector, the core values and principles of the latter nevertheless provide a rich framework and principles for reform. The introduction of the human security dimension into the discourse and operations of the continental body also removed security sector considerations from the sole enclave of the military, and broadened the space

for the participation of civil society.[30] As previously mentioned in this analysis, the CSSCCA takes a comprehensive or holistic approach to security. This has been reflected in the *Draft Memorandum of Understanding on Security, Stability, Development and Cooperation in Africa* (art. I.b of section I on "Core Values"), which underscores "the centrality of security as a multi-dimensional phenomenon that goes beyond military consideration and embraces all aspects of human existence, including economic, political and social dimensions of the individual, family, community and national life."[31] Moreover, the issue of security sector governance is addressed in a provision through which African leaders commit themselves to adopt by 2004 "the fundamental tenets of a democratic society as stipulated in the CSSDCA Solemn Declaration as an African common position, namely, a Constitution and a Bill of Rights, where applicable, free and fair elections, an independent judiciary, freedom of expression and *subordination of the military to civilian authority*; *rejection of unconstitutional changes of government* (…)".[32] Finally, African leaders agreed to "Develop a collective continental architecture for promoting security and inter-Africa relations that goes beyond the traditional military definition and embraces imperatives pertaining to human security, principles relating to good governance, the promotion of democracy and respect for human rights"[33]. Noticeably, the *Kampala Document* also includes a range of principles of security sector governance and transformation.[34] Its section II.A refers to the comprehensive security principle (§ V) and the governance principle (§ VI). In more detailed terms, section II.B emphasises non-military aspects of security, including human security and the special need for democratic governance – while taking into account the principle of "popular participation in national defence" presented as "vital for Africa's security" (§ iv).

The story of the CSSDCA is most illustrative of the valuable contributions of civil society in the development process in general and security sector reforms in particular. Although Africa's major political forum did not officially adopt the CSSDCA until 2000, the continental body did on different occasions adopt some of the ideals of the process. The OAU Secretary General's Initiative on Conflict Management and Resolution among others drew largely on the provisions of the Security and Stability Calabashes of the CSSDCA. More recently, three major documents of the African Union drew in large measure from the provisions of the CSSDCA – namely the Solemn Declaration on a Common African Defence and Security Policy[35], the Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government[36] and the African Peer Review Mechanism[37].

The *Solemn Declaration on African Defence and Security Policy* is patterned after the CSSDCA holistic concept of security. Acknowledging the CSSDCA Solemn Declaration, it recognised its interactive approach as an invaluable tool for the Union "to pursue and strengthen its agenda in the new millennium, in the areas of security, stability, development and cooperation in Africa".[38] The CSSDCA stresses the interdependence of African Union member States and goes on to advocate a common African defence and security policy. Under the CSSDCA, the concept of a common African defence and security policy becomes interestingly important, given the definition of security as a multi-dimensional phenomenon. The implication for the collective security approach adopted by the African Union is that security will now be tackled in an objective rather than subjective manner: not security for the sake of security, but security for the purpose which it serves. In its paragraph 5 (in which the concept of "Defence" is defined), the Declaration also reiterates the CSSDCA concept of indivisibility of security.[39] Moreover, paragraph 6 reiterates the notion of human security as exemplified in the CSSDCA's proper Solemn Declaration:

"(…) ensuring the common security of Africa involves working on the basis of a definition which encompasses both the traditional, state-centric, notion of the survival of the state and its protection by military means from external aggression, as well as the non-military notion which is informed by the new international environment and the high incidence of intra-state conflict. The causes of intra-state conflict necessitate a new emphasis on human security, based not only on political values but on social and economic imperatives as well. This newer, multi-dimensional notion of security thus embraces such issues as human rights; the right to participate fully in the process of governance; the right to equal development as well as the right to have access to resources and the basic necessities of life; the right to protection against poverty; the right to conducive education and health conditions; the right to protection against marginalisation on the basis of gender; protection against natural disasters, as well as ecological and environmental degradation. At the national level, the aim would be to safeguard the security of individuals, families, communities, and the state/national life, in the economic, political and social dimensions. This applies at the various regional levels also; and at the continental level, the principle would be underscored that the "security of each African country is inseparably linked to that of other African countries and the African continent as a whole."[40]

Conclusion

The foregoing has demonstrated the increasing relevance of the CSSDCA process for security sector governance initiatives in Africa. The growing liberalisation of the political space, the emergence of a new generation of African leaders with demonstrable commitment to placing the African continent on the path of sustainable development and reversing the continued marginalisation of Africa in global affairs, provide an enabling environment for the promotion of good governance and transformation of the security sector. Furthermore, the move towards liberal democracy has also opened the space for discussions on human rights and the need to move away from the traditional and militaristic notion of security towards a more comprehensive and people-oriented security concept. However, recent developments within the African Union Commission have fundamental implications for the implementation or survival of the CSSDCA Process. The detailed discussion and series of technical and ministerial meetings that culminated in the final adoption of the CSSDCA Memorandum of Understanding at the inaugural Summit of the African Union were trailed by activities marking the launch of another major development on the African continent: the NEPAD.

This development itself had significant implications for the implementation of the CSSDCA process. The most singular attribute of the NEPAD process, the African Peer Review Mechanism (APRM), was modelled on the CSSDCA Process. Unfortunately, this is neither mentioned in the NEPAD document nor acknowledged by the proponents of NEPAD. A more than cursory analysis of the APRM indicates that it is an adaptation of the (more comprehensive) CSSDCA evaluation and monitoring framework. One of the two major differences is that participation in the APRM is *voluntary*, whereas it is obligatory in the CSSDCA process. The second difference is that the latter is underpinned by a holistic approach, in which special attention is given to security and stability as the preconditions for development and cooperation, while the APRM focuses on political and economic governance initiatives of NEPAD. The CSSDCA provides for the establishment of a *National Focal Point* and a *National Coordinating Committee* for evaluation and monitoring compliance with current commitments, while the APRM is based on a *National Commission* and a *National Working Group*. The function of the APRM National Commission is no different from the CSSDCA National Focal Point; nor is the National

Working Group different in any significant way from the National Coordinating Committee of the CSSDCA Process.

The CSSDCA process provides that "(…) the national mechanisms for monitoring the core values and commitments of the Security and Stability Calabashes shall work closely with the CSSDCA Unit, which will elaborate a comprehensive work programme and time schedule for its activities including administrative arrangements for overseeing the monitoring process, with diagnostic tools and measurement *criteria* for assessing performance, as well as deficiencies and capacity restraints that impede them. All stakeholders in providing inputs for the review process will use the diagnostic tools and measurement criteria and highlight capacity restraints or gaps that should be bridged to enable higher standards of performance along with resources that should be mobilised to support this process. This process of peer scrutiny will facilitate the development of best practices and suggest ways in which they can be effectively transferred to where they are not in operation."[41] The CSSDCA visitation panels to be composed of eminent and reputable Africans are the equivalents of technical Assessment Missions and the Country Review Visits of the African Peer Review Mechanism. They are "to carry out professional, independent and objective on-the-spot assessments in two-year cycles as part of the preparation for the bi-annual Standing Conferences of the CSSDCA. Such visitation panels will raise the visibility and credibility of the process and augment the permanent and continuous monitoring process."

Unfortunately, current developments within the African Union suggest clearly that there appears to be a strong move to either phase out the CSSDCA Unit or simply merge the unit with other units and give it a different nomenclature and function – in which case its original and core functions will be jettisoned or de-prioritised. This development seemed logical, if not inescapable, given developments within the African Union itself. Rocky Williams provided a somewhat apt theoretical explanation when he argued that the emphasis on structure to the neglect of both *strategy* and *process* in political transformation processes is an understandable phenomenon borne out of a variety of inter-related factors. The first is the salient reality that structures have often existed long before the advent of shifts in the strategic environment and, as such, are entities that have to be transformed in parallel with the development of new policies and strategies. He argued further that "strategies without the appropriate implementation agencies and lacking the necessary resources remain little more than strategic and normative visions. (…) Policy is what organisations *do*, not what they say they would like to do and most of the *doing* depends heavily on the existence of well-resourced mechanisms and institutions."[42]

Williams further argued that the preparations for the institution of the African Union have also reflected a similar concern with the structural dynamics underpinning the creation of the Union. Detailed and eloquent recommendations on the structure and operation of the latter in general and its Mechanism for Conflict Prevention, Management and Resolution in particular have been made by OAU staffers.

In the final analysis, the CSSDCA Unit seemed to have become a victim of the usual internal dynamics of the continental framework. Suffice it to note that, in spite of its merit and strategic relevance to Africa's quest for development, it has just been consumed by the circumstances of its birth as well as other considerations. However, to meet the challenges of security sector transformation (within either the CSSDCA or NEPAD framework), African leaders have to strengthen a number of the States' institutions. Effective parliaments are key to development. The oversight and legislative role of the parliament makes it a key institution for ensuring good governance, including security sector governance. As a representative and legislative institution, parliaments have the responsibility to enact enabling legislation for security sector governance. Moreover, the oversight function of the parliament gives it a mandate to restrain the excesses of the executive in several ways.[43] The judiciary must also be strengthened, as it has the responsibility to ensure adherence to the rule of law. It must therefore be allowed to function independently. The Executive arm of government is already strong if not too strong, and does not need any strengthening. It is however imperative to build the capacity of the public service which plays a crucial role. It is the public service that is the first agent, the first line of action that transmits the decisions of the parliament that had been enacted into law for the people. Although the public bureaucracy is an arm of the executive, it plays a crucial role in backing up the parliament, the judiciary and the executive. Therefore, a strong public service is fundamental to any country and to whatever form of economic management one might adopt.

In conclusion, Africa seems to have muddled up a time-honoured opportunity and framework for developing a community of values around the governance process generally. The hope is that through some unexpected intervening variable, it just might use the African Peer Review Mechanism process to create the same.

Table 3.1   Selected key performance indicators of the Conference for Security, Stability, Development and Cooperation in Africa (CSSDCA)

No. Indicator[44] /Calabash	Objectives/ Commitments	Description
1/Security calabash	**Common Definition of Security**	Establish by 2005 a framework for codifying into national laws and legislations the concept of human security as contained in the CSSDCA Solemn Declaration, in order to build confidence and collaborative security regimes at national, regional and continental levels.
2/Security calabash	**Non-Aggression Pacts**	Conclude and ratify bilateral and regional non-aggression pacts (where they do not yet exist) by 2006 on the basis of commonly agreed guidelines.
3/Security calabash	**Africa's Common Defence Policy**	Define by 2005, in accordance with Article 4 (d) of the Constitutive Act of the African Union, Africa's common defence policy in order to strengthen Africa's capacity for dealing with conflicts including dealing with external aggression.
6/Security calabash	**Small Arms and Light Weapons**	Take appropriate measures for the effective implementation of the Bamako Declaration on an African Common Position on the illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons and the UN Programme of Action to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects. In particular, Member States must take the following steps by 2003: - Establish, where they do not exist, national and regional coordination agencies or frameworks and institutional infrastructure for policy guidance, research and monitoring. - Adopt the necessary legislative and other measures to establish as criminal offences, the illicit manufacture, possession and trade in small arms and light weapons. - Adopt appropriate national legislations or regulations to prevent the breaching of arms embargoes as decided by the UN Security Council. Establish at national, regional and continental levels, a framework for regular dialogue with arms manufacturers and suppliers with a view to halting illicit supply of Small Arms and Light weapons. Institute, by 2005, regional and continental conventional arms registers. Convene, by 2004, the

		Second Ministerial Conference on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons to review the status of implementation of the Bamako Declaration, the UN Programme of Action and the status of implementation of relevant treaties on landmines, including the Ottawa Treaty on anti-personnel mines and the Kempton Park Plan of Action. Heads of RECs should also provide status reports on the implementation of their regional programmes.
9/Security calabash	**Resource-Based Conflicts**	Given the links between illegal exploitation of resources and conflicts, the Peace and Security Council should develop by 2005, a framework for addressing the problem of illegal exploitation of resources in Africa and combating, in a concerted manner, all networks plundering the resources of Africa and using them to fuel conflicts.
11/Security calabash	**Refugees**	By 2003, all OAU/AU Member States that have not done so, should ratify or accede to the 1969 OAU Convention on Refugees and take appropriate measures to adopt the necessary national legislations and/or administrative measures to give full effect to its provisions.
		By 2005, the OAU/AU should complete the review of the legal scope of the 1969 Convention to adapt it to current circumstances and to strengthen the implementation of the Comprehensive Implementation Plan adopted in Conakry 2000. In particular, the supervisory mechanism and oversight functions of the OAU/AU should be strengthened to ensure that Member States provide the Secretariat with information and statistics concerning the condition of refugees, the protection of their human rights and mechanisms for mitigating the situation of refugees, separating armed elements from the refugee population and devising measures to compel rebel groups to respect the rights of refugees, returnees and displaced persons in territories under their control.
12/Security calabash	**Terrorism**	All Member States to sign and ratify the OAU Convention on the Prevention and Combating of Terrorism of 1999 so that it can enter into force by the end of 2002 and fully implement the obligations entered into therein by 2004. To facilitate a comprehensive response to the problem of terrorism in Africa, consider by 2003, an Action Plan and a Protocol which will provide for, among other things, national, regional and continental strategies to eradicate criminal organisations and syndicates operating in Africa, effective monitoring of the movement of persons and goods across borders by utilising crime analysis and information-gathering capability and establishment of joint border

operations to investigate and apprehend criminal elements and to stop money laundering, drug and human trafficking.

15/Stability calabash	**Democratisation and Good Governance**	Elaborate by 2004 principles of good governance based on sound management of public finances and a commonly agreed set of indicators to be included in national legislations, including decentralisation of administration and effective, transparent control of state expenditure. By 2003, all African countries should enact legislation to provide for the impartiality of the public service, the independence of the judiciary and the necessary autonomy of public institutions such as the Central bank and the office of the Auditor-General.
16/Stability calabash	**Limitation to the Tenure of Political Office Holders**	Adopt by 2005 a commonly derived Code of Conduct for Political Office Holders that stipulates among others, an inviolate constitutional limitation on the tenure of elected political office holders based on a nationally stipulated periodic renewal of mandates and governments should scrupulously abide by it.
17/Stability calabash	**Anti-Corruption Commission**	Adopt ,sign and ratify an OAU Convention on Combating Corruption and establish by 2004 in each African country (where it is not at present in existence) an independent anti-corruption Commission, with an independent budget that must annually report to the national parliament on the state of corruption in that country.
19/Stability calabash	**Election Observation**	Adopt and standardise by 2003, guidelines for independent and effective observations of elections in AU Member States, with the provision of an effective electoral unit within the AU Commission. The guidelines must include provisions for strengthening civil society and local monitoring groups in individual African countries and the continent as a whole to support the process of ensuring free and fair elections. The Commission should be gradually equipped and funded to conduct independent election observation by 2003. The reports of the various election observation teams of the AU should be made public.
23/Stability calabash	**Political Parties**	Adopt by 2004, where it does not exist, enabling legislations on the formation and operation of political parties to ensure that such parties are not formed and operated on the basis of ethnic, religious, sectarian, regional or racial extremism and establish a threshold of voter support as criteria for public funding, without compromising freedom of association and the principle of multi-party democracy.

24/Stability calabash	**Rights of the Child**	By 2003, all Member States should sign and ratify the African Charter on the Rights and Welfare of the Child and by 2005, fully implement the obligations entered into therein. By 2003, all Member States to ratify the UN Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict, the Protocol on the Trafficking and Sexual Exploitation of Children and all other instruments related to the Rights of the Child and implement the Protocols by 2005, including effective plans of action, in regions where they do not exist, for the demobilisation of child soldiers.
25/Stability calabash	**Enact Key Elements of Bill of Rights**	By 2004, pending inclusion of a Bill of Rights, including the embedded obligations of citizens, where applicable, in every constitution in Africa, all Member States should incorporate into national codes or laws, where it does not exist, provisions of habeas mandamus and habeas corpus to protect every citizen of Africa from arbitrary arrest or detention without trial and other forms of cruel and degrading treatment and put in place mechanisms for the monitoring and effective implementation of these codes.
26/Stability calabash	**Observance, Protection and Promotion of Human Rights**	By 2003, all African countries that have not done so, should ratify the Protocol to the African Charter on Human and Peoples' Rights establishing the African Court on Human and People's Rights, as well as all other relevant international instruments for the protection and promotion of human rights; and vigorously proceed with the implementation of such requirements including all provisions of the African Charter on Human and Peoples' Rights and the Grand Bay Declaration and Plan of Action on Human Rights in Africa, including the provision of required resources for the work of these bodies. By 2004, all African countries should submit annual reports, on the status of human and peoples' rights within their countries, to the African Commission on Human and Peoples' Rights. The African Commission on Human and Peoples' Rights should be provided with adequate resources to enable it to produce comprehensive, independent and publicly available annual surveys by 2006.

27/Stability calabash	Status of Women	By 2005, take measures to promote equality of women, and ensure the representation of women in all national, regional and continental institutions, as well as the elimination of all laws that discriminate against women in African countries. They should also adopt, sign and ratify the Protocol to the African Charter relating to the Rights of Women in Africa as well as other instruments and mechanisms to guarantee and preserve the rights of women. By 2005, all Member States to sign, ratify and accede to the UN Optional Protocol to the Convention on the Elimination of all forms of Discrimination against Women (CEDAW).

Notes

[1] Chris Landsberg and Francis Kornegay: "Fleshing Out Causes, Costs and Challenges of Deadly Conflicts in Africa", a paper presented at the NEPAD Workshop in Georgetown (South Africa), 2002, p1

[2] Sam. G. Amoo: The Challenge of Ethnicity and Conflicts in Africa: The Need For A New Paradigm (New York: United Nations Development Programme, 1997) P.6

[3] Landsberg and Kornegay, "Fleshing Out Causes, Costs and Challenges of Deadly Conflicts in Africa" *op. cit*., p. 2.

[4] See also the section on the CSSDCA.

[5] Anícia Lalá & Riefqi Muna, Summary and Conclusions of the "Workshop on Security Sector Governance" organised by the African Security Dialogue and Research (ASDR), November 24-26, 2003 at Elmina, Ghana. (See www.gfn-ssr.org)

[6] Benjamin de Carvalho and Niels N. Schia : "UN Reform and Collective Security. An Overview of Post-Cold War Initiatives and Proposals" (Norwegian Institute of International Affairs, Paper No 1/2004).

[7] Dan Henk: "Security. A New African Paradigm", a paper presented to the University of Zimbabwe (www.uz.ac.zw/units/cds/occasional/paper1/security.html).

[8] *Ibid*., p. 1.

[9] Ayodele Aderinwale: "Bridging the Gap Between the State and the Civil Society. The Role of Regional Institutions in Constitution-Making Processes: The CSSDCA Framework", a presentation at the CDD Conference on Constitutionalism in Africa, Cape Town, June 2001.

[10] Ball, Nicole: "Transforming Security Sectors: The IMF and World Bank Approaches," Center for International Development and Conflict Management, University of Maryland, US (1990). See www.cidcm.umd.edu/people/csdgjo.pdf .

[11] Ibid.

[12] Rocky Williams: "Operationalising NEPAD: Strategic and Process Considerations", a paper presented at the NEPAD Workshop in Georgetown, South Africa.

[13] Kayode Fayemi and Nicole Ball (Eds): *Security Sector Governance in Africa. A Handbook*. Lagos, Centre for Democracy and Development, 2004, p. 7.

[14] On this instrument, see 'Funmi Olonisakin's contribution in the present volume: "Pan-African Approaches to Civilian Control and Democratic Governance".

[15] See www.african-union.org

[16] A Perspective on Human Security. Chairman's Summary. Ministerial Meeting of the Human Security Network. Lysoen, 20 May 1999.

[17] *Ibid.,* p. 114.

[18] Carlo Jean: "The Army's Missions in the New International Security Context", *Towards a Culture of Peace. What Kind of Security*. Paris, UNESCO, 1998, p. 104.

[19] For more information on the CSSDCA, see http://www.au2002.gov.za/docs/background/ cssdca.htm and http://www.africa-union.org/Structure_of_the_Commission/ depCSSDCA.htm; see also www.africaleadership.org.

[20] Olusegun Obasanjo in Deng & Zartman, A Strategic Vision for Africa: The Kampala Movement, (Washington: Brookings Institution Press; 2002,) p. xiv.

[21] Francis Deng and I. William Zartman: *A Strategic Vision for Africa: The Kampala Document*. Washington, D.C., (The Brookings Institutions), 2002, p. 4.

[22] Ayodele Aderinwale (Ed.), *CSSDCA: An African Agenda for Peace and Prosperity*. Ota, ALF Publ., 2002, p. 4, web edition @ http://www.africaleadership.org/library/ALF/CSSDCA.pdf.

23   On the slow progress of the CSSDCA process, see the reasons outlined by Olusegun Obasanjo (the founding Chairman of the Africa Leadership Forum) in the Preface to Deng and Zartman (2002), *op. cit*, p. xv.

24   Text of the Solemn Declaration on the CSSDCA:
http://www.au2002.gov.za/docs/summit_council/lome2.htm.

25   *Report of the OAU Secretary General on the implementation of the CSSDCA*, Council of Ministers, Seventy-Sixth Ordinary Session/Eleventh Ordinary Session of the African Economic Community (AEC), Durban, South Africa, 28 June – 6 July 2002 (See also http://www.africa-union.org/Special_Programs/CSSDCA/cssdca-implementation.pdf; For the AEC, see http://www.panafricanperspective.com/aec.htm).

26   CSSDCA Unit: Background Paper for the CSSDCA Technical Workshop on Implementing the MOU. Abuja, September 2003.) For additional information on these indicators see table on Selected CSSDCA Indicators in the annexure to the paper or visit http://www.africa-union.org. or www.africaleadership.org

27   See 'Funmi Olonisakin's contribution to the present volume: "Pan-African Approaches to Civilian Control and Democratic Governance".

28   Fayemi and Ball, *op. cit*, p. 48.

29   http://www.cdd.org.uk/conferences/democratic_control.htm.

30   The CSSDCA process also paved the way for the *creation of a normative framework for civil society interaction with the African Union* beginning with the latter's Economic, Social and Cultural Council. The mandate of the ECOSOCC is to "promote continuous dialogue between all segments of the African people on issues concerning Africa and its future", to "forge strong partnerships between governments and all segments of the civil society, in particular women, the youth, children, the Diaspora, organised labour, the private sector and professional groups", to "promote the participation of African civil society in the implementation of the policies and programmes of the Union" and to "support policies and programmes that will promote peace, security and stability in Africa, and foster development and integration of the continent". In the West African sub-region, ECOWAS has also initiated discussions with the West African Civil Society Forum (WACSOF), a network of civil society organisations from the 15 member States of ECOWAS. The creation of WACSOF was motivated by the need to create an institutionalised dialogue between regional civil society organisations and the ECOWAS Secretariat. It is based on the recognition that civil society members from West Africa have extensive experience in their various fields of expertise and are able to make valuable contributions to ECOWAS.

31   Text of *Draft CSSDCA MoU on Security, Stability, Development, and Cooperation in Africa*: http://www.au2002.gov.za/docs/background/cssdca.htm#mou.

32   Paragraph 14 ("Tenets of a Democratic Security") of section III ("Key Performance Indicators") of the CSSDCA Draft MoU.

33   Art. II.a of section II ("Commitments to Give Effect to the Core Values") of the CSSDCA Draft MoU.

34   Entitled "Principles and policy measures for CSSDCA", Section II of the Kampala Document includes "General Principles" and "Specific Principles and Policy Measures" related to the Security Calabash. See also: Kampala Document, "Africa Moves to Launch a Conference on Security, Stability, Development and Cooperation in Africa" (CSSDCA): http://www.au2002.gov.za/docs/key_oau/cssdca.htm.

35   Text of the Solemn Declaration on a Common African Defence and Security Policy: http://www.africa-union.org/Official_documents/Decisions_Declarations/Sirte/
Declaration%20on%20a%20Comm.Af%20Def%20Sec.pdf. See also Adedeji Ebo's

contribution to the present volume: "Towards a Code of Conduct for Armed and Security Forces in Africa: Opportunities and Challenges".

[36] Text of the Declaration: http://www.africanreview.org/docs/govern/govchange.pdf. See also 'Funmi Olonisakin's contribution to the present volume: "Pan-African Approaches to Civilian Control and Democratic Governance".

[37] For more information on the Mechanism, see http://www.au2002.gov.za/docs/summit_council/aprm.htm. See also 'Funmi Olonisakin's contribution to the present volume: "Pan-African Approaches to Civilian Control and Democratic Governance".

[38] AHG/Decl.4 {XXXVI}.

[39] "Ensuring the common defence of Africa involves working on the basis of a definition of defence which encompasses both the traditional military and state-centric notion of the use of armed forces to protect its national sovereignty and territorial integrity, as well as the less traditional, non-military aspect which relates to the protection of the people's political, cultural, social and economic values and ways of life. In terms of the linkage between defence at the national level and that at the regional and continental levels, *it is understood, also, that each African country's defence is inextricably linked to that of other African countries, as well as that of other regions and, by the same token, that of the African continent as a whole*." (author's italics).

[40] Solemn Declaration on a Common African Defence and Security Policy: § 6 ("Security") of section I ("Definitions and Scope").

[41] CSSDCA Draft MoU: art. 3 of section V ("Monitoring Performance").

[42] Williams, Rocky op.cit. p.1,

[43] Ejevione Orobo (in Aderinwale, Ed., *op. cit*., pp. 167-178) identifies seven key institutions, whose development and strengthening is crucial to any process of improved governance: three of these are the parliament, the judiciary and the public service – which is an arm of the Executive.

[44] As numbered in the CSSDCA Memorandum of Understanding.

Chapter 4

Towards a Code of Conduct for Armed and Security Forces in Africa: Opportunities and Challenges

Adedeji Ebo

Introduction

A fundamental feature of the pattern of civil-military relations in most of Africa has been the historical trading of places between the military and the civilian population. Rather than being under the control of civilians as constitutionally required, the military often took control of not only the civilian population, but actually of the entire machinery of the State. A major direct outcome of prolonged military rule in many African States was, therefore, the inversion of civil-military relations, with the structure of the relationship literally standing on its head. The civilian populace, whose constitutional right is to supervise the military, was transformed into subjects and victims of military dictatorship. The military, which was supposed to be subject to civilian control, became master of not only its own destiny, but also of the entire nation. This reversal of roles has had disastrous consequences for political stability and national development. Accordingly, demilitarisation became central to democratisation on the African continent. Changes in the domestic and external factors underpinning civil-military relations in Africa have, however, created opportunities for democratic transformation, particularly with regard to democratic control of the armed and security forces. Normative frameworks by means of a Code of Conduct for armed and security forces are meant to facilitate the infusion of democratic norms, such as transparency and accountability, into the exercise of State power.[1] The draft Code of Conduct for Armed and Security Forces in Africa, drawn up in 2002 within the framework of the United Nations Regional Centre for Peace and Disarmament in Africa, precisely represents an effort to fill the expanded democratic space with specific confidence-

building measures and minimal behavioural requirements by the armed and security forces.[2]

The aim of this contribution is to account for the origin and the evolutionary process of the draft African Code. It places that instrument within the context of civil-military relations in Africa as well as of similar and related initiatives and processes taking place on the continent. It compares the main provisions of the draft African Code with the OSCE Code of Conduct, pointing out similarities and differences and the extent to which the latter served as a model for the former. It also identifies matters arising in the drive to achieve the adoption and implementation of the present draft African Code. It concludes with recommendations which could enrich the African Code of Conduct and create the basis for more viable articulation of the agenda of democratic control of armed and security forces in Africa.

General Trends in African Civil-Military Relations: the Political Economy of Trading Places

Civil-military relations refer to the web of relations between the military and the society within which it operates, and of which it is necessarily a part. Such relations encompass all aspects of the role of the military (as a professional, political, social and economic institution) in the entire gambit of national life. Civil-military relations concern the attitude of the military towards the civilian society, the civilian society's perceptions of, and attitudes to the military, and the role of the armed forces in relation to the State. The utility of the concept of "civil-military relations" in capturing the seemingly ever-increasing array of actors and the complexity of relationships involved in the interaction between *les gens d'armes* and the rest of society has become both limited in scope and limiting in application. Though the military has featured prominently in the sociology of power, other security actors have been part of the security establishment and it has therefore been rightly observed that "non-military actors who nevertheless constitute part of the broader security community – the gendarmerie, militia forces, the police, intelligence organisations, paramilitary forces and guerrilla armies – also need to be accommodated within the ambit of good governance and national policy management. In reality, it makes more conceptual and practical sense to broaden the scope of *civil-military relations* to include all civil/civilian-security relations."[3] Rocky Williams has usefully suggested that "ultimately it may be more appropriate in many developing countries to speak either of *civilian-military* relations or even *civilian-security relations* rather than

simply focusing on civil-military relations in the narrower institutional sense of the word."[4] It may therefore be appropriate to consider the extent to which the draft Code of Conduct for Armed and Security Forces in Africa adopted such an inclusive perspective of civil-military relations. At this juncture, it is sufficient to note the limitations of a narrow conception of civil-military relations.

Trends in civil-military relations in Africa have been characterised by contradictions and are further qualified by the fact that the military (and for that matter the security sector) is not necessarily a cohesive entity, but a diverse set of individuals, groups and interests, often with as many divisions as exist in the larger society. In several instances where the segment of the military that had political power took many decisions and committed numerous atrocities in the name of the military, the reality was that there were several elements who were not part of the "political military" and who perceived their interests as being better served under a constitutional order. The most damaging consequence of "praetorianism" was its effect on professionalism in the forces, arising from the politicisation of the military, and a division within the military itself. In the same vein, a large section of the elite component of the civil populace also benefited from, and was an accomplice to military rule, motivated and fuelled by a crude and systemically corrupt network of client-patron linkages. Clearly, the web of relations between the armed and security forces and the larger society is a complex and multi-dimensional one.

The pattern of civil-military relations in Africa has not been a bifurcated one: the military was not the devil, nor the civilians the saints. While individuals benefited directly and immensely from military rule and the consequent trading of places which resulted, nations at large have suffered incalculably and have been paying a heavy price for the contradictions which arose as a consequence. The military (and indeed the entire armed and security forces) became *politicised*, while the civil populace became, to various degrees, *militarised*. Political instability, kleptomania, manipulation of ethno-religious cleavages, economic doom and systematic and brutal human rights abuses have been the net effect of military rule. It must however be conceded that the revolutionary and, arguably, progressive military governments were often enabled and given some degree of credibility by the gross abuse of power by civilian governments. From one perspective the military is an accurate mirror of society, while from another perspective the institution has a unique institutional culture which sets it apart from the rest of society.[5] The present analysis argues that the relationship approximates to one of mutual reinforcement and, by the same token, mutual degradation. Just as the

military is itself a reflection of the larger society, the civilian sector is affected by the policies, actions and activities of the military, particularly when the military has directly ruled the country for a prolonged period. Therefore, the military and the larger society affect and are affected by each other through a dynamic and complex web of socio-cultural, economic and political linkages.

The immediate post-colonial period in most African States featured military institutions which were virtually clones of their colonial masters and, thus, remained within the confines of their constitutional roles. With the inability of the civilian elite to meet the challenges and contradictions of the post-colonial State, coupled with the inherently domineering character of the military, military takeovers became increasingly commonplace in Africa in the 1960s and 1970s, with successful coup plotters justifying their regimes on the altar of corrective revolutions and patriotism. Apart from the domestic environment, the factors that sustained military rule in Africa related to the strategic imperatives of the Cold War. By the 1990s however, the global strategic environment had changed significantly, while within most African States the military rulers had established themselves as being largely unable to address the challenges of governance and in, most cases, were more in need of correction than the civilian regimes they had overthrown.[6]

At the very core of civil-military relations is the issue of the control and regulation of the armed and security forces by the larger society, based on the principles of transparency and accountability. The objective is to have armed and security forces which are effective and efficient in the performance of their constitutional duties and according to the dictates of a civilian and, ideally, democratic governance (Table 1). Within this context, the terms "civilian control" and "democratic control" are often used interchangeably, albeit erroneously, to describe this oversight function. The vague use of these terms often produces confusion and ambiguity on the level to which democratic models of civil-military relations are being established. Democratic control is civilian oversight of the military by the legitimate, democratically-elected authorities of the State, in a manner consistent with the basic tenets of transparency and accountability. Civilian control may be exercised in an undemocratic, non-responsive and non-responsible manner. Thus, civilian control is a necessary, but not sufficient condition for democratic control.

Table 4.1   Key principles of democratic governance of the security sector[7]

- Accountability of security forces to elected civil authorities and civil society.

- Adherence of security forces to international law and domestic constitutional law.

- Transparency in security-related matters;

- Adherence of the security sector to the same principles of public expenditure management as the non-security sectors.

- Acceptance of clear hierarchy of authority between civil authorities and security forces; clear Statement of mutual rights and obligations between civil authorities and security forces.

- Capacity of civil authorities to exercise political control and constitutional oversight of security sector.

- Capacity within civil society to monitor security sector and provide constructive input into political debate on security policies.

- Political environment conducive to an active role on the part of civil society.

- Access of security forces to professional training consistent with requirements of democratic societies.

- High priority accorded to regional and sub-regional peace and security by policy-makers.

Furthermore, the increasing utility and relevance of military and security services beyond national boundaries (for example through regional peacekeeping and the multiplicity of cross border security threats such as trafficking in small arms and light weapons, or humans, or the illegal exploitation and transfer of natural resources) and within States for non-traditional tasks, point to the need for regional perspectives on society's relations with armed and security forces in Africa. The increasing role of non-State actors such as civil society organisations and private security and military companies and various armed groups, confirms the need to question the exclusive focus on the military and the State in discussions of civil-military relations in Africa.

The Development of a Draft Code of Conduct for Armed and Security Forces in Africa

Since the end of the Cold War, a body of overlapping instruments has been and is being developed which seek to lock in democratic gains and to prevent the inherently destabilising effects of a return to autocratic rule in Africa.[8] The end of Cold War rivalry further exposed the imperative of bringing (and not necessarily returning) the armed and security forces under democratic governance. This has been a most challenging task for African States, particularly in view of the fragility of the post-colonial State and the entrenchment of militarism and militarisation. After the various national conferences, constitutional reviews and elections, civilian regimes could only be in *government*, but not in *power*, if strategic instruments of statehood, such as the use of legitimate force, remained outside civilian control.

Various mechanisms exist for exercising democratic control of the armed and security forces. They include (without being limited to) parliamentary oversight – particularly the power of the purse and the power to declare war – , a vibrant and resilient civil society and a free press. They also extend to the promotion of democratic culture and principles within the military organisation that contribute to raising awareness of and respect for democratic values and institutions as well as human rights principles.[9] While various governments have usually been directly responsible for taking steps toward democratic control of armed and security forces, African States have also considered it necessary to take collective steps in the bid to bring armed and security forces under democratic control. From an African perspective, Liberia, and certainly the effects of failed peace enforcement in Somalia (post-Mogadishu syndrome, as demonstrated in Rwanda) pointed to a "strategic devaluation" of the continent, defining a need for more self-reliance in peace and security matters. Events in the West African Mano River axis had, since the late 1980s, pointed to the loss of the imperial security umbrella over African States which had been provided by the imperatives of the Cold War. In other words, the start of the Liberian civil war coincided with a period in which the Cold War protagonists were either preoccupied with celebrating victory (the West) or licking the wounds of defeat (the East). In any case, it marked the beginning of introverted international relations. Thus, in the 2000 Lomé Declaration of the 36th Ordinary Session of the Assembly of Heads of State and Government of the OAU, African leaders clearly expressed dissatisfaction with the prevailing global environment. The declaration deplored that "the international community does not always accord due attention to conflict management in

Africa, as it has consistently done in other regions of the world, and that the efforts exerted by Africans themselves in the area of peacekeeping, as provided for under Chapter VII of the United Nations Charter, are not given adequate financial and logistical support."[10]

Since then, African States have, at times arduously, and only after the loss of thousands of lives, taken measures to accelerate the pace and size of demilitarisation and democratisation. The prevalence of brutally violent conflicts mostly within States has set a defining character on civil-military relations. In conflict-ridden societies, civil-military relations are largely antagonistic, characterised by a high degree of social polarisation and a "public security gap". Transitional democracies tend to enjoy more stable and harmonious civil-military relations, featuring an opening up of democratic space, an active role for civil society, with military forces increasingly coping with the challenges of democratic control.[11] One reality that cuts across is that democratic control of the security sector is essential for all States. It may be for different immediate reasons, but the goals and principles are the same: accountability and transparency. It is within this context that the process for the articulation of a draft Code of Conduct for Armed and Security Forces in Africa commenced in 2001. Prior to its drafting, a body of instruments has evolved which define the context and expose the challenges currently facing that draft. At its Harare Summit of July 1997, the OAU (now the African Union) adopted a text which stood against unconstitutional changes of government. The Declaration represented an important step in the codification of normative frameworks for democratic control at the continental level and became the reference point for norm-building in Africa. Table 2 summarises the African regional instruments which form the basis of a collective normative framework for democratic control.

Table 4.2 **Regional normative instruments related to the democratic control of armed and security forces in Africa**

Instrument	Date, Place & Reference	Main provisions
Declaration and Decision Adopted by the 35th Assembly of Heads of State and Government.	July 1999, Algiers: AHG/Dec. 141 and 142 XXXV.	"Recalls further the spirit of the Harare Declaration on unconstitutional removal of Governments" (AHG/Dec. 141, art. 4). "Recognises that the principles of good governance, transparency and human rights are essential for building representative and stable governments and contribute to conflict prevention" (AHG/Dec. 141, art. 5).
Solemn Declaration of the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA).	July 2000, Lomé: AHG/ Decl. 4, XXXVI/(AHG/Dec. 150 XXXVI).	"The concept of security must embrace all aspects of society, including economic, political and social and environmental dimensions of the individual, family and community, local and national life. The security of nations must be based on the security of the life of the individual citisens to live in peace and to satisfy basic needs while being able to participate fully in societal affairs and enjoying freedom and fundamental human rights" (art.10 b). "The executive, legislative and judicial branches of government must respect their national constitutions and adhere to the provisions of the law and other legislative enactment promulgated by National Assemblies (…) No one shall be exempted from accountability" (art. 11a). "… note that … [the CSSDCA] … was not conceived as a one-off event, but rather as a process" (art. 6).
Declaration on the Framework for an Organisation of African Unity Response to Unconstitutional Changes of Government.	July 2000, Lomé: AHG/Decl. 5, XXXVI/(AHG/Dec. 150 XXXVI).	Rejection of any unconstitutional changes as anachronistic. Agreed elements on a Framework of Action for an OAU response to unconstitutional changes of government, including a set of common principles for democratic governance, definition of unconstitutional change, measures and actions to be taken, and an implementing mechanism (immediate and public condemnation of the takeover by the Secretary General and Chair, six months ultimatum during which the erring State is

		suspended from the African Union policy organs, and subsequently cutting of diplomatic ties, economic sanctions and visa denials to perpetrators). Unconstitutional change is defined as (i) military coup, (ii) intervention by mercenaries to replace a democratically-elected government, (iii) replacement of democratically-elected government by armed dissident groups and rebel movements, and (iv) refusal by an incumbent government to relinquish power.
African Union Constitutive Act.	Lomé, 11 July 2000[12].	Principles of the Act include "condemnation and rejection of unconstitutional changes of governments" (art. 4 p). "Governments which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union" (art. 30).
Solemn Declaration on a Common African Defence and Security Policy (CASDP).	Sirte (Libya), February 2004[13].	"Condemnation and rejection of unconstitutional changes of governments" (art. 11m). "Provide for transparency and clarity on national defence and security policies, as well as cost effectiveness" (art. 13g).

The basic principle behind these declarations is the supremacy of constitutionalism and an affirmation of the illegality of militarism. It is worthy of mention that while the draft African Code of Conduct is a continental document, there have been on-going attempts at sub-regional levels to adopt and implement similar principles of civilian supremacy. The draft Code derives its relevance from these various normative instruments, and evidently manifests some of their inadequacies. It could therefore be said that the text contributes to the evolution of the overlapping body of provisions which seek to prescribe and govern the available space for democratic control, particularly of the security sector, in Africa.

The origins of the draft Code can be found in the remarkable success of the Malian post-conflict reconstruction process, particularly the reintegration of the armed and security forces.[14] The reservation and reluctance of the civilian constituencies to reintegration of the armed and security forces in the Malian peace process informed the need to create a forum for dialogue (in the form of a five-day workshop) between the Malian civil populace and the military hierarchy. In the process, a Code of Conduct

emerged as one of the mechanisms for achieving more stable and harmonious civil-military relations in Mali. This experience inspired the decision by United Nations Regional Centre for Peace and Disarmament in Africa (UNREC) to include a Code of Conduct in its proposed Action Plan, an idea submitted to the Africa Division of the United Nations Department for Disarmament Affairs in January, 1999, and which was subsequently approved.[15]

The draft Code of Conduct is the product of two UNREC-hosted meetings which were held in Lomé, Togo, in 2001 and 2002. Under the theme "Promoting Civil-military relations in Africa: A Factor for Peace and Security", the first of the two meetings was held on 21 – 31 October 2001, with the collaboration of the African Union, the government of Togo, the National Democratic Institute (NDI) and the African Centre for Strategic Studies (ACSS). The organisers received financial assistance from the embassies of France, Gabon, Germany and the United States in Togo. The format for participation was based on countries which had experienced military takeovers or "exemplary democratic transition".[16] The 2001 conference was to explore mechanisms for implementation of the 1999 Algiers Declaration, in particular to identify and articulate the elements of a Code of Conduct for Armed and Security Forces in Africa. In recommending the adoption of such a Code, the seminar also created a Technical Drafting Committee with assistance from the African Union, the UN, technical partners and the international community, to be assisted by resource persons.[17] Subsequently four consultants were recruited and charged with the preparation of a Draft Code of Conduct for Armed and Security Forces in Africa.

On 27 – 29 May 2002, a second meeting was held in Lomé under the form of an "Experts Workshop on Validating the Code of Conduct for Armed and Security Forces in Africa". Its objective was (on the basis of a consultants' working document) to elaborate a draft Code of Conduct and to define the best strategy for disseminating it.[18] The final document, which emerged as the draft Code of Conduct, is a set of confidence-building measures regulating the behaviour of the armed and security forces in the exercise of their duties and also recognising the responsibilities and duties of the civilian authorities towards the armed and security forces. It comprises 34 articles, divided into 5 chapters, as summarised herewith:

Table 4.3   Structure of the Draft Code of Conduct for Armed and Security Forces in Africa

Chapters & Articles	Issue area	Main elements
Chapter I: art. 1-15.	Regulatory framework.	Individual responsibility for illegal acts (art. 5).
		Professionalism of armed/security forces (art. 6).
		"Professional secrecy" (art. 7).
		Rule of law, according to international humanitarian law, human rights and national laws (art. 9-11).
		Civilian responsibility as regards finance (art. 12) and restraint from using forces to contain legitimate dissent (art. 13).
		Illegality of unconstitutional change, as detailed in African Union instruments (art. 14).
Chapter II: art. 15-20.	Relations between the armed forces and the security forces.	Cooperation between armed forces and security forces (art. 15).
		Security is primary responsibility of police in peacetime and crisis (art. 16 and 17).
		Use of armed forces in crisis at the request of political authority and as last resort (art. 17 and 20).
Chapter III: art. 21-26.	Relations between the armed and security forces and the civilian population.	Armed and security forces to show respect, protection, assistance to civilian population (art. 21).
		Armed and security forces to inform and educate the public on their unclassified operations (art. 22).
		Armed and security forces to avoid disreputable behaviour (art. 23).
		Transparency and accountability form the basis for democratic control particularly in defence planning, budgeting and procurement (art. 24).
		Regular interaction between civilian, political and administrative authority, and civil society including NGOs and media (art.26).

Chapter IV: art. 27-32.	Armed and security forces, human rights and international humanitarian law.	Personnel shall be given education in constitutional law, human rights, international humanitarian law and peacekeeping (art. 27).
		Both civilian and armed/security forces are individually responsible for illegal instructions, orders and actions (art. 28).
		Armed and security forces shall protect the civilian population with no discrimination (art. 29).
		Armed/security forces shall refrain from murder, torture, corporal punishment, rape, mutilation, cruel, inhuman degrading treatment, hostage-taking and collective punishment. (art. 31).
		In enforcing internal law and order, use of firearms as last resort; in the event of injuries, assistance to victim, public enquiry and report (art. 32).
Chapter V: art. 33-34.	Implementation.	Code of Conduct to be integrated into training curriculum of African Union members and widely disseminated (art. 33).
		Periodic meetings at various levels to assess implementation (art. 34).

The Draft African Code of Conduct and the OSCE Code of Conduct: Similarities and Differences

There is no doubt that Africa has undertaken efforts towards building normative frameworks for democratic governance, including of the security sector. Using the OSCE Code as a point of comparison with the draft African Code, it is evident that significant areas of similarities and differences exist between the two instruments. Both of them are pioneering in the sense that they encroach on a subject traditionally considered taboo (the security sector) by putting forward common yardsticks of conduct for armed and security forces. They also share similarities in terms of the principles on which democratic control is predicated. In this regard, the principle of constitutional civilian power over military power is clearly stated in paragraphs 21 – 26 of the OSCE Code and in articles 2, 7 and 14 of the draft African Code. Thus, while paragraph 21 of the OSCE Code stipulates that "each participating State shall at all times provide for and maintain effective guidance and control of its military, paramilitary and security forces by constitutionally established authorities vested with

democratic legitimacy", the draft African Code similarly provides that "the armed and security forces shall be at the disposal of the constitutionally established political authority" (article 2).

A second major principle common to both normative instruments is the subjection of armed and security forces to international humanitarian law. This is contained in paragraphs 29, 30, 31, 34 and 35 of the OSCE Code and articles 4, 5, 9, 10, 11, 28 and 30 of the draft African Code of Conduct. The two instruments stipulate that the personnel of the armed and security forces shall assume responsibility for individual acts that violate international humanitarian law and human rights.[19] Indeed, the provisions of the draft African Code relating to international humanitarian law indicate that it was significantly informed by, and modelled after the OSCE document. It is evident that paragraph 30 of the OSCE Code was split into two, to become Articles 4 and 5 of the African Code, with marginal changes to the language contained in the OSCE document. Specifically, paragraph 30 of the OSCE Code provides that "Each participating State will instruct its armed forces personnel in international humanitarian law, rules, conventions and commitments governing armed conflict and will ensure that such personnel are aware that they are individually accountable under national and international law for their actions".

Almost identically, article 4 of the draft African document stipulates (as in the first part of paragraph 30 of the OSCE Code) that "the personnel of the armed and security forces shall receive specific education in international humanitarian law, human rights, rules, conventions and instruments that regulate armed conflicts". Article 5 of the draft Africa Code is, essentially, the second half of paragraph 30 of the OSCE Code: "the personnel of the armed and security forces shall assume responsibility for individual acts that violate international humanitarian law and human rights". Respect for the human rights of military and security personnel is another principle which is common to both instruments. In the same vein, paragraph 32 of the OSCE Code corresponds with article 8 of the draft African Code in terms of the similarity of language and the essence of provisions. Both documents are also based on the principle of commensurability of the use of force with enforcement needs and prohibition of the use of force aimed at restricting the peaceful and lawful exercise of human rights or at depriving people of their individual or collective identity. However, while the OSCE Code provides that "the armed forces will take due care to avoid injury to civilians or their property" (paragraph 36), the draft African Code proceeds further to stipulate the nature of action to be taken in case of injury, particularly cases involving the use of firearms: "(…) after the use of firearms and in the event of injuries, the personnel of the 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 shall be produced." [20]

While the OSCE Code has manifestly influenced the drafting of the African Code of Conduct, it would be an oversimplification to conclude that the latter is a mere replica of the former.[21] Significant areas of difference exist between the two instruments with regard to the context, the evolutionary process and the areas of emphasis of each instrument. In the first place, the regional politico-security concerns and priorities which informed the evolution of the two normative instruments differ considerably. As Ghebali has noted, the OSCE Code "aimed at responding to the security vacuum concerns expressed by the former Warsaw Pact States and the independent States coming from the dissolution of the USSR…Furthermore since the collapse of Communism, the democratic control of armed forces, which is at the heart of security sector reform, has become one of the preconditions that emerging countries have to meet in order to accede to European and transatlantic organisations."[22] While the focus of the OSCE Code has been to promote democratic control of armed forces all over Europe, the politico-security context in Africa has been overshadowed by unconstitutional changes of power, usually through military coups. Therefore, it is not surprising that bringing an end to the proliferation of military takeovers emerged as a main priority of the draft African Code of Conduct.[23] In this regard, it could be concluded that in a certain sense what makes the strength of the OSCE Code is somewhat the weakness of the draft African Code of Conduct and vice-versa. In other words, while the OSCE Code is commendable for its clear articulation of the principles of democratic control and use of armed forces, it overlooks the issue of unconstitutional changes of power. In his analysis of the OSCE Code, Ghebali observed that "it fails to establish that in the case of usurpation of political control by armed forces in any participating State, the other governments will consider such an action as "a source of concern" and take urgently some appropriate action (…)."[24]

The differences between the OSCE Code and the African Code of Conduct are indeed extensive. One is a politically-binding document, adopted by the OSCE participating States, while the other remains at the level of a working document of which the relevant political authorities remain, in fact, largely unaware.[25] Furthermore, the OSCE Code is the product of extensive negotiations among and between the parties to the Code. However, the OSCE Code "does not contain provisions expressly regulating the use of armed forces during a State of public emergency".[26] On

the other hand, the African draft expressly makes provisions for "times of crisis", and "exceptional circumstances such as State of emergency".[27]

It would appear that one main difference between the two documents is the scope of their application. The African Code of Conduct passes for a domestic regulatory framework, while the OSCE Code of Conduct has explicit parallel additional objectives. In comparing the two normative instruments, therefore, it is also noteworthy to observe the seemingly different audiences being addressed by the two instruments. While the OSCE Code concerns the participating States, the draft African Code addresses itself directly to the armed and security forces. In addition, the OSCE Code commits the 55 participating States to a regular information exchange on the status of democratic control of armed forces as well as inter-state issues as the international fight against terrorism or the stationing of armed forces on foreign soil, whereas the African draft Code does not contain a corresponding feature. Rather, it merely offers that "periodic meetings shall be convened to assess its implementation" (article 34).

Table 4.4   Comparison of the Draft African Code with the OSCE Code of Conduct

Similarities	Differences
Pioneering function in terms of filling normative gaps in the democratic control and use of armed and security forces.	Promotion of democratic control of armed forces all over Europe vs. prohibition of unconstitutional changes of power (usually through military coups) in Africa.
Enhancement of regional security cooperation.	
Principle of democratic control of armed and security forces (§§ 21-26 of the OSCE Code and art. 2, 7, and 14 of the draft African Code).	The OSCE Code of Conduct is a politically-binding document formally adopted by governments while the draft African Code is just a working document.
Subjection of armed and security forces to international humanitarian law.	
Respect for the human rights of military and security personnel.	

From Draft to Adoption and Implementation: Matters Arising

Both the process of the evolution and the content of the draft Code of Conduct for Armed and Security Forces in Africa raise specific issues which confront the task of creating and implementing normative standards and frameworks in Africa.

The *process* through which the draft Code of Conduct emerged can be characterised as being limited in consultation, inadequate in input and therefore lacking in ownership. Without prejudice to the evidently laudable drafting work of the consultants and the participants at the two Lomé conferences, the draft could have benefited from additional input from several other sources such as military staff colleges and training institutions, ministries of defence, the civilian leadership and civil society actors. In its present form, the document is the product of two conferences, attended in each instance, by less than half of African States. Even within the context of the two conferences, some of the major actors who participated in the conferences have opined that "the document was not discussed in any form of thorough fashion".[28] It would appear that the present draft suffers from a crisis of ownership which has hampered the adoption and implementation of the Code of Conduct, and which would need to be addressed if it is to have any appreciable impact on the behaviour and use of African armed and security forces.

Related to the crisis of ownership is the fact that the draft Code has lacked a driving force to ensure its adoption and implementation. Since the second Lomé conference of May 2002, the document has not featured on the agenda of any continental or sub-regional organisation in Africa. The document is reported to have been sent to the African Union Secretariat in 2002, and it is evident that there is more to account for its late coming than the institutional transformation in Addis Ababa from OAU to African Union.[29] It has not been helpful that many senior African military officers and civilian leaders are not aware of the draft Code, and that its articles 33 and 34 (dealing with implementation) make no clear provision on responsibility for carrying the draft Code forward. Given the fact that the two conferences were hosted by UNREC, the assumption could be that the latter would sustain this responsibility. Such an assumption however has not been supported by UNREC's own institutional limitations in both human and financial resources. Herein lies the crucial role of civil society groups which did not feature prominently in the evolution of the UNREC-initiated draft. While the involvement of formal civil society in security sector governance is a relatively recent phenomenon in Africa, there is increasing evidence for optimism. In view of the institutionalised relationships that

have since evolved between civil society actors and regional organisations in Africa, it is evident that opportunities for collaboration and consultation with civil society are fast emerging.[30] In addition, civil society networks in security sector governance have evolved which can provide valuable input into a Code of Conduct for armed and security personnel.[31]

The *contents* of the draft code also present major challenges for the codification of norms and principles. The first of such challenges relates to the need to broaden the focus of the code from "anti-coup" to "democracy promotion". In its present form, the draft Code of Conduct contains provisions for the protection of incumbent governments, and not necessarily for the protection of democracy. It could be interpreted as a regime protection mechanism designed to deter coups against any constitutional government, regardless of how democratic it is.[32] To be sure, an anti-coup clause is useful as it addresses the issue of peaceful, democratic and orderly transfer of power. Beyond democratic transition, the draft Code of Conduct did not place *unconstitutional change* within a democratic governance framework. It fails to address the legality and norms on "undemocratic democracies" in which the instruments of democracy and constitutional rule have been appropriated for personal and regime interests. Just as article 30 of the African Union Constitutive Act could inadvertently serve as a protective cover for a recalcitrant elected government, article 14 of the draft Code of Conduct, if not adequately qualified, could serve a similar propose.[33] Article 7 of the draft Code sits rather uncomfortably within the context of democratic control of the armed and security forces, as it seemingly violates the cardinal principle of transparency. It states that "personnel of the armed and security forces shall be bound by professional secrecy except where exemption is granted by the appropriate authority". While *confidentiality* may be essential for aspects of military and security duties, *secrecy* commands tenuous justification in the face of the overriding need for democratic control. Furthermore, it remains unclear who the "appropriate authority" shall be for the purpose of granting exemptions to secrecy. In any event, democratic control demands that the reverse rationale is more applicable: the armed and security forces shall be bound by the principles of accountability and transparency, except where exemption for confidentiality is granted by the appropriate authority. The identification and definition of "appropriate authority" cannot, however, be left vague as is the case in the current draft.

Conclusion

The prospects for codification and implementation of normative frameworks in Africa depend, to a large extent, on the governance environment and quality of leadership, both military and civilian. Experience so far – i.e. the efforts to control the proliferation of illicit small arms and light weapons – demonstrate that sub-regional (as opposed to continental) approaches are more viable. The reason is that there are often disparities in sub-regional security environments and priorities. Normative frameworks emerge more easily where and when there are common security challenges. Such sub-regional arrangements then form the building blocs for continental frameworks.

At the same time, it would be useful to identify and encourage specific governments and organisations which could act as "sponsors" within each sub-region for the purpose of keeping the issue on the political agenda and pushing for the necessary political will for a viable Code of Conduct for Armed and Security Forces in Africa. With regard to the codification process of the specific initiative of the draft Code, there is an urgent need to retrace steps so far taken, as well as to address issues of consultation and ownership. The pioneering efforts of UNREC in igniting the process is commendable, but needs to be supplemented by contributions from other stakeholders. Given its considerable experience in sub-regional peace and security arrangements, and particularly within the framework of its Mechanism for Conflict Prevention, Management and Resolution, Peacekeeping and Security, ECOWAS, for example, is well placed to negotiate and adopt a viable Code of Conduct for armed and security forces which has both national and sub-regional applications. The SADC could play a similar role in Southern Africa. The draft African Code sponsored by UNREC is a useful premise on which such discussions could proceed. The Malian and the OSCE Codes could also form useful working documents for such a process. A viable Code would need to address contemporary security dimensions in Africa, such as the role of non-State Actors (armed militia, private military and security companies, mercenaries, etc.) and the prevalence of increasingly sub-regional concerns, such as the proliferation of roadblocks, mass refugee movements, corruption in the armed and security forces and challenges of post-conflict reconstruction.[34] In the final analysis, the entire agenda for the democratic control and use of armed and security forces in Africa would very much depend on the extent to which armed and security forces become more developmental and humanitarian, allowing them to respond more directly to the contemporary security needs of the populace than has hitherto been the case.

Post Script: The draft Code of Conduct for Armed Forces and Security Services in West Africa (WACOCAS)

As detailed above, the UNREC initiative for the articulation of a continental code of conduct is a pioneering effort in the evolution of normative instruments for the democratic control of the security sector in Africa. However, its achievements and impact have been hampered by limited consultation, lack of ownership by the end-users, and the absence of a viable implementation framework. Even if these shortcomings were to be absent, the challenges of implementing a CoC in all 53 African states would remain considerable. While these factors may explain the lack of visible progress on the draft African Code of Conduct, it has inspired and informed more modest sub-regional attempts at norms setting.

In West Africa in particular, ECOWAS has initiated a process for the articulation of a West African Code of Conduct for Armed Forces and Security Services (WACOCAS). It is envisaged that a sub-regional "success" could form the building blocks for a regional Africa-wide Code. It therefore represents a bottom-up approach which builds on the UNREC draft and is, under a Terms of Reference signed in March 2005, receiving technical assistance from DCAF, Geneva. Within this framework, the ECOWAS Defence and Security Commission (DSC) at its 12th Meeting in Niamey, Niger, in April 2005, issued ECOWAS and DCAF with an official mandate "to develop a Code of Conduct for Armed Forces and Security Services in the sub-region".[35]

In October 2005, a preparatory meeting (prepcom) in Accra, Ghana brought together representatives of armed forces, civil society, international organisations, and academia to prepare a draft Code of Conduct which would serve as a working document for a larger ECOWAS Committee of Experts.[36] In April 2006, the ECOWAS Committee of Experts meeting was held in Lome, Togo, which comprised official representatives of ECOWAS states and civil society organisations, with the objective of producing a final draft for submission to the ECOWAS Defence and Security Commission. At its 17th Meeting held in Ouagadougou, Burkina Faso, in October 2006, the ECOWAS Defence and Security Commission formally adopted the draft West African Code of Conduct, with a further recommendation for adoption of the Code at the level of Ministers and Heads of State of ECOWAS.[37] Once adopted at these political levels, the Code will be tested in four ECOWAS states (Ghana, Togo, Guinea-Bissau and Liberia).[38]

Notes

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[1]   Heiner Hänggi: "Good Governance of the Security Sector: Its Relevance for Confidence-Building", *Practical Confidence-Building Measures: Does Good Governance of the Security Sector Matter?* (Heiner Hänggi, Ed.). Geneva, DCAF, Working Paper No. 107, January, 2003, pp. 7-16.

[2]   The draft Code of Conduct for Armed and Security Forces in Africa is neither an international treaty nor a politically-binding document, but just a working paper. It has not been signed by African States and actually represents an ongoing process.

[3]   "Consolidating Democratic Civil-Military Relations" (editorial), *African Security Review*, Institute for Security Studies (Pretoria), Vol. 11 No. 2, 2002.

[4]   Rocky Williams: "Conclusion: Mapping a New African Civil-Military Relations Architecture", *Ourselves To Know: Civil-Military Relations and Defence Transformation in Southern Africa* (Rocky Williams, Gavin Cawthra and Diane Abrahams, Eds.). Pretoria, Institute for Security Studies, 2003, p. 279.

[5]   Naison Ngoma : "Civil-Military Relations: Searching for a Conceptual Framework With An African Bias", *Civil-Military Relations in Zambia: A Review of Zambia's Contemporary Civil-Military Relations History and Challenges of Disarmament Demobilisation and Reintegration* (Naison Ngoma & others, Eds.). Pretoria, Institute for Security Studies, 2004, p. 5.

[6]   *The Military and Militarism in Africa* (Abdoulaye Bathily and Eboe Hutchful, Eds.). Dakar, CODESRIA Books Series, 1998.

[7]   Source: Security *Sector Governance in Africa: A Handbook* (Kayode Fayemi and Nicole Ball, Eds.). Lagos, Centre for Democracy and Development, 2004, p. 39 (http://www.cdd.org.uk/index.html.)

[8]   Theodore J. Piccone: *International Mechanisms for Protecting Democracy* (http://www.clubmadrid.org/cmadrid/fileadmin/8-Piccone.pdf), p. 3; accessed on 24 February 2005).

[9]   *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices Handbook for Parliamentarians. Handbook for Parliamentarians* (Hans Born & others, Eds.). Geneva, DCAF/Inter Parliamentary Union (IPU), 2003, p. 149.

[10]   CSSDCA Solemn Declaration: § 4 (AHG/Decl.4, XXXVI, Lomé, 2000).

[11]   Damian Lilly & others: "A Goal-Oriented Approach to Governance and Security Sector Reform", *International Alert*, London, 2002, pp. 11-14. (note for author: please complete first name).

[12]   Text of the Constitutive Act of the African Union: http://www.au2002.gov.za/docs/key_oau/au_act.htm.

[13]   Text of the Solemn Declaration: http://www.africa-union.org/Official_documents/ Decisions_Declarations/Sirte/Declaration%20on%20a%20Comm.Af%20Def%20Sec.pdf.

[14]   Longstanding hostility between Tuareg separatists and Mali's dictatorial president Moussa Traore erupted into bloody fighting in the northern region of Mali in June 1990. In 1993-1994, the Tuaregs concluded with the government agreements providing for the incorporation of some 7,000 Tuareg rebels into the regular army and other government bodies. The war officially ended in March 1996.

[15]   Telephone interview with Dr Ivor Fung, Director, UNREC, 8 December 2004. Established by the UN General Assembly (A/RES/40/151 of 16 December 1985) following a wish expressed by the OAU (AHG/Res.138 XXI), UNREC was officially inaugurated on 24 October 1986. Comprising four units (peace and security, disarmament and arms control, advocacy and resource mobilisation, as well as

information, research and publication), it performs as a regional office directly reporting to the UN Department of Disarmament Affairs. The draft Code of Conduct project is part of the "Peace and Security" component of UNREC's Action Plan, under the heading of "Harmonisation of Civil-Military Relations". For the latest Report of the UN Secretary-General on UNREC's activities, see UN doc. A/59/209 of 5 August 2004.

[16] Apart from the host country Togo, 17 African countries participated in the 2001 meeting: Benin, Burkina Faso, Burundi, Cameroon, Central African Republic, Congo, Côte d'Ivoire, Ethiopia, Ghana, Guinea-Bissau, Lesotho, Mali, Niger, Nigeria, Democratic Republic of Congo, Senegal and Sierra Leone. There were also participants from France, United States and Belgium, the UN, AU and ECOWAS. An African former head of State and a former OAU Secretary General were also in attendance. See: UNREC "Report of the Seminar on the Promotion of Civil-Military relations in Africa: A Factor for Peace and Security in Africa", Lomé, Togo, 29-31 October, 2001, p.1, para. 2. See also: UN General Assembly, *United Nations Regional Centre for Peace and Disarmament in Africa – Report of the Secretary-General*, A/57/162, 2 July 2002, p.5., para.18.

[17] UNREC, *Ibid.,* p. 20, para. 81.

[18] UNREC, "Final Report of Experts Workshop on Validating the Code of Conduct for Armed and Security Forces in Africa", 27-29 May 2002, Lomé, Togo, p.3; A DCAF Representative attended the Workshop and contributed to the drafting of the Code.

[19] Art. 5 of draft African Code and § 30 of OSCE Code of Conduct.

[20] See art. 32 of the draft African Code.

[21] As one of the consultants responsible for the drafting of the African instrument has commented, "by the time I made my input, I had not looked at the OSCE thing. I had a look at it afterwards and it did not lead me to alter what I had done in any significant way. The initiative probably had a Western motivation, but it was essentially African content'' (telephone interview with Prof. Isawa Elaigwu, 7 December, 2004).

[22] Victor-Yves Ghebali and Alexander Lambert, *The OSCE Code of Conduct on Politico-Military Aspects of Security: Anatomy and Implementation*. Leiden, Martinus Nijhoff, 2004, pp. 1 and 13.

[23] See for instance art. 2 and 14 of the draft African Code.

[24] Ghebali and Lambert, *op. cit.*, p. 11.

[25] The OSCE Code of Conduct was negotiated within the Vienna Forum for Security Cooperation (FSC), from November 1992 to late 1994. The draft African Code of Conduct, on the other hand, is yet to be subjected to any political negotiation.

[26] Ghebali and Lambert, *op. cit.*, p. 12.

[27] See art. 17 and 30 of the draft African Code.

[28] Telephone interview with Dr. Nancy Walker, Director of the African Centre for Strategic Studies (http://www.africacenter.org), on 29 December 2004.

[29] Interview with the Director of UNREC. The Director attributed the lack of progress on the adoption of the Code since 2002 to "changes from OAU to AU".

[30] See 'Funmi Olonisakin's contribution to this volume.

[31] These include the African Security Sector Network (ASSN) and the West African Network on Security and Good Governance (WANSED).

[32] See Theodore J. Piccone: "International Mechanisms for Protecting Democracy", *Democracy Coalition Project*, Washington D.C., 2004; available at: http://www.demcoalition.org/pdf/Protecting_Democracy_Piccone.pdf (accessed 28 July 2005).

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[33]   Article 30 of the African Union Constitutive Act provides that "governments which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union". The clause led the African Union to condemn President-Elect Marc Ravalomanana in the Madagascar elections of December 2001 for his efforts to claim victory for the presidency, even though incumbent President Didier Ratsiraka manipulated the electoral process to stay in power and was eventually forced to flee (Piccone, *op. cit.*, p. 32).

[34]   See UN doc. S/2004/200 of 12 March 2004 (Report of the UN Secretary-General *On Ways To Combat Sub-Regional and Cross-Border Problems in West Africa*).

[35]   ECOWAS is the Economic Community of West African States. Its Defence and Security Commission comprises Chiefs of Defence Staff of ECOWAS member States. See Final report of the 12th Meeting of the ECOWAS Defence and Security Commission, Niamey, Niger, 21-22 April, 2005, page 3.

[36]   Report of the PrepCom is available at www.dcaf.ch/awg/ev_accra_051024_report.pdf.

[37]   The West African Code of Conduct for Armed Forces and security Services, as adopted in Ouagadougou on 31 October 2006, is available at www.dcaf.ch/awg/ WestAfrica_CoC_pdf.

[38]   Report of the 17th Meeting of the ECOWAS Defence and Security Commission, Ouagadougou, Burkina Faso, 31 October 2006.

PART III

SECURITY SECTOR GOVERNANCE
IN THE AMERICAS

Chapter 5

The 2001 Quebec City Plan of Action: Toward a Convergence of Security and Democracy Agendas in the Americas

Céline Füri

Introduction

National and global governance in the Americas has come a long way since the time the armed forces were considered the "*carnal, concrete, living expression of the Fatherland in sovereignty*", endowed with the mission of defending "*the unity, integrity and honour, as well as everything essential and permanent in the country*" throughout most of the continent – from the creation of Latin America's national armies in the late 19th century to the mid-1980s, when the above statement was issued in Argentina.[1] With the melting away of the Cold War ideologies and the formal retreat of the military from presidential palaces, inter-American cooperation resurfaced after a long hibernation, and the general idea that democratically-elected politicians should have the last word over the people that handle the weapons has progressively made its way to a new regional agenda.

Notwithstanding considerable internal diversity, the Americas present certain overarching features, among which a socio-political construction of their own, accounting for contemporary regional dynamics that are largely distinct from those of the European and African continents. Firstly, like most countries in Eastern and Southern Europe, and a slowly growing number in Africa, the vast majority of Latin American states have undergone a fundamental shift from authoritarian regimes toward formally democratic ones, many of them under the "third wave" of transitions that swept the world from the mid-70s to the late 90s.[2] Nonetheless, the security environment in Latin America shows a few significant singularities within

developing areas. To begin with, as opposed to Europe or Africa, the Americas as a whole carry a clearly much lower historical level of interstate conflict. Territorial disputes have been recurrent and some did involve the use of force, but violence has generally been displayed on the internal scene.

A second notable difference relates to the legal holders of monopoly powers over the State use of force. Nowhere else in the world as in Latin America has the military been subject to such little institutional and operational control by the other State institutions. Under Franco's Spain, Hitler's Germany and in all the former Communist bloc regimes, the armed forces were always loyally serving the rule of a civilian authoritarian leader. In South America's *bureaucratic-authoritarian regimes*, military juntas took executive power in their own hands. And even when not assuming the highest political leadership, the Latin American army has been characterised by remarkable isolation from society and distrust toward politicians, concerned primarily about its own corporate welfare.

Thirdly, the subcontinent stands out for its conspicuously vertical socio-economic structure, in which the say of the most powerful generally outweighs the voice of the most numerous.[3] Pervasive inequality and poverty constitute secular ills, showing no prospects of immediate mitigation. Resulting from a general disenchantment with new democracies that "failed to deliver" with regard to these problems, criminal (especially urban) violence is on the rise and incipient – or deficient – civilian police and judicial systems are overwhelmed, only intensifying popular discontent. Such a combination of extreme polarisation and volatility makes the achievement of democratic civilian control a primary goal of security sector reform in Latin America, but also a particularly uneasy challenge. The difficulty of managing hemispheric regionalism in the Americas is ultimately compounded by a uniquely asymmetric configuration which relates – in an exclusive bond dating back to the 19th century Monroe Doctrine – over 30 rather poor and frail democracies to the world's only remaining superpower, the United States.[4]

The present chapter explores the emergence of a shared commitment to the principle of democratic control of the armed forces across the Americas, in an attempt to determine whether a continental regime of democratic control – or a collective assimilation of that norm by American nations – has developed. The survey covers the Organisation of American States, the Summits of the Americas and the Conferences of the Ministers of Defence of the Americas – that is to say, the main inter-American fora for security-related norm-elaboration, comparable to the OSCE framework for European and Central Asian states – as well as the United States' foreign

security policy – assessing the impact of the main "norm-promoting" State on the inter-American scene[5].

For the purpose of this examination, the Quebec City Plan of Action, adopted by 34 heads of state at the Third Summit of the Americas in 2001 – an unprecedented endorsement, at the highest political level, of the principle of democratic supervision of the security sector in the region – is used as a normative reference point.[6] Its adoption, allowed by a well-developed cooperative framework, is firstly situated in the post-Second World War evolution of western hemisphere security architecture. Secondly, the provisions of the Action Plan relating to democratic security sector governance are briefly examined and compared to their counterpart in the OSCE regime, which lies in the organisation's 1994 Code of Conduct on Politico-military Aspects of Security. Lastly, and most importantly, the implementation of the Action Plan in matters of security is assessed. Despite sustained consensus around the importance of democratic rule, it is contended that the new hemispheric security paradigm (the seeds of which were laid by the Quebec Summit) bears a particularly noxious resonance for the continent's mostly young democracies. Especially as the original problem, stemming from traditionally rather *un*democratic civil-military relations throughout Latin America, is already being exacerbated by recurring signs of erosion in the democratic principles underlying the security policies of the leading hemispheric norm-exporter itself.

Building Blocks of Pan-American Security Cooperation: The Rules of Democracy and Trust

The pursuance of a democratic control over the public institutions responsible for security is grounded in the recognition that advances toward peace and stability, democracy and development are intrinsically entwined. These mutually reinforcing goals are included under the now widely advocated notion of "good governance" – a term that was also introduced, in the Summit of the Americas process, by the Quebec City documents. But the origins of their relationship go as far back as Kant's democratic peace theory, or at least – to be somewhat more regionally relevant – to the early crafting, in the midst of the Second World War, of a pan-American cooperative system.

The integration process of the western hemisphere, long before incorporating economic liberalisation, was triggered by security concerns at a time when security was still the preserve of the military. Facing the

common threat of the Axis powers, 21 American countries[7] responded to an urgent need to coordinate the defence of the hemisphere by establishing in 1942 the Inter-American Defence Board (IADB). In the immediate aftermath of the war, almost as a foreshadowing of the UN Charter signed in San Francisco a few months later, the 1945 Inter-American Conference on Problems of War and Peace held in Mexico City produced the Act of Chapultepec. This agreement laid the first foundation stone of a collective security system in the hemisphere (chiefly against extra-continental threats) based on the same universal principles that the Charter would soon sanction – respect for sovereignty, equality, integrity and independence of States, self-determination of peoples, and obedience to international treaties. The conference also reaffirmed the status of the IADB as the military organ of the Inter-American System. Two additional cornerstones of inter-American relations were placed during the conferences of Rio (1947) and Bogotá (1948), which respectively generated the Inter-American Treaty of Reciprocal Assistance (better known as the Rio Pact, a western hemisphere counterpart of the 1949 North Atlantic Treaty) and the Charter of the Organisation of American States (OAS).[8] The OAS Charter[9] and the American Treaty on Peaceful Solutions (also known as the Bogotá Pact), which emanated from the same conference, constituted the first inter-American normative pieces emphasising the linkage between democracy, stability and development.[10]

In reaction to the tremendous social instability that would take root over the following decades under non-democratic rule, be it around revolutionary movements or inside military regimes, the promotion and safeguarding of democracy slowly[11] but surely gained relevance within continental security strategies. In the early 1990s, after long decades of paralysis, the OAS embarked on a process of renewal that would be characterised by an overriding concern for democratic governance in the Americas.[12] The organisation's ambassadors went beyond reaffirming their common belief in the indivisibility of democracy, peace and development and instituted in 1990 a Unit for the Promotion of Democracy to provide assistance and support to the member states in the strengthening of their democratic institutions and procedures.[13] By adopting one year later its Resolution on Representative Democracy (or "Resolution 1080"),[14] the OAS General Assembly created an unprecedented mechanism to protect democratically-elected governments, whereby the Secretary General was required to convene the Permanent Council, followed by hemispheric foreign ministers, within 10 days of the interruption of democratic rule in any member state.[15] The subsequent Protocol of Washington of 1992

reinforced this emerging "collective defence of democracy" system by ordering a series of amendments to the OAS Charter, the first one of which incorporated a tightened version of the preceding mechanism: any member state whose democratically-constituted government was overthrown could be suspended from participation in all OAS bodies.[16] Finally, the 1993 Declaration of Managua added a key block to the regional democratic edifice in that it transformed the role of the OAS from reactive to proactive. The OAS' mission in furthering democratic consolidation would henceforth no longer stop at the defence of democracy against its collapse, but also involve "*an ongoing and creative effort to preventing and anticipating the very causes of the problems that work against democratic rule*".[17]

Most significantly, the Declaration officially introduced for the first time the principle of subordination of the armed forces to the legitimately constituted civilian authorities – among the democratic objectives requiring OAS assistance. The nascent application of the regional democracy regime to civil-military relations was then given a new impulse in July 1995, at the First Conference of the Ministers of Defence of the Americas held in Williamsburg, Virginia. Among the agreed "Williamsburg Principles", the participants reaffirmed the commitment made by their respective governments in Managua that their armed forces "*should be subordinate to democratically-controlled authority, act within the bounds of national Constitutions, and respect human rights through training and practice*".[18] Despite vague wording, the Williamsburg meeting had the merit of paving the way for the first regional intervention in the internal affairs of civil-military relations management, while breaking down the principle of democratic control into slightly more precise sub-goals: accountability, constitutionality and respect for human rights.

Similar commitments to democracy as a condition for the maintenance of security, and more generally, a criterion for partaking in the regional integration process, have also developed at the sub-regional level. The 1994 Tegucigalpa Declaration on Peace and Development in Central America explicitly interlinked the advancement of peace, democracy and development in a context of ongoing democratic and post-conflict transitions on most of the isthmus. The Ushuaia Protocol of 1998 and the Additional Protocol to the Cartagena Agreement of 2002 went one step further. Both between the Mercosur group (Argentina, Brazil, Paraguay and Uruguay), Chile and Bolivia in the Ushuaia case, and within the Andean Community (Colombia, Venezuela, Ecuador, Peru, Bolivia) in the case of the Additional Protocol, a collective mechanism for the safeguarding of democratic order was established, replicating the OAS model. The multiplying appearances of

the term "democracy clause", specifically referring to the inclusion of such a mechanism in a treaty, testifies to a clear normative evolution: democracy has now become the *sine qua non* criterion for joining the regional "clubs", whether on the security or the economic front.

Besides respect for democracy, a working cooperative security system needs to be anchored in mutual trust between the interacting states. In this regard, the community of American states was able to draw upon a substantial body of confidence-building measures (CBMs) when drafting the Quebec City Plan of Action. CBMs aim at reducing the risk of armed conflicts by building trust and reducing misperceptions and miscalculations by means of enhanced transparency, more exchanges of information, and therefore greater predictability. The growing importance given to these measures proceeds from the idea that international security and stability are inseparably linked not only to interstate behaviour, but also to how individual states' authorities govern *within* their borders[19] – and ideally, to some intergovernmental supervision of that internal state of affairs. Indeed, as has been witnessed in Latin America, Africa, Europe and beyond, an internal crisis (whether prompted by governance failure or exacerbated by it) always has a potential spill-over effect on neighbouring countries. Regional oversight now proves to be not only a possible safeguard against this tendency, but a potentially highly effective one: strong incentives to participate in the regional integration process today provide interstate fora with a powerful capacity to shape *national* governance – encouraging democratic procedures and punishing undemocratic behaviour.[20]

The first inter-American conference dedicated exclusively to CBMs was the Buenos Aires meeting on Confidence- and Security-Building Measures of 1994. It was followed by the adoption of the Santiago Declaration at the 1995 Regional Conference on Confidence- and Security-Building Measures, and later of its follow-up, the 1998 San Salvador Declaration. The two agreements call for a more fluent exchange, among member states, of information regarding their conventional arms acquisition, military expenditures, and defence policies and doctrines, as well as observation of other states' military installations and exercises, and interstate consultations with a view to limiting the accumulation of conventional weapons.[21] However, although the San Salvador Declaration in its preamble acknowledges the importance of confidence-building measures for the consolidation of democracy, none of the measures listed explicitly aim at guaranteeing democratic civil-military relations. The pan-American confidence-building architecture preceding the Quebec City Summit thus may have helped progress in disarmament, deepened pacification of

interstate relations and coordinated an effort to free military resources for more pressing economic and social reforms; yet it fell short of fulfilling its potential for moulding more democratic practices in the governance of the security sector.

The Quebec City Commitments

The modern Summit of the Americas process was designed in the early 1990s – over two decades after the 1967 Punta del Este Meeting of American heads of state ushered in the decline of inter-American cooperation – to institute a common, comprehensive and evolving agenda for the American governments, in response to changing geopolitical realities and accelerating globalisation. The first Summit originated as a proposal of the United States government and took place in 1994, in Miami. Creating a new impetus for hemispheric cooperation, it was followed in 1996 by a Summit on Sustainable Development, held in Santa Cruz, Bolivia, and in 1998 by the Second Summit of the Americas in Santiago, Chile.[22] Whereas the Summit negotiations previously took place outside the OAS framework, the Third Summit in Quebec City officially designated the OAS as the Secretariat of the Summit of the Americas. At each summit, heads of state issue a declaration of principles and adopt a plan of action containing a certain number of action items clustered around different themes. For many of those themes, ministerial conferences are then held periodically to set issue-specific agendas and create mechanisms deemed appropriate to move the agendas forward.[23]

The Third Summit of the Americas, which took place in the city of Quebec from April 20 to 22, 2001, was not primarily devoted to the democratic governance of the security sector or even to hemispheric security. However, its unique value in the evolution of inter-American affairs derives from the more comprehensive focus made on democratic development than at any previous Summit, permitting the first explicit application of democracy's principles to the security sector inside the Summit framework. The Quebec City Declaration states, in its 8th paragraph, that "*the constitutional subordination of armed forces to the legally constituted civilian authorities of our countries, as well as respect for the rule of law on the part of all national institutions and sectors of society, are fundamental to democracy*". Although restating that principle in identical wording, the beginning of Section 4 on Hemispheric Security of the Plan of Action deliberately omits the *civilian* character of the subordinating

authorities, probably an implicit acknowledgement of the fact that several Latin American states still have military defence ministers in office. As a means for realising the aforementioned principle, Section 4 goes on to express commitment to transparency- and cooperation-enhancing CBMs on defence and security issues, such as "*increased sharing of defence policy and doctrine papers, information and personnel exchanges*", and "[*improved*] *transparency of arms acquisition*".[24]

However groundbreaking in the history of multilateralism on the continent, such an assertion of the principle of democratic security sector management clearly remains at an embryonic stage when compared to the elaborated content of Sections VII and VIII of the OSCE Code of Conduct. The Action Plan, like paragraph 20 of the Code of Conduct, provides a rationale for constitutional subordination, making it a fundamental condition for democracy, and in turn, linking the safeguarding of democracy to the maintenance of peace and security.[25] Yet the Plan falls short of translating a strong principle into concrete reforms to be undertaken by states in their internal governance system; commitments are restricted to the interstate confidence-building level. The Code, on the other hand, requires OSCE member states to "*provide controls to ensure that* [*the constitutionally established authorities vested with democratic legitimacy*] *fulfil their constitutional and legal responsibilities*" (§ 21). Such a provision against wilful abdication by elected governments of their responsibility to control the security establishment would be highly relevant in the inter-American context, given the historic tendency of weak civilian governments in Latin America, even under democratic rule, to let the military take the upper hand in the realm of defence and security – a more recent tendency of the United States' foreign policy as well, which will be addressed below.

The Code further expects states, *inter alia*, to clearly define the roles and missions of defence and security forces (§ 21), to provide for legislative approval of defence expenditures (§ 22), to hold armed forces personnel individually accountable under national and international law (§ 31)[26], and prohibits domestic use of force to restrict the peaceful and lawful exercise of human and civil rights by individuals or groups (§ 37). All these guarantees are typically subject to frequent disregard in Latin American states – whether by local institutions or US foreign policymakers – and would be more effectively protected if included in a more constraining and detailed regional normative framework. The Quebec City Declaration and Action Plan thus surely constitute a relevant and valuable contribution to the democratisation of the security sector in the Americas; however, as revealed by a comparison with the OSCE case, these documents draw their merit from the strong

embracing of a fundamental principle and the furtherance of regional cooperation rather than from a thorough planning of concrete action at the national governance level.

The Implementation Process: First Achievements and Remaining Challenges

The Quebec Summit, while not reinventing the hemispheric conception of security altogether, has taken it a step further, by reaffirming the importance of transparency in military matters and of a joint upholding of democratic principles in every area of governance for the prevalence of security on the continent. American heads of state and government left Quebec City entrusting their respective countries, as well as the OAS, with a number of action mandates concerning different themes, among them "Democracy" and "Hemispheric Security".

The most important (and most quickly to materialise) commitment agreed on as part of the Summit's top mandate, "Making democracy work better", was the negotiation within the OAS framework of an Inter-American Democratic Charter. Five months after the Summit, on September 11, 2001, the Charter was adopted by the OAS General Assembly in Lima. One of the first normative documents in the world – the first one in the Americas – to be entirely devoted to democracy, it establishes democratic rule as a right of peoples and its defence as a duty of governments. Developed as a complement to the "democracy clause", the Charter reflects, in its Article 19, the language of the Quebec City Declaration's opening paragraphs. Unfortunately, the "blind spot" in the democracy clause remains, as it previously tainted the Resolution 1080, Washington Protocol and Quebec City Declaration echoed by the Charter. Exactly what counts as an "unconstitutional interruption of the democratic order" or "constitutional regime" – whether a conventional military coup or also more insidious forms of democratic insubordination – is still not clear. The Charter does recognise that "*the constitutional subordination of all state institutions to the legally constituted civilian authority and the respect for the rule of law on the part of all institutions and sectors of society are* […] *essential to democracy*". However the absence of a specific designation of the security sector seems like a step back in the process of regional endorsement of democratic civil-military relations. Unsurprisingly, considering this semantic vagueness, the Charter has never actually served to further democratic control of the security sector (or to sanction a lack thereof) since its adoption.[27]

On the security front, confidence-building measures continued to be promoted and spelt out beyond – though not always as a direct result of – the adoption of the Quebec City Plan of Action. Inclusion of civil-military relations in the measures envisaged nevertheless remains highly uneven. Whereas the 2002 Andean Letter for Peace and Security encourages the extension of courses on CBMs and other security issues to universities with a mixed participation of civil servants, officials and military officers[28], the Illustrative List of Confidence- and Security- Building Measures put together at the 2003 Meeting of Experts on the issue (one of the action mandates agreed on at the Quebec City Summit) in Miami, like the more recent conclusions of the OAS Forum on Confidence- and Security-Building Measures at its first meeting in April 2005, completely overlook the civil-military issue.[29]

Another mandate subsumed under the Quebec theme of "Hemispheric Security" foresaw the organisation of a Special Conference on Security to help American states develop a more comprehensive common approach to security. The Conference took place in Mexico in October of 2003, and the resulting Declaration on Security in the Americas, still regarded as a landmark in the region, laid down the concept of *multidimensional security*. This new approach, originally introduced by the OAS General Assembly in its 2002 Declaration of Bridgetown, broadens the security agenda to include non-military sources of social instability such as terrorism, drug trafficking, migration, gang violence, transnational organised crime, natural disasters and infectious diseases. Responses to those threats are to be cooperative, but a *flexible security architecture* allows each state to choose the method it deems most appropriate. The Declaration also calls for greater cooperation in security matters and the participation of civil society in determining the best suited reactions to identified threats.

To be sure, the overhaul of an obsolete Cold War security paradigm was dearly needed. However, the application of the model conveyed by the Declaration to the Latin American context is preoccupying. The concepts of multidimensionality and especially of flexibility bear the risk of undermining the very process of security sector democratisation in the sub-region by opening the door to military responses to problems that are rooted in social ills.[30] While this slippery slope can easily be avoided in a setting of consolidated democratic institutions and unambiguous separation of powers, this is far from being conceivable in most Latin American countries, where militarism has always been, when not ruling, constantly looming. In addition to overlooking civil-military relations – in particular, the distinction between defence and public security spheres, one of the basic tenets of democratic

control of the security sector – the Declaration on Security in the Americas is problematic for two reasons linked to the distinctive security landscape of Latin America.

To begin with, Latin American nations carry a long history of autonomous robustness associated with military institutions, in stark contrast to typical civilian weakness. The autonomy and "messianic mission" characteristic of Latin American armed forces have afforded them the enduring capacity to intervene in political affairs in different forms, whenever they saw fit.[31] The military was already one of the two pillars (together with the Roman Catholic clergy) on which Spanish and Portuguese colonial systems rested, but it was their strategic role in the wars of independence between 1810 and 1830 that endowed the region's armies with "*a tutelary, guardianship role, what they called a "historical mission" to oversee the "transcendental destiny and values" of* la patria".[32]

When the first professional armed forces were formed in the late 19th century, they automatically incarnated the sovereign State; as ultimate guarantors of the constitutional order and driving force of the nation's modernisation, armies were destined to become active conductors in both the political and economic fields. Upon the rupture of the United States' relations with Cuba in 1959, the Cold War mindset started taking root in Latin America. National security, quickly becoming the dominant hemispheric doctrine, further turned the armed forces away from external defence, extending their sphere of action to the maintenance of internal public order against an alleged civilian communist threat.[33] The takeover by military leaders of most of the region's governments in the 1960s and 1970s further entrenched the blurring of the lines between defence and public security as well as those, more generally, separating State powers.

Ultimately, the political transitions marking the breakdown of the continent's authoritarian regimes were in most cases largely controlled by the outgoing military (or military-supported) power.[34] An upper hand in the negotiations on their new status allowed the armed forces to acquire a tutelary role over the political system, where the military institution is neither formally in power nor subordinated to those who are. This peculiar position is reflected in a conjunction of *prerogatives* and *autonomy*.[35] Prerogatives, or exclusive attributions actively taken (legally or de facto) by the military, thrive owing to a climate of *autonomy*, where civilian leaders, fearing military antagonism, have contracted their power over decisions relating to the military. As a result, armed forces in many countries have managed to retain, well into democratic rule, the exclusive right of nomination and promotion of military officers, military spending

management (sometimes even, as in Chile, with exclusive control over the defence budget, supplied directly by the revenues of military-run State enterprises[36]), the definition of military doctrine, or the passing of amnesty laws designed to shield military personnel from accountability for past human rights violations. In contrast to a not so distant past, ministers of defence now exist in all Latin American countries; however, even in the few cases where these are not active or retired military officers, they do not fully determine defence policy nor oversee the armed forces' compliance with it, often acting as hardly more than a democratic-legitimising varnish.

The second source of inadequacy of the Declaration on Security in the current pan-American context lies in the US-led "wars" on drugs and on terror, or rather, in how these foreign policy programmes are fundamentally altering civil-military models "exported" by the most influential actor in the hemisphere. With the dissemination of the Cold War national security doctrine, the United States had already since the early 1960s sent out the clear message to Latin American governments that threats to national security stem from society itself and have to be dealt with by force. But the Foreign Assistance Act passed by US Congress in 1961 provided for the future separation of military and economic aid budgets, while maintaining both budgets under State Department jurisdiction. The allocation of military aid was also subject to certain ethical restrictions, as the Leahy Law enacted in 1997 prohibited aid to foreign militaries accused of violating human rights. In addition, the Posse Comitatus Act, based on the recognition that methods privileging the use of overwhelming lethal force were inappropriate to fight local disruptions of public order, had prevented since 1878 the use of the military in a law-enforcement capacity.[37]

As a result of growing concerns expressed among society, Congress and by President Ronald Reagan himself in the early 1980s, the problem of drug trafficking soon came to be considered a threat to national security. In this hostile context, the Posse Comitatus Act had become, in the opinion of certain Congressmen, nothing more than an "evil" and "counterproductive" law. With mounting pressure in favour of the Act's revocation, permanent laws were eventually passed by Congress which made the military the lead agency in detection and monitoring of aerial and maritime transit of illegal drugs to the United States, while also allowing the US military to use a portion of the defence budget to train foreign security forces (civilian and military) in counter-drug tactics.[38] Simultaneously, the Pentagon's Southern Command started funding in 1988 the creation of aerial and naval armed units dedicated to eradicating illicit crops in Bolivia.[39] One year later, the incorporation of host state military forces into counter-narcotics efforts was

extended to the whole Andean region. With the adoption of *Plan Colombia*[40] in 1998, anti-drug US assistance became primarily destined for the host country's armed – and no longer police – forces.

The launching of the global fight against terrorism in the aftermath of the 9/11 terrorist attacks would only reinforce this worrying trend towards tightened military control over US foreign security assistance. On the multilateral scene, the OAS organ in charge of coordinating counter-terror policies, the Inter-American Committee against Terrorism (CICTE), was soon "revitalised", however without any concomitant assertion of the importance, for the preservation of democracy, of distinguishing between military and civilian roles in the response to – or prevention of – terrorist acts. In 2002, the Counterterrorism Fellowship Programme (CTFP) was initiated by the US Department of Defence and obtained an initial $17.9 million from Congress to allow foreign military officers to attend military educational institutions in the United States. By 2004, the CTFP constituted the fourth-largest source of US training funds for Latin American armed forces and was becoming increasingly similar to International Military Education Training (IMET), an already existing military training programme managed by the State Department.[41] Military encroachment upon foreign affairs turf seems to be ongoing, as the Defence Department recently asked Congress for an additional $750 million to train and equip foreign military and police forces.[42]

All these initiatives point to the progressive creation, pressed by the Pentagon, of a security assistance system parallel to the one already in place. Such duplication, while unlikely to render security enhancement efforts more efficient, excludes the State Department from a major segment of foreign policy, the management of which – by (democratic) institutional definition – should fall under its responsibility. The fact that the Department of Defence is now funding over half of all US-sponsored military training in Latin America in the context of the offensives against drug trafficking and terrorism[43] has three major harmful consequences for the consolidation of democratic control over the security sector both in US policies and within Latin American states.

Firstly, Congressional oversight stands significantly weakened. Perhaps in part owing to the size of the Defence budget, roughly 20 times larger than foreign aid, the Armed Services and Defence Appropriations Committees are known to be less rigorous in their inspection of executive spending than their foreign assistance counterparts.[44] Secondly, the thorough human rights conditionality system established by the 1961 Foreign Assistance Act no longer applies to a large part of foreign security

assistance. This means that anti-democratic behaviour is likely to be encouraged for the sake of security interests. Such a drift is most obvious in Colombia, where massive military aid has bolstered forces notorious for their recurrent human rights violations. More recently, in March 2005, the Bush administration attempted to lift the ban on military aid in Guatemala (where the armed forces also remain insufficiently reformed), to no avail though, given the Senate's opposition.

Thirdly, the gradual appropriation of security assistance by the Pentagon only risks blurring further the already very tenuous line between policing and military functions in Latin America's fragile democracies. Very few of the region's key normative documents on security, such as the Declaration on Security in the Americas and the Quebec City Action Plan, assert a civilian monopoly over law enforcement activities and restrict the armed forces' intervention to the area of defence, as a truly democratic system would demand. In its final declaration, the 2004 Conference of the Ministers of Defence of the Americas only added to this counterproductive gap – besides overly prioritising terrorism (in a supposedly *multidimensional* security threat spectrum), a problem that most Latin American governments deem irrelevant to their national realities. Commitment to security sector reform was limited, as in all previous defence ministerial conferences since Williamsburg, to reiterating "*the importance of the principle of subordination of Armed and/or Public Security Forces to the Constitution and to the legally established civil authorities of their States*".[45] While respect for constitutional subordination and international human rights and humanitarian law are essential tenets of democratic security sector governance, they are by no means sufficient, and the separation of civilian and military realms of action would gain from being systematically encouraged in regional security fora, especially in a region where most national Constitutions fail to provide for such a distinction. The Quito meeting went even further than ignoring the distinction: it was turned into a platform for outright promotion of its blurring by the United States' representatives. Secretary of Defence Donald Rumsfeld explicitly invited his Latin American counterparts to question the separation of the armed forces from the police, but his remarks were not favourably welcomed by several of the ministers attending, as well as by the media, mindful of the not so remote inglorious and disastrous past of military expansionism.

Conclusion: Toward a Civilian Security Community in the Americas

Although appreciable headway was made during the second part of the 20th century to democratise all American states internally as well as in their cooperative approach to security, the way the United States is currently instilling its main security concerns into the regional security agenda carries the danger of reviving a national security doctrine that took so long to bury in Latin America. Notwithstanding the progress that has been made, and even before the declaration of a "war on terror" started threatening this, it cannot be said that a regime of democratic control of the security sector had materialised in the Americas to the extent observed in the OSCE area. Nevertheless, the Quebec City Plan of Action should be appreciated as an important step in the interlinking of security and democracy regimes, thereby potentially opening the path to a future regime of democratic security governance. To allow the fulfilment of such a potential and reverse the slow drifting apart of security and democracy architectures, however, at least three important changes need to be undertaken: a "civilianisation" of US security assistance policy toward Latin America, the strengthening of the OAS' role regarding security matters in relation to both the Summit of the Americas process and the Inter-American Defence Board, and greater participation of parliamentarians and civil society organisations in security policy debates across the hemisphere.

Commitment to the principle of democratic control should be reaffirmed as frequently and strongly as possible in all sub-regional multilateral frameworks that do not include the United States (Mercosur, Andean Community, Caribbean Community, Central America, etc.) so as to consolidate the norm throughout Latin America and consequently ensure a more efficient defence of it by Latin American leaders against possible US contradiction in regional, sub-regional and bilateral contexts. The United States, on its side, ought to see that its interest, beyond the immediate problem of terrorism, resides in promoting genuinely democratic civil-military relations, best adapted to counter instability in a region where threats to security are mainly socio-economic in nature. Instead of unduly increasing the influence of the military in areas to which its methods and principles are ill-suited, thereby opening the door to mistreatment of citizens while failing to solve the problems more efficiently (as made evident by the poor results of the repressive fight against drugs)[46], the US administration should allow the State Department to reclaim control over foreign security assistance and to start investing in the development of a proper local civilian expertise – training government officials as well as public security forces.[47]

Civilian leadership (i.e. competence and influence) in defence and security matters on both the regional and the national – in Latin America mainly – scenes is perhaps what remains most blatantly lacking in the western hemisphere. The OAS, as the most important permanent civilian framework at the regional level, has certainly made substantial inroads in the security field since the early 1990s. Still, the organisation has the capacity to take on a much more proactive role in advocating hemispheric security policies that help redraw the line between defence and internal security[48], as well as encouraging its member states to engage in more concrete commitments regarding civilian oversight of defence policies and military practices (instituting accountability procedures, setting standards for security sector reform financing, etc.) – concrete mechanisms that were missing in the Quebec City Action Plan. As government-toppling is no longer the rule and has since long given way to the much more common "slow death" of democracy[49], the OAS should begin its advocacy work by refining the "democracy clause" mechanism so as to include specific collective sanctions for interruptions of the constitutional order which fall short of coup attempts, such as the erosion – in various specific forms to be defined – of democratic subordination of the security sector. More fundamentally, the OAS would gain clout in the promotion of good governance if it were entrusted with a clear mandate to monitor the implementation of democratic reform of security sector governance at the national level,[50] in order to ensure that regional normative commitments translate into tangible action within the committing states.

In sum, one may wish the OAS to become, following the OSCE model, more of a driving force toward democratic consolidation and less of a spectator of "least common denominator" security agreements. The success of any reform in that direction, however, will necessarily hinge on the political will of its member states to give the OAS a higher political profile, lifting it from the mere technical supporting arm it has become and converting it back into an active diplomatic forum and genuine agenda-setting actor. Such a move would imply, if not the outright disappearance of the Summit of the Americas process, at least a reduction of its political importance. Summits should simply provide space and time for a dialogue between heads of state which nurtures, complements and strengthens (instead of dominating) their ambassadors' policymaking activities within the OAS.

As the considerable weight, long existence and large room for manoeuvre of the Inter-American Defence Board and its Inter-American Defence College testify (in addition to the role of the Pentagon's Southern

Command), hemispheric cooperation on defence and security issues has so far largely been dominated by military figures.[51] Such an imbalance, reproducing the problem of undemocratic military autonomy at the regional level, will be partly remedied by filling the civilian security expertise vacuum, as suggested above. However, limitations need to be applied as well to the IADB's mandate and status in the Inter-American System. A first step in that direction will be to fully revise the institutional links between the OAS and the IADB which originally established the full independence of the military organ from the political organ of the System. Debates were initiated in the early 1990s inside the OAS Working Group on Hemispheric Security (which in 1995 was replaced by the Committee on Hemispheric Security), and a consensus progressively emerged as to the necessary subordination of the IADB "to the OAS and to the legally constituted authorities of the member states" and restriction of its function to "technical and military advice in the military and defence areas". But pressures within those debates in favour of "multifaceted responses" (including law enforcement) by the military and the provision of IADB expertise "in both defence and hemispheric security matters"[52], emanating primarily from the United States and the Central American countries, remain very strong, maintaining the entrenchment of democratic control over hemispheric military cooperation in a precarious equilibrium.

Placing hemispheric military-to-military cooperation under civilian oversight does not mean that chiefs of staff and government officials should reflect in isolation, let alone in competition. An important step toward favouring both the internalisation of democratic principles and efficient security strategies[53] could be taken by the OAS and the IADB in jointly creating opportunities for interaction between civilians and militaries. Such regular encounters (seminars, workshops) should be crafted not to confuse mandates and methods but on the contrary, to help both sides understand and assimilate precisely the relevance of distinct roles and civilian control for a working and stable democracy.

Since democratic civilian oversight of the security sector also involves *legislative* oversight – the exercise of which is typically very limited in most of Latin America (and, one can worry, increasingly in the United States as well) – the new Inter-Parliamentary Forum of the Americas is one of the most promising loci for elaborating civilian inputs to regional debates on security. For the first time in March 2002, Parliamentary representatives from all the continent met in Mexico City to discuss security preoccupations such as terrorism, border issues, migration and organised crime. One year later the Inter-Parliamentary Forum set up a Special

Working Group on Terrorism which has formulated recommendations to the Inter-Parliamentary Forum Plenary Meetings every year since. With the conclusions reached at the Forum's last Plenary Meeting in Brasilia in May 2005, the Working Group certainly made a contribution to democratic consolidation: it underscored the critical – and too often neglected – role of legislators in supervising security policies as well as the importance of avoiding militarised or unilateral responses to terrorism. Yet the Group has failed so far to explicitly recall any principle in support of democratic subordination of the security sector. Legislators across the continent should seize the opportunity of collaboration within the Inter-Parliamentary Forum to work more actively at institutionalising national Congressional supervision of the security sector. A reinforced legislative supervision would not merely help ensure military accountability to elected officials; it could also thwart the formation of *ad hoc* relationships between the executive branch and the military – where the former (typically very powerful in Latin America) enjoys a discretionary power to resort to military interventions to consolidate its power.

Lastly, democratic governance means that the people themselves should have a say in the ways their security is taken care of, outside of their elected representatives' mediation. The ability to expand public debate on security issues does rest in large part with the parliamentarians; however, as we have seen, even their commitment to democratic principles fluctuates as it can be influenced by other political considerations or pressures; what is more, pervaded by political disenchantment, Latin American societies do not generally feel that their views are genuinely represented by their parliaments. Civil society organisations should therefore mobilise independently to examine security concerns, especially in a context where participation of NGOs, academic and other social sectors in discussions on security in Latin America remains a marginal reality. An additional challenge for the OAS will then be to create the appropriate channels to make civil society's conclusions "trickle up" to the politicians' ears.

Notes

[1]   Brian Loveman, "Protected Democracies and Military Guardianship: Political Transitions in Latin America, 1978-1993", *Journal of Interamerican Studies and World Affairs*, Vol. 36, No.2 (Summer 1994), p. 312. The initial quotation was published in the January/February 1984 issue of the Argentinian magazine *El Soldado*.

[2]   See Samuel P. Huntington, *The Third Wave: Democratisation in the Late Twentieth Century*, Norman, Oklahoma: University of Oklahoma Press, 1991.

3   On that point, see Alain Rouquié, *Amérique Latine: Introduction à l'Extrême-Occident*, Paris: Éditions du Seuil, 1998, Ch. 4.

4   On the subject of inter-American asymmetry, see Gordon Mace and Louis Bélanger, "The Structural Contexts of Hemispheric Regionalism: Power, Trade, Political Culture and Economic Development" in Mace, Bélanger et al. (eds.), *The Americas in Transition: The Contours of Regionalism*, Boulder: Lynne Rienner, 1999, pp. 37-67.

5   Canada also has a similarly consolidated democracy and does play a role in the formation and dissemination of democratic norms, but to a much lesser extent in Latin America. This is in part due to Canada's significantly smaller political and economic power as well as more tenuous historical links with the Latin states. Canada moreover channels most of its democracy promotion resources through NATO's Partnership for Peace, and therefore reaches primarily former Soviet states.

6   Other similarly high-level regional gatherings have taken place since the 2001 Quebec Summit: the January 2004 Special Summit of the Americas in Monterrey and the November 2005 Fourth Summit of the Americas in Mar del Plata. However, none of the agreements they produced emphasises the principle of democratic control of the security sector as explicitly as the Quebec City documents.

7   Cuba was excluded from the Board in 1961.

8   Charter of the Organisation of American States, 30 April 1948, www.oas.org.

9   Especially after the important amendment made to it by the 1985 Cartagena de Indias Protocol, adding in the Charter's Preamble that "*Representative democracy is an indispensable condition for the stability, peace and development of the region*".

10 As regards democracy in particular, the OAS Charter proves to be even more advanced than the UN Charter, which does not explicitly mention democracy as a common objective of member states.

11 The OAS has been repeatedly criticised for its indifference regarding coups d'État and authoritarian regimes on the continent, allegedly due to its implicit adherence to US strategic interests throughout the Cold War.

12 See Heraldo Muñoz, "The OAS of the Future", presentation prepared for the conference titled "The Organisation of American States: A Retrospective and Look Ahead", George Washington University, Washington D.C., 15 April 2004.

13 AG/RES 1063 (XX-0/90), 8 June 1990.

14 AG/RES 1080 (XXI-0/91), 5 June 1991.

15 This mechanism was put into effect following the 1991 coup in Haiti, the 1992 and 1993 "self-coups" in Peru and Guatemala, and the threat to the government of Paraguay in 1996.

16 Executive Order, 14 December 1992.

17 Declaration of Managua on the Promotion of Democracy and Development (1993), in Richard L. Millett, "Beyond Sovereignty: International Efforts to Support Latin American Democracy", *Journal of Interamerican Studies and World Affairs*, Vol. 36, No. 3, Special Issue: The Summit of the Americas – Issues to Consider (Autumn 1994), p. 3.

18 The Williamsburg Principles as well as other documents relating to the Williamsburg Conference can be found at: www.state.gov/t/ac/csbm/rd/6434.htm.

19 See Heiner Hänggi, "Good Governance of the Security Sector: Its Relevance for Confidence-Building", in Heiner Hänggi (ed.), *Practical Confidence-Building Measures:*

Does Good Governance of the Security Sector Matter?, Working Paper No. 107, Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2003, p. 7.

[20]   The most far-reaching implications of this capacity were probably manifested in recent EU accession negotiations.

[21]   Declaration of Santiago, 10 November 1995, OEA/Ser.K/XXIX.2. One of the Williamsburg Principles also fits in this category: "*Increase transparency in defence matters through exchanges of information, through reporting on defence expenditures, and by greater civilian-military dialogue*".

[22]   Starting with the Second Summit, every Summit was routinely focused on a particular theme. The Santiago Summit thus became known as the "summit on education", the Quebec Summit as the "democracy summit", and the most recent (Fourth) 2005 Summit in Mar del Plata, the "summit on employment".

[23]   Gordon Mace and Hugo Loiseau, "Cooperative Hegemony and Summitry in the Americas", *Latin American Politics and Society*, Vol. 47, No. 4 (Winter 2005), pp. 111 and 126.

[24]   Both the Quebec City Declaration and Plan of Action can be found at: www.summit-americas.org.

[25]   The Plan of Action also makes democracy a necessary condition for development, a subject not addressed in the Code of Conduct.

[26]   Accountability to the *civilian* judicial system (not merely to military tribunals – except for disciplinary faults) is here implied, which the armed forces personnel still widely manages to escape in Latin America.

[27]   The Charter was officially invoked three times during the year 2002, in response to the failed coup attempt in Venezuela, to the deteriorating political situation in Haiti, and in support of the fight against corruption in Nicaragua.

[28]   Carta andina para la paz y la seguridad, 17 June 2002, Section X, Article 1 j, www.comunidadandina.org/documentos/actas/compromiso_lima.htm. The Letter (or Charter – *Carta*), approved by the Ministers of Defence and Foreign Affairs of the Andean Community members states, establishes the principles for the formulation of a common security policy for the region, the restoration of a peace zone, regional actions in the fight against terrorism, the limiting of defence expenditures and transparency in the acquisition of conventional weapons.

[29]   As did earlier documents: the Santiago (1995) and San Salvador (1998) Declarations, but also the post-Quebec City Bridgetown Declaration and the Guayaquil Declaration on a South American Peace Zone (both of 2002).

[30]   As an example, gang violence would be combated more efficiently by tackling deeper socio-economic and institutional problems, such as unemployment or incomplete judicial reform than by merely addressing the symptoms, such as criminalising the wearing of tattoos – a measure that has recently been adopted widely in Central America.

[31]   The literature on military intervention in politics in the region has been prolific. See among others: Rut Diamint, "The Military", in Jorge I. Dominguez and Michael Shifter (eds.), *Constructing Democratic Governance in Latin America*, Washington, D.C.: The Johns Hopkins University Press, 2003, Ch. 3; Brian Loveman and Thomas M. Davis (eds.), *The Politics of Antipolitics: The Military in Latin America*, Lincoln: University of Nebraska Press, 1989; Abraham F. Lowenthal, *Armies and Politics in Latin America*, New York: Holmes & Meier, 1976; Alain Rouquié, *L'État Militaire en Amérique Latine*, Paris: Seuil, 1982; Philippe Schmitter (ed.), *Military Rule in Latin America*, London:

Sage Publications, 1973; Jennifer Schirmer, *The Guatemalan Military Project: A Violence Called Democracy*, Philadelphia: University of Pennsylvania Press, 1998; or Wendy Hunter, *State and Soldier in Latin America: Redefining the Military's Role in Argentina, Brazil, and Chile*, Washington, D.C.: United States Institute of Peace, 1996.

[32] Brian Loveman, "Historical Foundations of Civil-Military Relations in Spanish America", in David Pion-Berlin (ed.), *Civil-Military Relations in Latin America: New Analytical Perspectives*, Chapel Hill: The University of North Carolina Press, 2001, Ch. 10, p. 261.

[33] This tendency has of course not been observed uniformly across the continent; a few "exceptions" can even be singled out, the most important one remaining Costa Rica, which abolished its armed forces in 1948.

[34] On the role of the military in political transitions, see for instance: Guillermo O'Donnell and Philippe Schmitter, *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies*, Baltimore: The Johns Hopkins University Press, 1986; Bruce W. Farcau, *The Transition to Democracy in Latin America: The Role of the Military*, Westport: Praeger, 1996; Donald Share and Scott Mainwaring, "Transitions Through Transactions: Democratisation in Brazil and Spain", in Wayne A. Selcher, *Political Liberalisation in Brazil: Dynamics, Dilemmas, and Future Prospects*, Boulder, Colorado: Westview Press, 1986; or Georgina Sánchez López, *Les Chemins Incertains de la Démocratie en Amérique Latine: Stratégies de Transition et de consolidation Politiques*, Paris: Éditions L'Harmattan, 1993.

[35] This terminology was introduced by Alfred Stepan in the late 1980s to refine the understanding of Latin American politico-military dynamics; see Alfred Stepan, *Rethinking Military Politics: Brazil and the Southern Cone*, Princeton: Princeton University Press, 1988.

[36] Military budgetary autonomy is also of increasing concern due to the current trend toward privatisation of military and public security forces. With thriving private military companies, an increasing share of the security sector escapes accountability and State control by relying on independent sources of funding.

[37] The Act states that "*Whoever, except in cases under circumstances expressly authorised by the Constitution or Act of Congress, wilfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both*" (18 U.S. Code 1385).

[38] George Withers, "Who's In Charge? Foreign Assistance Responsibilities Shift from State to Defence", Memorandum, Washington, D.C.: Washington Office on Latin America (WOLA), January 2006, www.wola.org/security/sec_memo_dod_dos.pdf.

[39] Kathryn Ledebur, "Bolivia: Clear Consequences", in Coletta A. Youngers and Eileen Rosin, *Drugs and Democracy in Latin America: The Impact of U.S. Policy*, Boulder, Colorado: Lynne Rienner Publishers, 2005.

[40] A package of $1.3 billion (now well over $4 billion) in mostly military counter-narcotics assistance to Colombia.

[41] Lisa Haugaard, Adam Isacson and Joy Olson, "Erasing the Lines: Trends in U.S. Military Programs in Latin America", Washington, D.C.: Latin America Working Group Education Fund (LAWGEF), Center for International Policy (CIP) and Washington Group on Latin America (WOLA), December 2005, p. 4.

[42] The "militarisation" of US.foreign aid is also reflected in a narrower than ever gap between US economic and military aid to Latin America: while nearly equal to military

aid today ($1.03 billion versus $908 million for FY06), economic aid accounted for over double military aid in the late 1990s, and the ratio was even higher during the Cold War (*ibid.*, p. 5).

[43] Noteworthy is the recent major proliferation in US defence and security assistance programmes in Latin America: they currently reach the number of 27, according to three Washington-based NGOs (Washington Group on Latin America (WOLA), Latin America Working Group Education Fund (LAWGEF) and Center for International Policy (CIP), "Just the Facts: A Civilian's Guide to U.S. Defence and Security Assistance to Latin America and the Caribbean", www.ciponline.org/facts).

[44] The House International Relations and Senate Foreign Relations Committees (authorising foreign aid programmes), and the House and Senate Appropriations Foreign Operations Subcommittees (appropriating foreign aid funds).

[45] Sixth Conference of Ministers of Defence of the Americas, Declaration of Quito, 21 November 2004, § 1.

[46] See among others: United States Office of National Drug Policy, *Pulse Check: Trends in Drug Abuse*, November 2002; United States Department of State, *International Narcotics Control Strategy Reports 2000 & 2002*; United States General Accounting Office (GAO), *Drug Control: Efforts to Develop Alternatives to Cultivating Illicit Crops in Colombia Have Made Little Progress and Face Serious Obstacles*, February 2002; Bruce M. Bagley, "Drug Trafficking, Political Violence and U.S. Policy in Colombia in the 1990s", Coral Gables: University of Miami, 2001.

[47] State Department jurisdiction is no automatic guarantee of democratic ramparts between police and military activities. Assistance provided through E-IMET for instance (Expanded International Military Education Training – created in 1991 as a subset of the IMET programme), while under such a jurisdiction, somewhat contradictorily aims to both "foster greater respect for and understanding of the principle of civilian control of the military" and to "contribute to cooperation between military and law enforcement personnel on counter-narcotic law enforcement efforts" (Washington Group on Latin America (WOLA), Latin America Working Group Education Fund (LAWGEF) and Center for International Policy (CIP), "Just the Facts: A civilian's guide to US defence and security assistance to Latin America and the Caribbean", www.ciponline.org/facts/eimet.htm).

[48] Specifically inside its organs concerned with security, including the Committee on Hemispheric Security (CHS), the Inter-American Committee Against Terrorism (CICTE) and the Inter-American Drug Abuse Control Commission (CICAD), as well as within the Unit for the Promotion of Democracy (UPD).

[49] The term "slow death" was introduced by Guillermo O'Donnell to indicate a "progressive diminution of existing spaces for the exercise of civilian power and the effectiveness of the classic guarantees of liberal constitutionalism". See Guillermo O'Donnell, "Transitions, Continuities, and Paradoxes", in Scott Mainwaring, Guillermo O'Donnell and J. Samuel Valenzuela (eds.), *Issues in Democratic Consolidation: The New South American Democracies in Comparative Perspectives*, Notre Dame: University of Notre Dame Press, 1992.

[50] Gordon Mace and Hugo Loiseau, "Les relations civilo-militaires dans les Amériques et la diffusion des normes régionales: Quel rôle pour l'OÉA?", *Études internationales*, Vol. XXXII, No. 2 (June 2001), p. 334.

51   As a point of comparison, security cooperation in an increasing portion of Europe is significantly more civilian in nature, given that the most important security alliance in the region, NATO, is managed by civilians at the highest level.

52   Permanent Council of the Organisation of American States, Committee on Hemispheric Security, "Summary of Deliberations by the Working Group to Conclude the Analysis of the Juridical and Institutional Link between the OAS and the Inter-American Defence Board, from November 2 to December 13, 2004", 16 December 2004, OEA/Ser.G CSH/GT/JID-8/04.

53   On that particular subject, see Felipe Agüero, "The New Double Challenge: Simultaneously Crafting Democratic Control and Efficacy Concerning Military, Police and Intelligence", Working Paper No. 161, Geneva: Geneva Centre for the Democratic Control of Armed Forces, April 2005.

Chapter 6

Sub-Regional Security Cooperation in Latin America: The 1995 Central American Framework Treaty on Democratic Security

Rut Diamint

Introduction

The recent history of Central American integration undoubtedly commenced on 14 December 1951, when the Foreign Ministers signed the Letter of San Salvador which originated the Organisation of Central American States ("ODECA"). Internal violence, inter-regional conflicts and political instability obstructed the plan for many years until, under the leadership of Costa Rican President Oscar Arias, Contadora was first set in motion, as was later the peace process known as Esquipulas I and II.[1] The Tegucigalpa Protocol, signed on 13 December 1991[2], revived the determination to move towards a new regional model for security, maintaining the balance among armed forces, strengthening civilian power, eradicating violence and controlling arms trafficking. A new move towards peace and development was made in 1995 with the establishment of the System of Central American Integration ("SICA").[3] Signed on 15 December of the same year in San Pedro Sula (Honduras), the Central American Democratic Security Framework Treaty ("TMSDCA", according to its Spanish initials) offered – due to its concept of "democratic security" – an innovative security model. Indeed, that instrument proceeded from a vision underscoring that the security problems in the region "required a shift from military security to human security, from defensive security to cooperative security, from a reactive to preventive management of security threats".[4]

Propitiating a novel, integrated and multidimensional concept of security, all these instruments have strengthened democracy and integration in Central America. Accepted as the hemispheric security model by the OAS in Bridgetown, their central idea is that security transcends traditional military concerns and touches upon all problems giving rise to social instability such as HIV/AIDS, drugs and arms trafficking, transnational criminality, ecological disasters and poverty.[5]

This contribution examines Central America's sub-regional security context and explores the extent to which the democratic security model which has been developed in the mid-1990s to face the new security environment has been implemented. It evaluates the opportunities and challenges of Central American countries in the implementation process of the Framework Treaty on Democratic Security. Although issues related to security sector transformation have remained largely in the military's hands, while civilian leaders from parliaments, judiciaries and civil society are unable to ensure firm civilian control, Central America has nevertheless made some progress towards democratisation, integration and cooperative approaches to security and defence issues. Many of the concepts and ideas underlying this process contain elements of comparison with the OSCE experience.

The Model of the Framework Treaty

As Carmen Rosa de León observed with regard to Guatemala (a remark also applicable to the other countries of the region), "the security model of Guatemala is marked by internal armed confrontation that deeply upset the fabric of society and the way sectors and people have interacted (…) a security model based on authoritarianism, violence, force, the use of weapons and suspicion."[6] The collapse of Communism and the transition to democracy generated a change in habitual defence design. A prior commitment reflecting the Cold War approach, the Central American Council of Defence ("CONDECA") was replaced by the new vision of democratic regional security enshrined in the TMSDCA. The latter would not have been possible if Central American countries had not been engaged in the peace process in Contadora:

– *El Salvador.* Through the meeting in La Palma in 1984, the Peace Act of 1991 and the Truth Commission's Report of 1993, a long process of disarmament, demilitarisation as well as of institutional, military and police reform took place. It culminated in a democratic victory, despite the many

years of authoritarianism and impunity which had left the wound of social violence.[7]

    – *Guatemala*. The negotiation of domestic armed conflicts lasted there over three decades. The Peace Agreements signed in December 1996 between guerrillas and the government overcame 40 years of authoritarian governments through the provision of the strengthening of democratic institutions and the reform of the army.[8] These changes took place, however, in a context of structurally weak domestic institutions.[9] The Agreement on *"Strengthening of Civil Power and the Duties of the Army within a Democratic Society"* offered an agenda based on the respect for human rights and the recognition of the multi-ethnic, pluralistic and multi-lingual character of Guatemalan society and, therefore, of social justice, political participation and democratic constitutional order. Advances have been slow and difficult: for many years neither the executive nor the judicial powers respected the rights of Indian peoples. National reconciliation is an ongoing process.[10] President Oscar Berger's decision to offer a retirement plan to 11,663 troops was questioned by some senior military chiefs opposed to civilian oversight, as were his moves to permit citizens to be informed about corruption in the Army and human rights violations.[11]

    – *Nicaragua*. Basically due to the United States' support for the *contras* in their fight against the Sandinista government, the conflict in that country was solved in a more institutional fashion. In 1989, Daniel Ortega's government agreed to a call for elections, which the *Union Nacional Opositora* eventually won. Negotiations to reduce the Sandinista army as outlined in the Transition Protocol secured a plan for demobilisation, the surrender of weapons, and an army less engaged in politics.[12]

    – *Honduras*. Here, the armed forces progressively relinquished their position as a centre of power, tutelage and economic influence. They accepted that the civil authorities should undertake democratic reforms. However, the transition encountered hardships, conflicts and resistance.[13]
The TMSDCA, which was meant to overcome all those domestic confrontations, did not offer a pact for collective defence, but rather democratic precepts.[14] Democratic security served as a prerequisite for the rule of law and the insertion of Central American countries into global markets. Hence the provision that "the Central American Model for Democratic Security is based on democracy and the strengthening of its institutions and the rule of law; in the existence of governments elected by universal, free and secret suffrage, and in the unlimited respect for all human rights in the nations that make up the Central American region."[15] The concept of democratic peace was developed from the processes of

Contadora[16] and from the approach that former Costa Rican President Oscar Arias formulated for the resolution of the Central American crisis. Peace was expected to be achieved through overcoming civil war and the re-establishment of a democratic political system. Upon receiving the Nobel Peace Prize, President Arias expressed his approach in the following terms: "In Central America we do not want peace by itself, nor peace that will one day be followed by political progress, but rather peace and democracy together, indivisible, an end to the bloodshed inseparable from that of the repression of human rights."[17] A similar vision was expressed by Nicaragua in the framework of the OAS: "Our model is called *democratic security*, as we do not conceive security without democracy, the latter being the basis for any potential security. It is a multi-dimensional model that breaks with the idea that reduces security to the size of the armed forces or the quality of their weaponry. It grounds security on its human dimension: this a radical shift in our history, dominated on so many occasions by authoritarianism and a distorted view of national security."[18]

It is worth noting that despite its innovative approach, the Treaty lacked specific reference to a defence doctrine based on cooperative security or to participation in international peacekeeping forces. The *Procedimiento para Establecer una Paz Firme y Duradera en Centroamérica* (Esquipulas II) set forth the conditions to create a framework to develop trust, transparency and cooperation among isthmus nations, provided for the reduction of military troops and advocated de-mining efforts.[19] The Treaty also established mechanisms of peaceful conflict resolution, prioritising a cooperative response to transnational threats.

The text of the TMSDCA is divided into seven sections. The first three spell out guiding concepts and principles related to the rule of law, the security of persons and their properties, as well as regional security. The other sections refer to organisational and institutional mechanisms, as well as "special" and "transitory" provisions. The Treaty's definition of security is a broad one, encompassing development, public security and human rights. It refers to police cooperation in the fight against organised crime and drug trafficking and also proposes measures for border control. In any case, emphasis is placed on the concept of democratic security.[20]

The core concern of the TMSDCA is the demilitarisation of Central American countries through the reduction of armed forces, the limitation of military missions in civil arenas and the strengthening of democratic institutions.[21] Since the military had primarily been a threat to their fellow citizens, military reform was given high priority. It proceeded from the philosophy of cooperative security developed within the CSCE (Helsinki)

process and, subsequently, the OSCE. The goal was that the mutual intentions of each country for defence should no longer generate misunderstandings and apprehension. Procedures for sharing information on military doctrines, force deployment and military expenditures were thus set up. They were also consistent with the project of disarmament impelled by Arias.[22]

The TMSDCA calls for closer contacts between sub-regional armed forces, particularly the defence ministries' civilian officials. Contrary to what occurred in Eastern Europe in the Communist era (where the armed forces were loyal to the party and whose autonomy did not challenge the political system), Latin American militaries operated as a party that did not reflect any predominant political structure.[23] Furthermore, unlike their East European counterparts, Latin American Defence Ministries were organisations managed by the military, with no capacity to formulate defence policies and where each branch made its decisions autonomously. Since expertise in defence and knowledge are prerequisites for civil control of the armed forces, this certainly represents one of the major weaknesses of the TMSDCA.[24] The State continues to lack the capacity to regulate defence matters.[25] Another weakness of the TMSDCA concerns the limited role and participation of civil society in security and defence matters.

Admittedly, a number of civil society organisations did play a decisive role in the fight against dictatorship. However, with the restoration of democracy, many of these associations lost their rationale[26], while others transformed themselves and performed reputable roles in the control of police activities – as in the case of the Arias Foundation for Peace and Human Progress or the Ungo Foundation of El Salvador.[27] Other examples of participation concern the Central American Parliament ("PARLACEN", established in 1987, and operational since 1991) which operated as a dialogue forum between the political class and civil society. As observed by Monge Granados, the participation of civil society in the integration processes of Central America was due to their presence in the official spaces of intergovernmental organs. However, although civil corporations have made some progress, their participation is still largely untried.[28]

Raúl Benítez points out another difficulty: "The disadvantage of the Treaty is that its concept is too general. Its virtue is the relationship between security and democracy, especially for the date it was signed (1995), but it failed to realise specific commitments for (operational) cooperation."[29] The TMSDCA responded to a concrete necessity at a definite historical moment. Its priority was to promote regional consent in order to put an end to military confrontation and promote democracy as the fundamental value of the

Central American societies. According to Roberto Cajina, the difficulty with
the TMSDCA lies in "the absence of mechanisms and procedures to make
[it] operational".[30] Therefore, the challenge has been true implementation
and the lack of political will thereto: "the Treaty was approved without the
actual, authentic political will of the region's presidents to put into practice
all the commitments they made."[31]

From Paper to Action

The non-implementation of the TMSDCA is not due to any conceptual flaw
in its architecture, but to a basic problem: most of the leaders of the region
have demonstrated little political will to implement the instrument. As Adam
Isacson remarked, "the region's military continue to dominate the design
and practice of the security policies. While government officials continue to
protect this prerogative, civil leaders have also lacked the will and capacity
to introduce initiatives in this type of policies."[32]

Latin American democracies' obvious fragility, illustrated by weak
party consensus, crises of representation, and political and economic
regression, is a well-known reality. The same actors that took part in the
negotiations under authoritarian governments became the leaders of newly-
formed democratic coalitions, while new politicians were accused of
corruption.[33] Post-authoritarian regimes proved unable to generate new
mechanisms for political participation. Furthermore, the crisis of the welfare
State model, resulting in dwindling social benefits, generated distrust vis-à-
vis institutions. The State is perceived as having used institutions to violate
the constitutional and social order. Within such a context, where political
legitimacy has been undermined, institutions are unable to guarantee the rule
of law[34], while private and public interests can only collide.[35]

Thus, while the armed forces were progressively integrated into civil
society and police forces began to behave more moderately, violence
exploded in cities. As former Costa Rican Security Minister Laura
Chinchilla has recognised, crime rates grew and delinquents tended to be
more violent in the region notwithstanding the establishment of institutions
especially dedicated to crime prevention and the administration of justice.
More youths have turned to criminality and a closer relationship has
developed between current delinquency and organised crime.[36] Central
America has the highest homicide rates on the continent. In El Salvador, the
cost of violence has reached over 13 per cent of GDP. According to one
press report: "Between 1994 and 1996, El Salvador had higher murder rates

than the annual average of violent deaths in wartime... in 1997 Guatemala reported a total of 1,739 kidnappings which averages 17 per 100,000 people."[37] Public insecurity continues to be of great concern to the population in Guatemala. According to the United Nations, "Guatemala's geographical position is in the corridor of the drug trade between South America and the United States. That makes it especially vulnerable to organisations that have used corruption to infiltrate institutions of the rule of law. On the other hand, the lamentable state of the National Civil Police has not only allowed delinquency to proliferate but also caused an increase in cases of police abuse: serious crimes like kidnappings, social cleansing and torture."[38] This is the phenomenon of "idle manpower" – that is, of former security agents expelled from institutions and who later form criminal gangs.

Creating security presupposes reforming the military, the police, the justice system and the social services. A security sector reform aimed at the maximisation of the civil power over the armed forces by means of effective governance of the defence sector with clearly defined and transparent responsibilities is urgently needed in Central America. Reforming the security sector includes a political aspect – through parliament, the media and NGOs proposing efficiency measures for use of resources, disarmament and relocation of combatants. It has also a social aspect – especially to control small weapons that affect citizens' day-to-day security; and it also has an institutional aspect, leading to forces fulfilling their professional tasks, reorienting doctrines and missions to respect the rule of law.[39] These patterns may promote better sub-regional cooperation and create tools for political leaders to build peace, since proposals elaborated by security sector reform were designed specifically for countries with weak democratic institutions, incomplete rule of law and insufficient civil capacity to manage and control institutions of security, and strengthening governance.[40]

The Conference of Central American Armed Forces

The failure to enforce the Treaty was somewhat compensated by the efficiency with which the armed forces acted together to frame regional directives. On 12 November 1997, at the behest of the Central American armed forces commanders, the Presidents of Guatemala, El Salvador, Honduras and Nicaragua met and established the Armed Forces Conference ("CFAC"). According to Colonel Alberto Bonilla Martinez (El Salvador), "the main purpose of the meeting was to create the Association of Central American Military Commanders or top military commanders of the region, in order to provide the Secretary of Central American Integration ("SICA") with support and advice regarding defence and security. To this end, it was deemed convenient that each Secretary of Defence or Commander–in-Chief initiate talks with the President and Foreign Minister of their respective countries."[41] The CFAC was conceived as a forum to debate the constitutional mandates of the armed forces and their new role, as well as to further measures to build trust between the governments and their armed forces. The objective was to guide military institutions towards subordination to civil power and, thus, contribute to democratisation. This led to the creation of the CFAC Humanitarian and Rescue Unit (UHR-CFAC), whose mission was to conduct operations in natural disasters, and the holding of UNESCO-sponsored seminars on the development of a culture of peace and non-violence.[42]

The framework for action was set by Confidence- and Security-building Measures (CSBMs) aimed at greater transparency in the implementation of the agreements concluded within the OAS Hemispheric Security Commission on Confidence-Building Measures Conferences in Chile, El Salvador and Miami. Those CSBMs included information on defence budgets, military structure, equipment and weapons, exchange visits, combined operations, as well as transnational cooperation against organised crime and drug trafficking.[43] Given the States' inability to implement these arrangements, especially those related to defence spending (art. 35 of the Treaty), transparency made little progress and Parliaments also failed to control budgets, whether in defence or other fields.[44] Since several border problems remained unsettled (i.e. between Belize and Guatemala[45], Salvador and Honduras[46], Nicaragua and Honduras[47]), special emphasis was laid on the elimination of regional tensions. Actually, despite art.27 of the Treaty and the necessity to solve disputes representing an obstacle to regional integration and economic development – a final solution is not in

sight, and "boundary-related conflict occurs even between partners to preferential trade agreements."[48]

The TMSDCA prescribes "the subordination of police and security forces to constitutionally established civil authorities".[49] Together with the Tegucigalpa Protocol, aimed *inter alia* at creating "a new model for regional security, upheld by a reasonable balance of forces and the strengthening of civil power"[50], it reaffirms the obligation that armed forces have to respond to civil directives. However, the CFAC is a military organ in which the Defence Secretaries' participation is restricted. Thus, in April 2004, the admission of Nicaragua's Defence Minister (José Adán Guerra) confirmed that the decisions were actually in the hands of the military: Javier Carrión, the Nicaraguan Army Commander, observed that Guerra was ineligible to participate in the CFAC because he was not "a member of a high military command, like the Honduran Minister of Defence" and that "the military institution's legal representation is [actually] in the hands of the General Command…"[51]

It has to be recognised that some of the developments related to regional peace (for instance in Nicaragua) were not directly due either to the TMSDCA or to the CFAC. According to Federico Brevé, Defence Minister of Honduras, "the 1,000 Sam-7 portable anti-aircraft missiles that Nicaragua destroyed during this year [were] a development of bilateral diplomacy between this country and the US".[52] The latter strongly insisted that these missiles (considered a potential weapon for terrorist actions) should be destroyed. The Sandinista National Liberation Front (FSLN) criticised the decision of President Enrique Bolaños to destroy the missiles when other countries of the isthmus had showed no intention of taking comparable disarmament measures – in particular Honduras, which kept its force of F-5 jets intact.[53]

However, bilateral negotiations did have a positive impact on the regional security environment. Thus the former Honduran Defence Minister (Federico Brevé), admitted that his country's decision to destroy some 350 SAM-7 missiles was not just a unilateral measure, but the outcome of a regional cooperative effort.[54] A similar remark can be applied to disarmament measures taken by El Salvador[55] and Guatemala[56]. As to initiatives at multilateral level, one could mention the OAS seminar on the identification, collection, management and destruction of small arms and light weapons, held on 12-13 May 2004 in Managua (Nicaragua)[57] – as well as the de-mining activities of Central American armed forces[58] and the de-mining mandate given by the OAS to Honduras in Surinam.[59] In any event, multilateralism by means of seminars (Barbados, August 2001) and military

simulation exercises (El Salvador, June 2002) contributed to the improvement of relationships between civilians and the military of countries that have been at war against each other.[60] Furthermore, in the framework of their military confidence-building programme, the CFAC armed forces conducted combined exercises – as many as 300, for instance, in 2003.[61]

Still, in Latin America, many security missions which should be the responsibility of civil police forces are carried out by the military. One such paradox concerns the concept of human security. Although meant to preserve the security of the individual, in Latin America it could help legitimise military action against citizens.[62] Extending the national security agenda to human security must be done gradually, in parallel with an overhaul of the armed forces, subordinating the latter fully to the democratic civil power and also with the attribution of adequate resources for the civil conduct of defence – otherwise, it would encourage an (unchecked) encroachment of the military in civilian affairs and, hence, a "militarisation" of domestic responses to socio-economic problems.

Admittedly, "the great change in mission for Latin America's militaries in recent years has been their reorientation towards a more international focus."[63] Since international mandates emanate from the United Nations, it is clear when a national military undertake joint missions with other nations' forces, more professionalism and better civil management of defence are required. While a number of activities (in particular those related to disarmament and de-mining) are impelled by the CFAC, a process of cooperation is nevertheless developing among the armed institutions. According to a military officer, "Central America... is attempting, through integration, to make changes in its socio-political, economic and defence structures. It is in this regard that the Armed Forces will have to uphold democratic principles, under new strategies based on respect for human rights and the rule of law."[64] At the same time, clearly, "the Central American military take great pains to preserve their own identity and that of the CFAC'.[65] The Central American Integration System and the Security Commission continue to hold meetings to draw up guidelines for integration, but without a mandate from the CFAC. As a Salvadoran specialist notes, "it is essential to consolidate these connections more clearly and exactly and to present periodic reports on the Commission's activities, besides the reports being distributed officially."[66]

Safeguarding its autonomy is part of the logic of the Central American armed forces. One must not forget that much of this military persecuted civilians, controlled power and dominated corruption. The amount of cocaine shipped through Central America has reportedly

increased by some 300 per cent since 1993. According to Ana Arana, "the opportunities for profit and power that this provides have been rapidly exploited by many of the same groups that fought the civil wars of the 1980s."[67] Guatemalan journalist Edgar Celada noted in 1997 that the growing Central American role in the international drug trade had become "an obstacle for democratisation and demilitarisation" in the region.[68]

The risk that the CFAC might constitute a space of military autonomy in the sub-region was highlighted by the example of Mercosur, when the military of Brazil and Argentina, subsequently followed by those of Paraguay, Uruguay and Chile, created *Defence Mercosur*, a structure allowing the military to have a say in political decision-making.[69] This development has led Adam Isacson to observe that "the Central American military are ahead of their civilian counterparts in the development of cooperative security measures."[70] Annette Simón has reached a similar conclusion and remarked that "its name notwithstanding, the CFAC is not so much a conference as an international military organisation whose organs are managed almost exclusively by the military without any institutionalised involvement of the member States' ministries of foreign and domestic affairs."[71] Although the CFAC performs important tasks as regards regional cooperation, it is obvious that it also contributes to the self-preservation of military institutions.

Under pressure from the United States, a plan of action to fight terrorism, drug trafficking, organised crime and related issues was adopted by the CFAC[72]: it guaranteed that CFAC military personnel would have an important role to play in countering these threats. Furthermore, the Central American armies convinced the US Southern Command (led by Bantz J. Craddock) to support the creation of a special regional force against those scourges and, accordingly, the force was supplied with American weapons.[73] The result was to allow the military (with no change in doctrine or organisation) to perform police-type functions and exert again some form of control over national citizens. The asymmetric military cooperation between the armed forces of the isthmus nations and those of the United States encouraged the latter not to live up to constitutional democratic principles.[74] Significantly, the Central American governments agreed to grant US soldiers immunity at the expense of International Criminal Court principles: El Salvador adopted such a step in October 2002, Honduras in May 2003, Nicaragua in June 2003 and Panama in July 2003. Representing the most solid democracy in the region, Costa Rica was the only one which did not followed – prompting the United States to suspend the training assistance it had henceforth been providing to the Costa Rican Ministry of Public

Security. The re-militarisation of the Central American security agenda to meet the United States' own security agenda coupled with the *de facto* functional autonomy of the armed forces certainly stands in the way of effective civil leadership in regional security matters. The overwhelming weight of issues such as drug trafficking, organised criminality, etc. (for which civil expertise is reduced) contributes to the renewed use of the armed forces to maintain law and order.

The OAS Hemispheric Security Committee did envisage a system of cooperation including prevention mechanisms, troop reduction, measures for the verification of military technology developments, transparency in arms transfers and CSBMs patterned on the model of the Organisation for Security and Cooperation in Europe (OSCE). This opportunity was squandered. At the same time, no multilateral commitments were adopted as regards the democratisation of the security sector of Central American States. According to Javier Meléndez, Director of the Nicaraguan Institute of Strategic Studies and Public Policies, "no politician wishes to confront the military or, even, to lay his cards on the table. All politicians are reluctant to put national security on the agenda for national discussion."[75] Meléndez recognises that the Nicaraguan Army is not an obstacle to or a potentially destabilising factor for the democratic process initiated in 1990, and that budget cuts and troop reduction have guaranteed a truly professional army at the service of the nation's interests; yet he recognises that "nowadays some sensitive matters remain to be settled that constrain true democratic control over the matters of the nation's defence and the army of Nicaragua itself."[76] The weaknesses underscored by Meléndez in regard to Nicaragua are present in other Latin American countries. Indeed, the legislative power fails to exercise its normal function of supervision.[77] As to Defence ministries, they have themselves limited capacities to formulate defence directives; they do not define army missions or determine needs for military equipment.[78] In any event, the Security Commission and the CFAC do not share the same membership.

When the TMSDCA was signed, Costa Rica and Panama (which had both abolished their armed forces)[79] alleged that its provisions could legitimise the action of armies in the region and formulated (in art. 75) reservations with regard to a number of specific articles. In April 2001, a working group was established to solve the problems raised by those reservations and also to examine Costa Rica's proposal suggesting differential treatment for armed forces and security forces. Eventually, the Costa Rican proposal was rejected by the other States which, for the purpose, referred to the resolutions adopted by the 2003 Mexico Special

Conference on Security.[80] Some governments cast doubt on the very reality of Costa Rica's "army-less society".[81] Mario Facussé, Honduran MP and President of PARLACEN (the Parliament of Central America) accused Costa Rica of sabotaging the isthmus's unity.[82] Actually, Costa Rica's disarmament is not as extensive as portrayed, he said: " (…) the Nicaraguan Army, that numbers 12,000 troops spent $31.7 million, while Costa Rica, with a public force of 10,870 members, spent $108.7 million."[83]

Even when the armed forces do cooperate for regional integration, the inadequacies of civil institutions and the lack of political will raise obstacles to the consolidation of democracy in Central America. As Roberto Cajina has clearly stressed, "in weak and imperfect democratic systems, as are most Central American systems, the temptation to become the *guardian angels* of the process of democracy-building undoubtedly exists. Civilian political leaders, on the other hand, continue to be inclined to tolerate this, out of indolence or incompetence, actually granting the military undue functions beyond the boundaries of their professional competence."[84]

The Future of the Treaty

In Central America, the overdue reforms have advanced at different paces in each country of the region. The rule of law remains fragile. Citizens' security is losing ground to an increasingly aggressive organised crime. Economic reforms have been insufficient, especially after the adverse conditions generated by natural disasters.[85] Corruption plagues discredited politicians. The private sector shuns its social responsibility. Domestic political support for continuing territorial disputes still lingers. The Presidents of Central American nations do admit there are delays in implementing the TMSDCA. The Tripartite Declaration issued by El Salvador, Guatemala and Nicaragua in May 2002 ("Integration for the XXIth Century") was specifically intended to set up implementation mechanisms.

By contrast, declarations, treaties and agreements are still all but lacking – as illustrated by the declaration entitled "Central America United against Terrorism" (19 September 2001), the "Plan of Integral Cooperation to Prevent and Neutralise Terrorism and Related Activities" (25 October 2001), the "Regional Action Plan" on drug trafficking and the "Central American Project for the Control of the Illegal Traffic of Small and Light Weapons." Several sub-regional instruments and institutions have been established as offshoots of the Treaty, such as the "Permanent Central American Commission for the Eradication of the Production, Traffic, Consumption and Illegal Use of Narcotics and Psychotropic Substances"

(CCP), the "Central American Institute of Superior Police Studies" (ICESPO) and the "Central Authorities for issues of mutual legal assistance, recovery and return of vehicles", and "Coordination for Natural Disaster Prevention in Central America" (CEPREDENAC).[86] In December 2004, the SICA conference initiated the "Safe Central America" programme, the "Regional Strategy for the Social Prevention of Violence, and the Rehabilitation and Reintegration of Youths that are at Risk or Legal Offenders", the "Regional Plan against Gangs and/or Maras [youth gangs] Activity", the "Specific Plan against the Trade and Illicit Trafficking in Human Beings" and the "Regional Plan against Organised Crime".[87] Neither creativity, nor initiatives are missing.[88] The problem is real implementation. What is also required is effective control of the violence resulting from incomplete demobilisation of the armed forces. As remarked by Bernardo Arévalo, "failure to develop concrete policies and mechanisms to support politically correct rhetoric might devalue political initiative and maintain reality unaltered."[89]

Compared to the democratisation process in Eastern Europe, a fundamental question arises: how much democratic security can be established in societies that are lacking adequate resources, education and institutions? In his analysis of OSCE's Code of Conduct on politico-military aspects of security (1994), Victor-Yves Ghebali underscored the fundamental importance, for the democratic control of armed forces in Europe, of the responsibility of constitutionally established authorities. In this connection, he stressed that "The responsibility of *constitutionally established authorities* represents a necessary but not a sufficient condition, in the sense that such authorities must also be *vested with democratic legitimacy*. The democratic political control of the armed forces must be executed on the basis of the Constitution, by constitutionally established organs sanctioned by the democratic will of the people. More broadly, it implies that the authorities concerned operate in a system of true separation of powers and rule of law."[90]

In its wording, the prescription of the OSCE Code of Conduct does not substantially differ from the Central American Treaty concepts in the Treaty. The real difference is at the level of actual control, especially at legislative level. Accordingly, the main problem of the Treaty is related to the democratic deficit. The Treaty does recognise that "Firstly, security requires the establishment of democracy; secondly, [that] security is not possible without human rights; thirdly, [that] security necessitates overcoming critical poverty; and fourthly, [that] security also requires a straightforward combat against terrorism, drug and arms trafficking, criminal

delinquency, impunity and corruption."[91] This approach partly coincides with the security concept agreed upon in the OSCE framework, while also going partly beyond the latter. More importantly, the Treaty does not provide prescriptions for a cooperative approach to democratic control of armed forces.

Although Central American integration efforts are geared towards democratic security, the latter is nowhere near a reality. The reforms of the military juridical systems are not carried out, parliament does not define military missions and has trouble controlling defence budgets, while some countries lack civilian defence ministers.[92] Despite good intentions, little has been done to strengthen education for peace (with a view to developing a culture of dialogue to limit the use of force and violence) not only in schools and universities, but also in the "weapons of information" – the media.[93] In contrast to Europe, Latin American domestic institutions are very fragile and civil society is as fragmented as it is defenceless. This is a most serious problem because, as noted by Nancy Thede, civil society is normally the source of non-governmental impulses as well as a direct "school of democracy", where democratic values and practices are learned and transmitted.[94]

In the military field, the democratic deficit is as blatant. Authoritarian practices have not been dismantled within any specific programme of the armed forces. There is no military Ombudsman to protect the rights of servicemen. Furthermore, Central American States contributed to the most controversial of foreign military operations: the war in Iraq. However, no State of the region (except Guatemala) cared to contribute to peacekeeping in Haiti. Distrust of the Judiciary constitutes an aggravating factor. The judicial system has been unable to reject the legacy of authoritarianism. The most serious case here is, again, that of Guatemala: "The 1999 Report of the Historical Clarification Commission was a major step in documenting a past in which government security forces were found responsible for acts of genocide and the vast majority of the deaths of some 200,000 people in the conflict, mostly civilians. Yet Guatemala has largely had truth without justice and this has fostered bitterness and impeded national reconciliation (…). But attempts to investigate and prosecute security force members for atrocities committed during the conflict have been generally unsuccessful; those who try have been subject to threats, violence and years of judicial obstruction."[95]

Yet society in these nations did not take on the responsibility of participating directly in defining security. Adam Isacson considers that "it will be the responsibility of civil society to create and designate new, larger

civil structures, superseding parallel military structures like the CFAC and reducing military influence."[96] Civil society did not understand that both defence and security are public responsibilities and that their reforms require civic participation. In any event, civil societies have yet to solve problems of social exclusion and ethnic inequality. As rightly observed by Chris Patten, former Commissioner for External Affairs of the European Union, "in Latin America the fighting against social inequalities and the building of more cohesive societies are overriding priorities. The tremendous efforts that Latin American nations in the past two decades have put into modernising their economies and stabilising the rule of law and the respect for human rights yielded considerable dividends in terms of growth, trade and investment. But this has not been translated into widespread improvements in living conditions, filtering through to all levels of society."[97]

Admittedly, governments have not striven to make room for society's organisations in the public debate. Ricardo Zambrana, a member of Nicaragua's civil coordination agency remarked that "participation is limited to consultation" and that "proposals from civil society organisations are not taken seriously."[98] In Central America (as in other Latin American nations), citizens' participation in public affairs, being a recent concession, is still under development. Forums of civil society are propitious initiatives, but their effects appear to be quite limited. The 2003 Security Forum recommended the dissemination of the TMSDCA's text in order to allow civil society organisations to get a better understanding of its importance and encourage them to contribute to monitoring the Treaty.[99]

Despite all shortcomings, regional integration has clearly contributed to the domestic democratisation processes and the development of peaceful relations between neighboring countries. Alejandro Bendaña, analyst and director of the International Studies Centre of Nicaragua, considers that there is now an opportunity to develop effective "political auditing" (starting at the level of civil leadership) on decisions concerning national defence, viz. to scrutinise how the military institutions are adapting to the real needs of defence in a democratic and transparent way.[100] From a more negative side, it is clear that integration has given rise to new risks and threats: the opening of borders, as well as growing trade and migration flows, are exploited by transnational criminals through weapons and drugs trafficking and illegal immigration.

All that precedes bears witness to the importance of the TMSDCA and the urgent necessity to adapt it to the new conditions on the isthmus. Both Cajina and Brenes believe that the TMSDCA should be updated in order to better reflect Central America's security doctrine today.[101] This also

entails taking stock of progress made in the democratic control of the armed forces and in regional integration – as well as admitting the new importance that the region represents for the United States, which is not eager to strengthen the TMSDCA. The small democracies of the isthmus can only yield under the pressure of their giant Northern neighbour. Geopolitical realities bolster the armed forces at the expense of the democratisation process. MP de León put it clearly: "If we assume that our societies are undergoing a transition process towards democracy, returning to conflict scenarios and promoting the role of the armed forces as that of natural ally of the United States are among the problems we must face."[102] More sceptical experts even argue that the sub-region's security and security agenda are, historically, not defined in Central America, but in Washington. Cajina deplores that "the officials that have been elected in our fragile, imperfect electoral market democracies, (are) forced to model their identities after the image of US democracy by the will and disposition of the State Department and international financial institutions".[103]

Intentions are out in the open. If coups d'Etat have been banished from Latin American politics, this does not mean automatic stability. In fact, several governments of the region have been brought down outside formal constitutional procedures. The wishes of leaders do not automatically become political reality. Noam Chomsky has said that Nicaragua is no longer a country, but a place where domestic oligarchical and foreign imperial interests are colluding.[104] It is to be hoped that Central American citizens will not let Chomsky's view of Nicaragua became a regional reality. After all, the TMSDCA is more than just a hope: it has promoted change in the armed forces, regional integration and civic society.

Notes

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[1]   "Procedures for the Establishment of a Firm and Lasting Peace in Central America" –
       also known as the Esquipulas II Agreement signed in Guatemala on 7 August, 1987. For
       more information on this process, see "Commemorating 50 years of Central American
       Integration", http://www.sgsica.org.

[2]   Tegucigalpa Protocol in the letter of the Organisation of Central American States
       (ODECA), Tegucigalpa, 13 December 1991.
       (http://www.secmca.org/archivos/Protocolo%20de%20Tegucigalpa.pdf).

[3]   The SICA is composed of seven countries: Belize, Costa Rica, El Salvador, Guatemala,
       Honduras, Nicaragua and Panama.

[4]   Ana Elizabeth Villalta Vizcarra : "Aspectos Bilaterales y Subregionales de la Seguridad
       Hemisférica. El Tratado Marco de Seguridad Democrática en Centroamérica,"
       Hemispheric Security Commission, OAS, CP/CSH/INF.14/02.add.5, 6 November, 2002.

[5]   *Declaration of Bridgetown – The Multilateral Approach to Hemispheric Security*,
       XXXII th General Assembly of the OAS: AG/DEC. 27 (XXXII-O/02)/
       AG/CG/doc.15/02, 4 June 2002 (http://www.summitsoftheamericas.org/Quebec-hem-
       security/Declaration%20of%20Bridgetown.doc).

[6]   Carmen Rosa de León-Escribano: "Experiencias subregionales y nacionales en la
       resolución pacífica de conflictos: Agenda pro-paz," Conferencia Internacional Paz, crisis
       regional, y política exterior de Estados Unidos, FLACSO- CHILE, Santiago 28 – 29
       August, 2003 (www.flacso.cl).

[7]   Ricardo Córdova Macías : "El Salvador: Los acuerdos de Paz y las relaciones cívico-
       militares," *Control Civil y Fuerzas Armadas en las nuevas democracias
       latinoamericanas* (Rut Diamint, Ed., Buenos Aires, Nuevohacer, Grupo Editor
       Latinoamericano, 1999, pp. 543-569.

[8]   See also the contribution in this book by Bernardo Arévalo de Leon : "Civil-Military
       Relations in Post-Conflict Guatemala: Military Transformation and Democratic
       Consolidation in the Light of the 1996 Agreement on the Strengthening of Civilian
       Power and the Role of the Armed Forces in a Democratic Society".

[9]   Bernardo Arévalo de León: "Perspectivas y Propuestas," *Función Militar y Control
       Democrático* (Bernardo Arévalo de León, Ed.). Guatemala, Amanuense editorial, 2001,
       pp. 369-373.

[10] In 2000, 16 per cent of the population lived under conditions of extreme poverty, and 56
       per cent in standard poverty.

[11] Mynor Enrique Pérez & Francisco González Arrecis: "Concluye reducción militar,
       11,663 efectivos, de baja," *Prensa Libre* (Guatemala) of 30 June 2004.

[12] Raúl Benítez Manaut : "Procesos de Paz en Centroamérica y México: Génesis, desafíos
       pendientes a inicios del siglo XXI," *México-Centroamérica. Desafíos a inicios del siglo
       XXI* (Raúl Benítez Manaut & Rafael Fernández de Castro, Ed.), Mexico, ITAM, 2001,
       pp. 20-25.

[13] Leticia Salomón : "Civiles y Militares: Una Década de Fortalecimiento Democrático,"
       Diálogo Centroamericano (San José, Costa Rica), No. 38, March-April 1999.

[14] In its preamble, the Treaty affirmed that "In recent years, while peace and democracy
       were consolidating, Central American countries have made substantial progress towards
       these goals through the demobilisation of armed forces, the reduction of military
       budgets, the separation of police functions from those of national defence, the
       replacement of drafting by voluntary military service, the fight against impunity,

terrorism, drug trafficking, as well as the growing professionalism of the public security forces, among other." (http://www.sieca.org.gt/publico/Reuniones_Presidentes/ xvii/tratado1.htm).

[15] Central American Framework Treaty on Democratic Security: art. 1. (http://www.sieca.org.gt/publico/Reuniones_Presidentes/xvii/tratado1.htm).

[16] For instance, art. 5 of the Contadora Act for Peace and Cooperation in Central America (Panama City, 6 June 1986) put special emphasis on a culture of peace and on the role of the media.

[17] Speech delivered by the President of Costa Rica, Dr. Oscar Arias Sánchez, on 10 December 1987, at the University of Oslo, Norway, during the ceremony at which he received the Nobel Peace Prize.

[18] OAS /Ser.G, CP/CSH/INF.14/02 add. 4, 11 March 2003.

[19] The Assistance Programme for De-mining in Central America was established to help Central American countries destroy all the landmines located in their territories. It was managed by the OAS Secretariat's Unit for the Promotion of Democracy with technical assistance from the Inter-American Defence Board (IADB).

[20] Elvira Cuadra pointed out that political control and legal control are key to civilian control of the security sector. See "Políticas Públicas y Participación Ciudadana en la Reforma y Modernisación del Sector Defensa y Seguridad. Dimensiones y Tendencias," Instituto de Estudios Estratégicos y Políticas Públicas, Managua, November 2004 (http://www.ieepp.org). Noticeably, she highlighted that European nations did not need either to add "democratic" to "security", since civilian control is automatically presumed of being based on democratic accountability. .

[21] Art. 28 and 29 of the Treaty establish procedures concerning the number of troops, the quantity and quality of equipment for scheduled military movements, as well as training of military land, air or naval forces. They also provide for reports on movements of military forces in response to unexpected threats.

[22] Arias presides over the Commission of Nobel Peace Prize winners for an International Code of Conduct for the Transfer of Weapons – an instrument prohibiting exports to unstable regions, human rights violators, dictators and military aggressors. It also promotes greater transparency and responsibility in weapons trade. The text is expected to be adopted by the United Nations General Assembly (http://www.arias.or.cr/ fundarias/cpr/code2-span.shtml)**.**

[23] Guillermo O'Donnell : *Contrapuntos*. Piados, Buenos Aires, 2002.

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[25] Art. 1 indicates that each government will "clearly define the doctrine, mission and duties of the forces and their obligation to act only in that context." See Art. 1. (http://www.sieca.org.gt/publico/Reuniones_Presidentes/xvii/tratado1.htm).

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Chapter 7

The 1996 Guatemala Agreement on the Strengthening of Civilian Power and the Role of the Armed Forces in a Democratic Society

Bernardo Arévalo de Leon

Introduction

More than eight years after its signature, the implementation of the 1996 Agreement on the Strengthening of Civilian Power and the Role of the Armed Forces in a Democratic Society evidences a mixed record in Guatemala. Clear advances in the area of military transformation contrast with great difficulties in the development of capable public security civilian institutions. As a result, de-militarisation has clearly advanced but the absence of an integrated and coherent legal and institutional framework for the security sector puts question marks as to the sustainability of these changes. These problems are rooted in the deficiencies in the quality and consistency of civilian political guidance over an issue that is part of a wider process of democratisation. At the same time, civil society has become a key actor in providing major political and technical support for the implementation of the Agreement. In the long run, effective democratic control of the military will depend on the ability of the State to develop effective civilian mechanisms for political and technical oversight.

The Militarisation of Guatemalan Society: Political Crisis and Counterinsurgency, 1954 – 1996

For most of its history, Guatemala has been an authoritarian State. From its pre-Hispanic origins, the political, economic and social structures of the country have been organised following rigid hierarchical and exclusionary patterns. This practically uninterrupted experience of non-democratic governance has influenced the political culture of Guatemala at all levels – political, social, institutional and inter-personal. Therefore, current efforts to build a democratic society beyond electoral rites have to be understood against such a challenging background. The repressive State that was established in Guatemala in the mid-1950s (and lasted until 1986) was just a new form of that fundamentally authoritarian model. Proceeding from the outright opposition of the oligarchic sectors to social reforms promoted by the democratic revolutionary governments that ruled between 1944 and 1954, it developed as a regime characterised by anti-communism as State ideology and political repression as the strategy for governance. During most of this period, regular (although rigged) presidential, congressional or local elections, separation of powers, political pluralism, etc. were maintained in order to create a "democratic façade" to an authoritarian reality.[1]

At the beginning of the anti-communist regime in 1954, the military was an element of a wider coalition of social, economic and political interests along with the traditional economic elites, the Roman Catholic Church, right-wing political parties and the United States. However, as governance became progressively dependant on the State's capacity to exert raw coercive power, the military progressed from a trusted custodian to an influential partner and finally the dominant actor within the ruling coalition. The degree of military intervention in political life developed gradually following the need to contain political dissent. The gradual transformation of the authoritarian regime into a counterinsurgent State started in 1963 and led to the accumulation of political prerogatives in the hands of the military.[2] By the mid-1970s, the Guatemalan armed forces were already the dominant actor within the authoritarian coalition. The scope and type of decisions that were left to the military hierarchy far exceeded the sphere of the specific counter-insurgent effort and included issues of public sector administration, inter-institutional coordination and direct intervention in the executive and legislative branches of power. To many national and international observers, authoritarianism and military rule became synonymous.[3]

The Guatemalan counterinsurgent State was the result of the tragic convergence of two factors: a weak state and an authoritarian regime.[4] The

development of an exclusionary and discriminatory political system in support of the interests of small elite in the context of a growing social protest condemned the Guatemalan State to a deep crisis of legitimacy. The chronic inability of the latter to cope with this situation through non-coercive methods (negotiations and dialogue) resulted in a spiral of violence with the development of armed insurgent movements opposed by even more violence from the official side.[5]

Between 1960 (when a group of military officers initiated a revolt that eventually led to armed insurgency[6]) and 1982, the absence of a political strategy aiming to complement armed counter-insurgency with social support, led to progressively growing levels of State violence up to a point where the security interests of the State clashed with those of society. Repression and violence were exerted not only against the political groups resorting to armed struggle, but also against a growing number of concentric circles of "active" and "potential" threats – from non-violent political dissenters to the civilian population who just happened to live in areas of insurgency. The *Historical Clarification Commission* established as a consequence of the peace accords reported more than 250,000 victims, 63 massacres, and several instances of genocidal violence between 1963 and 1996.[7]

The politicisation of the armed forces, the militarisation of State and society, the estrangement of the population from political institutions and the "routinisation" of violence that characterised civil-military relations in Guatemala throughout the internal armed conflict years were sanctioned by a politico-military doctrine corpus entitled "National Security Doctrine". Originally developed in the United States as a strategy for defence against communist infiltration and destabilisation in the Cold War context, the Doctrine stated that in fragile democracies strict political control of the population was indispensable and that the military had a fundamental role to play in this regard as the sole national institution with the necessary organisational capacities to counter subversive agitation. It also assumed that only the security umbrella provided for by the armed forces could assure political, social and economic development of these countries. However, in the case of Guatemala (as in many other Latin American countries and elsewhere the world), the second component of this strategy – economic development and political consolidation – was abandoned, as strategic alliances were forged with local elites whose clearly conservative and authoritarian interests made them improbable supporters of democratisation. In the absence of that component, the implementation of the National Security Doctrine strengthened the undemocratic and militaristic traditions

grounded in Hispanic and colonial traditions, and also influenced by recent exposures to European non-democratic military doctrines.[8]

The militarisation of politics was accompanied by the militarisation of society. In those regions of the country in which insurgents were particularly active, the armed forces developed a strategy that made use of specific mechanisms through which it exerted full control over society. Networks of informers (led by Military Commissioners) and of paramilitary forces (the Civilian Self-Defence Patrols) were created throughout the country. Regions in which the State had never established a permanent presence – through justice, education or health services – saw the establishment of military bases or outposts that became the sole expression of state authority. In places where other State representatives operated, political authorities – appointed governors, elected mayors, ministerial officers, and judges – were subordinated to the political authority of the local army commander. National Security became the excuse for military domination.[9]

By the early 1980s, the State had entered into a deep crisis. The concentration of administrative and military functions in the armed forces and the existence of endemic corruption among the higher military echelons created deep resentment in younger military officers who bore the brunt of the counter-insurgent effort in the field. The chronic mismanagement and corruption alienated the private sector and political parties, eventually eroding its established political alliances and further de-legitimising military rule. Uncontrolled violence and brutality led to a serious deterioration of the country's image and to international isolation. The United States distanced themselves from the military rulers, limited military cooperation and imposed economic sanctions. Within army ranks, young officers began to understand that the counter-insurgency effort would become unsustainable: insurgent activity in the indigenous highlands had already become a serious threat (insurgent success in Nicaragua was a sore reminder), and the armed forces would not be able to control it under such conditions of international isolation and growing internal illegitimacy.

Finally, in 1982 a Coup d'Etat organised by young military officers prevented the victorious candidate in the last rigged elections – the Minister of Defence at the time – to take office. The Junta appointed as Chief of State a charismatic retired officer (General Efraín Ríos Montt) to lead the country in what was conceived as a transitional period in which the armed forces would restore democratic rule. When by 1983 General Ríos Montt strayed from this institutional strategy, the army replaced him with General Mejía Víctores, who proceeded to convene a Constitutional Assembly in 1984,

national elections in 1985, and effectively handed over political authority to elected authorities in 1986. This process was not the result of political pressure from civil society or political parties over the army to relinquish power (as elsewhere on the continent), but a strategic decision of the military to retreat from political administrative functions in order to better address the internal armed confrontation, using democratisation as a tool for counter-insurgency.[10] This did not meant the end of military intervention in politics: the army intended to retain effective political control in many critical areas and even a *de facto* power of veto regarding counter-insurgency policy, in a classical pattern of asymmetric accommodation.[11]

However, the co-existence of a process of democratisation (with an inherent drive for political legitimisation) with a counter-insurgency process resulted in conflicting and competing logics within the political system. Throughout the decade between the arrival in office of the first elected civilian Government in 1986 and 1996 (the year in which the Peace Accords were signed and the armed conflict ended), this discrepancy continued to develop and generated a host of ambiguities and contradictions. Eventually, national social and political dynamics and the transformation of the international context played in favour of democratisation. The army began to lose its ascendancy and civilian authorities were progressively able to exert political authority, to successfully question or challenge some military decisions and, most notably, to circumvent the "prohibition" related to political contacts and negotiations with the insurgency. Formal negotiations between the State and the insurgency in which army representatives fully participated took place.[12]

At the end of that decade, the armed forces had not only realised that a negotiated solution to the armed conflict was unavoidable, but understood that a redefinition of their role within the State was also inevitable. The agenda established by both parties to the peace negotiations clearly identified military transformation as one of the key substantive issues, and the army prepared for it in advance. When actual agreements began to come out of the negotiations, the army had already implemented on its own some measures such as the demobilisation of paramilitary groups and the suspension of forced drafting in the countryside. Although by then it had lost its veto power and even its position of political dominance within the State, it was still holding enough political influence and operative ability to negotiate a retreat which could not be considered as just a defeat. The armed forces' objective to retain a *de facto* control over the political system was defeated by the political dynamics of the transition period. Indeed, the need for an elected government invested with democratic legitimacy led to the

development of substantial and comprehensive political negotiations well beyond the original intentions of the military. Eventually, the redefinition of the role of the armed forces in society became a central issue.

The 1996 Agreement on the Strengthening of Civil Society and the Role of the Armed Forces in a Democratic Society: An Implementation Record

A Blueprint for Action. Viewed as an agenda for institutional transformation the *Agreement on the Strengthening of Civil Society and the Role of the Armed Forces in a Democratic Society* ("*AFPC*", for its Spanish initials) concerned not only the end of armed struggle, but also and foremost the establishment of democracy in Guatemalan society.[13] Only one of its elements (Part VII) refers to demobilisation, disarmament and reintegration (DDR). The largest one (Part IV) has to do with security sector reform. The rest include commitments on other aspects of the strengthening of civilian democratic power: the State and its system of government (Part I), the legislative branch (Part II), the judicial system (Part III), as well as social participation and the role of women (Parts V and VI).

Part VII of the Agreement contains concrete commitments on DDR issues: the demobilisation of paramilitary groups (*Comités Voluntarios de Autodefensa Civil*) created by the armed forces for counter-insurgency functions and that had been involved in the most serious human rights violations (§ 61), the demobilisation of the mobile military police – a unit with a record of systematic political repression (§ 62), the reduction in the size and budget of the armed forces by 33 per cent (§ 63), the reform of counter-insurgency military training programmes (§ 64) and reintegration programmes for demobilised soldiers and officers (§ 65).[14]

Part IV refers to the reform of the security sector institutions beginning with the executive branch – with provisions ranging from the role of the military to the elimination of the military monopoly on intelligence operations. Its sub-section A offers a "Security Agenda" containing a definition of security (§§ 18-19) derived from the concept of "Democratic Security" established by the Central American Framework Treaty on Democratic Security[15], and providing for the creation of an Advisory Council on Security composed of civil society representatives aimed at helping the executive branch to implement the above-mentioned concept (§ 20). Entitled "Public Security", sub-section B mainly concerns the creation of a new national civil police (§§ 21-22), with related provisions for

constitutional (§ 23), legal (§§ 24-25), structural (§ 26) and operational reforms (§ 30) – as well as the establishment of a Police Academy and the development of a professional police career (§§ 27, 28 and 29).[16] It also provides regulations for the functioning of private security companies (§ 32) and the ownership of guns (§ 33), as well as the transfer of arms registers from the Ministry of Defence to the Ministry of the Interior (§ 34).

Devoted to "Armed Forces", sub-section C deals with a series of legal, budgetary and organisational reforms aimed at defining the basic parameters for the military function in a democratic society. It opens with a prescription for the amendment of those provisions that the military had imposed in the 1985 Constitution and which concerned the institutional responsibility of the armed forces in matters of internal security, the impossibility of judging members of the armed forces in civilian courts and the obligatory appointment of an active military officer as Minister of Defence (§§ 35-36). These reforms aimed to ensure military subordination to constitutional authority, including legislative and judicial control, an effort complemented by the corresponding reform of subordinated legislation – like the *Ley Constitutiva del Ejército* (§ 37) – and the definition of a new military doctrine replacing the above-mentioned *National Security Doctrine* (§ 38).[17] The same sub-section also contains a commitment to maintain the size and budget of the military institution in accordance with its external security functions and the economic capacities of the country (§ 39, a provision complemented by the 33 per cent reduction in personnel and budget mandated in Part VII); a commitment to reform the military educational system (§ 40, complemented by a mention on the reform of counter-insurgency training mandated in Part VII); a commitment to reorganise a series of military structures – including those responsible for arms and ammunition procurement – in consistence with the norms applied to other governmental services (§§ 41-42) and, finally a commitment to develop a national civil service law regulating military service on a voluntary basis with a social service option (§§ 43-44).

Provisions on the democratic control of the armed forces are also present in sub-section D devoted to the "Presidency of the Republic". They offer norms regulating the use of military forces in internal security matters by the President – as well as legislative control over Presidential authority (§ 45) and, in order to dismantle the *Estado Mayor Presidencial* (a military unit originally responsible for presidential security, but that in the course of the armed conflict became the centre for counter-insurgency operations) establish a Presidential Security Service fully independent of the armed forces (§ 46).[18]

Sub-section E, "Information and Intelligence", addresses issues related to intelligence reform. Aiming at limiting military intelligence to clearly defined military functions (§ 47), it establishes two new civilian intelligence outfits: an *Intelligence and Information Analysis Department* in the Ministry of the Interior to assist in fighting organised and common crime (§ 48) and a *Presidential Secretariat for Strategic Analysis*, with a mandate to advise the President on risks and threats to the democratic institutions (§ 49). Provisions on the strict separation of functions between the above-mentioned intelligence units (§ 50), the prohibition of other intelligence groups or networks (§ 51), the establishment of a Congressional Committee for intelligence supervision (§ 52 a) and a Law establishing as a crime the creation of illegal archives and registries with political information on the population (§ 53 a) complement the sub-section.

Aimed at the development of a military institution that responds to the security needs of a democratic political society, the AFPC proposed a total overhaul of the entire security apparatus of the State. Even if some of the proposed reforms were sketchy or ambiguous (e.g. the Congressional committee for intelligence activities or the new presidential security service), the AFPC nevertheless offered a meaningful reform agenda which (if implemented) could effectively transform the way in which the State perceived and performed its security functions. The following table summarises the basic provisions of the AFPC.

Table 7.1   Major provisions of the AFPC related to DDR (Demobilisation, Disarmament and Reintegration) and security sector reform

Demobilisation, disarmament and reintegration (Part VII)	Demobilisation of paramilitary units (§ 61).
	Demobilisation of the mobile military police (§ 62).
	33 per cent reduction in size of the armed forces (§ 63).
	End of counter-insurgency training (§ 64).
	Reintegration of demobilised soldiers (§ 65).

Security Concept and Agenda (Part IV. A)	Replacement of the National Security Doctrine by a new "Integral Security" concept (§§ 18-19).
	Creation of an "Advisory Council on Security" for civil society participation (§ 20).
Public Security (Part IV. B)	Creation of new national civil police (§§ 21-22).
	Constitutional reforms related to the police (§ 23).
	Legal reforms related to the police (§ 24).
	Reform of the Law on Public Order (§ 25).
	Organisational & operational reforms related to the police (§§ 26 & 30).
	Police profession and Police Academy (§§, 27, 28 & 29).
	Regulation of private security companies (§32).
	Regulation of private arms ownership and transfer of the national arms registry from the Ministry of Defence to the Ministry of the Interior (§§ 33-34).
Armed Forces (Part IV. C)	Constitutional reforms related to armed forces: limitation of armed forces' mission to defence of national sovereignty and territorial integrity of the State (§ 35).
	Constitutional reforms related to armed forces: definition of mission and function of the armed forces (§ 36 a).
	Constitutional reforms related to armed forces: abolition of military autonomy from civilian courts and limitation of military jurisdiction (§ 36 b).
	Constitutional reforms related to armed forces: opening the post of Minister of Defence to a civilian (§ 36 c).
	Reform of the armed forces Law (§ 37).
	Reform of the military doctrine (§ 38).
	Adaptation of the budget of the armed forces to the State's economic capabilities (§ 39).
	Reform of the military educational system (§ 40).
	Reform of weapons procurement system (§ 41).
	Reorganisation of various military structures services (§ 42).
	Abolition of compulsory military service and creation of a voluntary civil service system (§§ 43-44).

Presidency of the Republic (Part IV. D).	Constitutional reform: definition of Presidential authority to mobilise the armed forces for internal security issues and +establishment of congressional oversight (§ 45).
	Demobilisation of the military presidential security apparatus and creation of a civil Presidential Security Service (§ 46).
Information and Intelligence (Part IV. E)	Creation of a civil intelligence department at the Ministry of the Interior (§ 48).
	Creation of a strategic information analysis service at the Presidency of the Republic (§ 49).
	Separation of intelligence-gathering functions from operations to which they give rise (§ 50).
	Prohibition of the establishment of networks or groups incompatible with the duties assigned to intelligence officers (§ 51).
	Creation of a legislative commission for parliamentary oversight of intelligence services and adoption of a Law regulating access to classified military and diplomatic information (§ 52).
	Prohibition of establishment and use of files and records containing political information on citizens' activities (§§ 53 - 54).

A Mixed Record. In November 2004, upon the termination of the United Nations mandate for the verification of the implementation of the Peace Accords, the Advisory Unit for the Strengthening of Civilian Power of MINUGUA (United Nations Verification Mission in Guatemala) issued a final report.[19] The document offered a thorough review of the actual status of every commitment of the Peace Accords from two main perspectives respectively related to de-militarisation issues (Part IV.C, D and E, as well as Part VII) and public security issues (Part IV.A and B). This structuring was not arbitrary. It reflected Guatemala's security problems of the last eight years at two distinct levels: the legacy of conflict (demilitarisation) and new security concerns (public security). However, as the report argued, a rigid distinction between an agenda "*of the past*" and an agenda *"for the future"* was rather irrelevant since the capacity of the State to respond to new threats depended on its ability to resolve the legacies of militarisation. At both levels, the record was mixed, with concrete advances in certain areas and

serious gaps in others, and an irregular pattern of progression and regression throughout the years.

The Reform of the Military. Under the administration of President Alvaro Arzú Irigoyen (1996-2000) of the Partido de Avanzada Nacional (PAN), the first months which followed the signature of the Peace Accords were accompanied by visible progress. Commitments on demilitarisation, disarmament and reintegration began to be effectively implemented. Demobilisation of military units (the Ambulatory Military Police) and paramilitary groups (Voluntary Committees for Civilian Self-Defence) and the Military Commissioners were successfully achieved.[20] However, new problems soon emerged. Personal confrontations between high-ranking officers led President Arzú to an abrupt decision in 1997 to replace them with a group of other officers who had developed good political links with the Presidential entourage. This decision had important political implications. It got rid of military officers who had taken an active part in the peace process, expressed public commitment towards the implementation of the AFPC (as well as the other elements of the Peace Accords) and were considered legitimate representatives of the armed forces – to the benefit of a group with weak institutional legitimacy and in practice (as their actions would show) little commitment to the peace process.[21]

Between 1997 and 2000, the new military authorities displayed a clear lack of goodwill towards the implementation of the Peace Accords and their procrastinating strategy also extended to MINUGUA. Accordingly, the implementation process began to slow down: while the 33 per cent reduction in the military budget became effective by 1999[22], the parallel reduction in personnel was achieved only formally, as the demobilisation affected almost only soldiers, maintaining the officer corps basically intact. A disproportionate number of officers remained in service and created an imbalance in the hierarchical structure of the army.[23] After initially demobilising some military units and outposts without altering the basic strategy of territorial control developed for counterinsurgency, the military authorities attempted to revamp them and tried (unsuccessfully) to convince MINUGUA's military experts that this was a response to external defence needs.[24] The revised Military Doctrine presented by the Ministry of Defence at the very end of the Arzú administration was a confused text elaborated in near-secrecy by a military *ad hoc* command and represented no more than lip service to reform.[25] The Civilian Affairs Unit of the army continued to conduct political surveillance activities at the local level, as well as to issue regular reports on the activities of social and political actors.[26] The army also adopted an uncooperative attitude towards the *Historical Clarification*

Commission (that was in charge of investigating the record of violence and human rights violations committed during the armed confrontation), through systematic opposition to the opening of military archives.

In 1999, a political setback encountered by the government reinforced the resistance of the military to institutional reform. As established in the Peace Accords, all commitments for constitutional reform were to be presented for popular approval through a national referendum. In parliament, the political parties complicated the game by advocating 38 reform proposals mostly unrelated to the peace process. As a consequence, the organisation of the referendum was delayed. The ensuing confusion on the scope and meaning of the proposed changes eventually led to the resounding rejection of the proposals. This result, associated with the popular mistrust of the political class was used by opponents of the peace process to discredit the Accords and interpreted this move as a rejection of all its content and not just of the proposed reforms. This interpretation was endorsed up by military hardliners as a justification for their resistance to "illegitimate" curtailment of their power. More importantly, the army retained constitutional responsibility over internal security, and the Ministry of Defence remained in military hands.[27]

The resistance of the military was aggravated by the lack of a clearly formulated military policy by civilian authorities. Indifferent to military reforms, President Arzú and his government quickly relied rather on the Minister of Defence and his entourage. The handful of civilian members of the government really concerned by the matter proved unable to confront a Minister of Defence who had become very close to the President. By the end of the period, resistance to implement the Peace Accords had become entrenched in the armed forces and the military, through the leadership of the Minister of Defence, Marco Tulio Espinosa, who seemed to have regained a degree of autonomy from, and of political influence over, civilian authorities.[28] However, the Presidential elections of 2000 and the failure of PAN led to a significant change in the military hierarchy. President Alfonso Portillo (2000-2004) – who was elected as the candidate of the *Frente Republicano Guatemalteco* (FRG), a political formation organised around the former military dictator Efraín Ríos Montt – appointed as his first Minister of Defence a military officer with the rank of Colonel. The decision forced the retirement of all the military officers of superior rank (Generals and Admirals), and illustrated the limits of the power of the military as an institution to resist resolute civilian authorities.

The implementation of the Peace Accords had a high priority on the new government's agenda as expressed in the inaugural speech of President

Portillo. The latter appointed to key positions in his administration some personalities with an academic and civil society background who had expressed their commitment to a full implementation of the Peace Accords, including the AFPC. However, it became soon evident that these officials were unable to mobilise government: some of their colleagues in Cabinet and in key bureaucratic positions did not share their interest and enthusiasm, and some even openly opposed them. Portillo's government reflected an uneasy coalition of three profoundly dissimilar groups: the President's political allies (a group of persons recruited on a personal basis from the ranks of left-centre groups, movements and parties), the President's personal and business cronies (key personalities whose motivation for public service was, as facts later shown, personal gain) and FRG core members, loyal to the former Dictator Rios Montt (who became President of Congress) and of a clearly right-centre populist ideology. This heterogeneous mixture produced an administration that was rife with internal conflicts and contradictions, with different groups gaining ascendancy over different issues at different moments. As a result, the ambiguities and contradictions in the implementation of the AFPC persisted through a pattern reflecting the success of the contending groups to appoint a friendly military officer or civilian politician to key positions in the emerging security structure: Minister of Defence, Minister of the Interior, Secretary of Presidential Security or Secretary for Strategic Analysis.[29]

Four different officers led the Ministry of Defence during Portillo's Presidency: Colonel Juan de Dios Estrada Velásquez (January 2000 – January 2001); General Eduardo Arévalo Lacs (January – November 2001); General Alvaro Leonel Méndez Estrada (December 2001 – August 2002); and General Robin Macloni Morán Muñoz (August 2002 – January 2004).[30] During the first period, a joint working group was established between the Ministry of Defence, the General Staff of the Armed Forces and MINUGUA with the purpose of establishing a focal point for discussions on the implementation of pending commitments. This collaboration led to a revision of the armed forces' deployment, effectively deactivating an operative unit and more than 30 outposts throughout the country between February and September of 2000. However, at this point, the process was stopped without apparent reason, and it was not until mid-2002 that the new military authorities decided to continue reorganising military deployment in a significant manner and promoted a new round of voluntary demobilisation concerning high-ranking officers.[31] The same period also witnessed a more open attitude from the armed forces as to the participation of non-governmental actors for the definition of new general guidelines for civil-

military relations. In a process that was formally launched in the last months of the former administration, with clear support from key governmental officers but with veiled resistance from the outgoing military authorities, civil society organisations opened a dialogue (led by the local structure of the *Latin American School for Social Sciences*, FLACSO, and with the support of *WSP International*) on security sector reform issues. The new political authorities reaffirmed governmental support and participation in the effort, including that of representatives of the Ministry of Defence and of the armed forces in every working group. In 2001, the Ministry of Defence itself initiated a project that generated a draft White Paper on defence policy in a participatory process with political and social actors, building a "Defence Policy Community" that would constitute a multi-sector reference group for these issues.

However, the changes in the military hierarchy reversed the flow and resulted in growing institutional resistance to civilian participation in the discussion of military issues. As to the civilian-led process, which had already produced consensual policy recommendations after two years of work, the military authorities attempted to dissociate the institution from results that had already been formally subscribed to by high-level civilian government representatives. In the case of the White Paper project, the new Minister of Defence invoked lack of funds as a reason to defer implementation of a process designed by his predecessor and for which there was full presidential support. The autarchic attitude of the new military authorities was reflected in the way in which they attempted to comply with the commitment related to military doctrine – by means of a military task force making no room for non-military actors. After months of secret work, a draft text was presented to MINUGUA, which deplored its contents as well as its non-democratic elaboration process.[32]

It was not until a new change in the military hierarchy that the armed forces opened up again to the idea of dialogue and reaffirmed adherence to the policy recommendations resulting from the WSP-FLACSO project – and issuing a White Paper on defence policy through a dialogue process supported by the international community.[33] At the same time, the Congress adopted a new Law on the civil service which abolished the traditional and drafting practices of the past. On the other hand, implementation of the commitments concerning military expenditure deteriorated constantly throughout Portillo's period. Although annual budgetary allocations remained within the 0.66 per cent of GIP established in the AFPC, extraordinary transfers of funds by the government raised military expenditure to the level it had reached during the conflict era: 0.83 per cent

in 2000, 0.96 per cent in 2001, 0.70 per cent in 2002 and 0.72 per cent in 2003. The Ministry of Defence rejected attempts by Congress to question this practice and inquire about the use given to the funds under the argument that disclosure of such informatin with the status of "official secrets" could place at risk national security interests. Indeed, Art. 30 of the Constitution grants confidentiality to military and diplomatic expenditure related to national security, without any other specification. Only the President, in his dual role as Head of State and Commander-in-Chief of the armed forces, could have qualified the extent to which national security was actually imperilled by disclosure to Congress of information about these funds. President Portillo failed to intervene and the army successfully evaded Congressional scrutiny.[34]

As concerns the transformation of the armed forces, two contradictory trends clearly developed at the end of the Alfonso Portillo administration. On the one hand, issues of deployment of military forces, demobilisation, and the involvement of non-military actors in policy discussions evidenced progress. On the other hand, military expenditure returned to wartime levels notwithstanding public criticism and the military's refusal to submit to congressional scrutiny confirmed the limits of the civilian authority's control.

The new government of President Oscar Berger, elected in January 2004 through an *ad hoc* alliance of new political parties (*Gran Alianza Nacional*, GANA), provided a further impulse to substantive transformation. The need to adjust the armed forces to the economic conditions of the country led to a decision by the new political authorities to introduce budgetary and personnel cuts that went beyond the targets established in the AFPC. Thus, 11,714 men and women were demobilised in the first semester of the year, establishing the new size of the armed forces at 15,500, an effective 66.95 per cent reduction from the number of troops it had in 1996.[35] The military budget was reduced to an amount equivalent to 0.44 per cent of GDP, an effective cut of approximately 50 per cent from total military expenditures in 2003 and well below the 0.66 per cent of GIP target established in the Accords.[36] The ensuing reorganisation of military units consolidated a deployment that responded to external defence needs, instead of the territorial control logic that was implemented during the armed conflict years.[37] Furthermore, a new military doctrine, incorporating key elements that had been ignored by previous versions, was elaborated in a process that included consultations with social and political actors.[38]

The Crisis of Public Security and the Weakness of Civilian Security Institutions. A clear understanding of the scope of the transformation of the

military institution has to take into consideration reform in other realms of the security apparatus of the State, in particular the police corps and the intelligence services. Military preeminence in an armed conflict that lasted more than 30 years fully subordinated the police corps to the armed forces, turning the police forces into an appendix of the counter-insurgency apparatus rather than an institution responsible for public security matters. At the end of the conflict, the police was undermined by corruption, involved in systematic violation of human rights and inefficient to the point of being considered irrecoverable. The monopolisation of all security functions by the military (internal/external, defence/public and strategic/tactic) also prevented the development of adequate civilian intelligence capacities at the Ministry of the Interior (formally responsible for public security) or at the Presidency. Security matters were addressed by the *Directorate of Military Intelligence*. Information needs of the Presidency were met by a special intelligence unit at the *Estado Mayor Presidencial* (a military unit) or by the Army's *Directorate of Military Intelligence*.

The country emerged from armed conflict without the legal and institutional infrastructure required for effective separation of security functions. As the development of effective civilian police and intelligence services could preclude the need for military intervention in internal security matters, a new police force was established in 1997 in compliance with the AFPC. Between 1997 and 1999 (during the Arzú Administration), considerable effort was made by the government (with political, technical and financial support of the international community), to establish a professional and efficient police force. A basic legal framework was developed, while a Police Academy was established to train the new recruits, budgetary allocations went above the targets established in the AFPC and new equipment was purchased for the institution. While in the process of expanding in terms of territorial presence and number of elements, the new police force stood up to the challenge as evidenced, for example, by the reduction of violent deaths between 1997 and 1999.[39] As a result, the participation of the armed forces in internal security issues was limited to collection of intelligence and to anti-kidnapping joint task forces.

This period of incipient institutional strengthening was followed by deterioration during the administration of Alfonso Portillo. The absence of a structured and coherent public security policy that integrated clear crime prevention strategies, the constant change of Ministers and Directors of the National Civilian Police (four Ministers and seven Directors in four years) and the development of corruption at all levels of the new police weakened the young institution despite raised budgetary allocations.[40] The police

proved unable to meet the mounting challenge of casual and organised crime: the trend of violent deaths, for example, began to rise again as from 2000.[41]

In reaction, the new authorities decided to call upon the armed forces to support the civilian structures in the fight against crime. Presidential Decree 40-2000 tasked the Ministry of Defence with cooperating with the Ministry of the Interior (responsible for the police) in internal security issues. Joint civilian police/army patrols began to operate all over the country in an effort that not only failed to contain criminality, but also complicated the process of redefinition of institutional responsibilities in the security sector. The failure to create civilian intelligence capacities, as agreed upon in the AFPC, created further dependency on the military. Due to an absence of political will in both the Arzú and Portillo administrations, the development of the Directorate for Civilian Intelligence in the Ministry of the Interior was continuously deferred – even though concrete proposals were tabled in a collaboration between governmental institutions and civil society groups.[42] At the end of Portillo's presidency, the level of dependence on military capacities for internal security matters actually increased because of the weaknesses – or simple non-existence – of civilian institutions.

The involvement of the military in internal security issues continued under President Berger's administration. On the legal basis of Decree 40-2000, intelligence and operational collaboration between the police and the armed forces strengthened. Military officers have been brought back to serve as advisers at the National Civil Police. The September 2001 terrorist attacks against the United States, as well as the lack of adequate civilian capacities for the fight against transnational crime and terrorism, further increased the military's relevance as national coordinators for international efforts in these fields – and also as official representatives of the State for such issues. The trend is again one of securitisation of international relations, and of militarisation of regional responses to transnational security threats (whether real or perceived), a situation that, in the context of weak democratic controls, could again strengthen autonomist tendencies in the military.[43]

Unfulfilled Commitments: the Pending Agenda. Even if in certain areas there have been significant advances in the application of the AFPC it is evident that its implementation remains partial and incomplete. The coherence and sustainability of the advances reached up to today in issues like military reform will depend on the capacity of the State and civil society to advance towards an integral implementation of the spirit as well as the letter of the Accord. Several issues remain on the agenda as pending commitments that need to be promptly addressed.

Thus, there is an important gap in the development of a regulatory framework for the military. Outdated laws reflecting the needs and perceptions of an authoritarian and militarised State have to be replaced by modern legislation taking stock of the work already done on military doctrine among other issues, and providing for a democratic military institution. In this respect, two pieces of legislation are crucial: the Army's Constitutive Law (*Ley Constitutiva del Ejército*) and the Military Code (*Código Militar)*. Dating from 1965, the first text is the instrument through which the State legalised military autonomy from, and tutelage of, the political structure. It stands in full contradiction with the Peace Accords and prevents the development of civilian control over the military. The elaboration of a draft new law is on the agenda of an ongoing dialogue between the State and civil society. The second text, which has regulated military justice since 1878, allows the military to evade accountability vis-à-vis civil justice. Noticeably, the armed forces continue resisting attempts to bring military jurisdiction under full civil authority. As recently as May 2005, they inspired a draft law establishing that military personnel can be judged only in military courts, even in the case of non-military offences. After a public outcry, the proposal was rejected by the judicial authorities.

Equally crucial for effective civilian control is a law regulating access to governmental information, as well classification and declassification of State secrets. A draft proposal elaborated jointly by governmental representatives and civil society organisations has already been approved at Commission level in Congress, but not yet introduced for consideration by the plenary. Besides, and as pointed out by MINUGUA, the reform of educational and training programmes is clearly insufficient.

As regards public security, the basic need is the development of a civilian intelligence capacity and the integration of all intelligence services (civilian and military) under the umbrella of a Framework Law. Draft proposals on these matters – as well as on the regulation of private security companies and possession of firearms – have been agreed upon between the governmental and civil society organisations, but still have to be submitted to Congress. However, the biggest challenge in this respect will be the strengthening of the National Civilian Police, starting with the containment of the institutional deterioration it has undergone in recent years and fully developing the specialised units that would enable it to become truly operational and independent from military cooperation or, as it begins to appear, tutelage.

The Road Ahead: Democratic Governance and Military Subordination

As recognised by MINUGUA, the role of the army in Guatemalan society has changed substantively in the last years. Military tutelage over the State and civil society is over. The armed forces' structure and organisation no longer reflect counter-insurgency strategies.[44] However, the scope of this transformation is still clearly insufficient for the development of true democratic civil–military relations. Effective military subordination to civilian authority in Guatemala has to be understood in the context of the general process of democratisation of the State and the challenges for the establishment of effective democratic governance in a country marked by the exercise of authoritarian practices throughout most of its history. It requires the development of a professional, politically neutral military institution, as well as civilian authorities capable of providing political guidance and control. These two aspects still remain problematic in Guatemala.

Military resistance to a redefinition of their own role found expression at different moments, on different issues, in different ways and with different strengths. This recurrent process is explainable by the disarray into which the armed forces entered following the signature of the Peace Accords and after the civilian mishandling of military leadership issues. Groups reflecting different positions and interests competed for institutional control in a struggle in which the major factor was the relationship with the political actors. For example, advance and stagnation on the issue of redeployment of military forces during the last eight years were partly due to the "modernising" or "hard-line" stances of each Minister and his immediate entourage. The oscillating nature of institutional positioning on such a key issue evidenced the absence of clearly defined institutional policy frameworks in the Armed Forces, and allowed for abrupt and unpredictable changes[45]

If in the last few years institutional resistance has clearly given way to more cooperative and less insular attitudes, it has by no means completely disappeared: refusal to submit to congressional scrutiny some extraordinary transfers of funds as late as 2004, and the attempt to introduce a non-democratic Military Code in May 2005, prove that the military (or at least part of them) still stick to a limited interpretation of the principle of subordination to civilian authorities. Under such a narrow interpretation, the army can only accept some institutional adaptation to the new security environment and Presidential authority, but not parliamentary and judicial oversight. As the process of progression/regression on the issue of

deployment illustrates, the change in attitudes and mentalities in the military institution is gradual and uncertain. In principle, the ending of the armed conflict in 1997 made military reform imperative. Nevertheless, the military authorities at the time went to a great deal of effort to prevent these changes and justify the survival of an obsolete structure. However, as previously said, military resistance is only one aspect of the problem – the other being the poor quality of guidance, control and supervision of the process by the civilian authorities. This has to do with a lack of political will, (in-)competence (conceptual and technical understanding of the issues at stake) and (in-)capacity to implement policy decisions. Indeed, politicians often lack the necessary will to undertake radical reforms for various reasons: a pragmatic alliance with the military (if not sharing their ideology), a lack of understanding of the scope of the necessary transformations (i.e. confusing a return to barracks with the end of military intervention in politics), unwillingness to assume the political or personal cost of reforms – or just sheer lack of interest. Ideological and pragmatic alliances with key political actors enabled the military authorities at crucial moments to successfully defend their case against substantive reorganisation. The memory of a not too distant brutal military repression and the fear of possible retaliation inhibited political action on the issue, many politicians considered that once military control over politics was over, the issue had no importance in the context of a society facing a myriad of political, economic and social problems.

The way in which these factors interacted differed according to the period: the level of political will changed not only with the alternation in power as a result of the elections, but within each government – especially in the more heterogeneous ones (like Portillo's), depending on the alignment of its internal forces. Some key political actors ready to confront the military on the issue did not have sufficient political backing. Most of the political class (particularly in political parties) did not assign sufficient importance to the issue. Negative trends within the military found more political space under specific circumstances, while fruitful alliances could be forged between bolder politicians and relatively progressive military elements. The scope of these variations were evidence of a central factor in the process of implementation of the AFPC: the absence of a clear, sustained State policy on the issue. Even if the AFPC established a basic blueprint for transformation, it was never translated into a coherent policy that would guide successive governments in the implementation of an Agreement that was clearly a matter of State more than of particular governments. This problem is not exclusive to the AFPC: implementation of the other

Agreements has been victim, to different degrees, of the same problem[46].
Beyond the Peace Accords, the Guatemalan State is particularly weak in its
capacity for coherent policy formulation and implementation: government at
practically all levels operates more through *ad hoc* reaction to short-term
political stimuli than through long-term objectives and sustained strategies.

Problems, setbacks and regressions in the implementation of the
AFPC commitments on military reform find more explanation in the
limitations in the quality of civilian guidance, control and supervision, than
in the success of the military in mounting an effective strategy for
resistance. Whenever the civilian authorities took resolute decisions that
affected key military interests – either those of the institution as such or the
personal ones of the incumbent hierarchy – the military were unable to resist
them.

Admittedly, Guatemala is no longer a militarised State and the
armed forces do not control the political system. What is still lacking is the
military's full will to obey and the civilian capacity to effectively control
and command. The ability of the military to exploit weaknesses in civilian
leadership combined with the government's dependence on the military
capacity for security issues show the blatant limits of demilitarisation.
However, the present situation offers both opportunities and risks:

– *Opportunities*. As pointed out in MINUGUA's report, the role
played by Guatemalan civil society in the AFPC's implementation process
has not been negligible. In the absence of initiatives from the State
bureaucracy and political parties, civil society organisations have played a
key role in the definition of the country's security agenda and the promotion
of public debate on security issues. More recently, through concrete
proposals ranging from regulation of private security companies to
legislation on intelligence, they have provided direct and substantial food
for thought for both the Executive branch and the Congress. The most
relevant actors in this connection have been research centres, universities
and non-governmental organisations practicing a strategy of monitoring,
lobbying and cooperative dialogue. The operation as from early 2004 of the
Security Advisory Council (CAS), a consultative State body made up of civil
society representatives, opened a permanent channel of communication
between the Presidency of the Republic and specialised civil society
organisations. The latter are also now providing to the parliament
coordinated advice on security issues on the basis of a formal four-year
agreement concluded with the President of Congress.[47] The Guatemalan
experience shows that in the context of weak state institutions and
ambiguous or contradictory transitional settings, civil society can play a key

role in security sector transformation. Academic institutions, universities, research centres and non-governmental organisations may become not only advocates of reform – thus filling the void that often the lack of interest of the political parties in these issues creates – but valuable resources for the technical discussion of issues in which the State bureaucracy might have serious limitations[48]. Investment in technical and political capacity-building of these organisations might result in an enhanced societal capacity to deal with the ambiguities and changes implicit in transitional settings, generating better chances for sustainable interventions.[49]

– *Risks*. The way civilian authorities handled from the first moment the AFPC's implementation process generated a contradiction between the long-term and the short-term needs of security sector reform. The involvement of intelligence and military forces in a joint anti-kidnapping unit within the emerging civilian police structure during President Arzú's period contradicted one of the most important goals of the AFPC: the exclusion of the armed forces from internal security functions. Subsequently, the establishment of joint patrols and the legal sanctioning of joint cooperation (through Decree 40-2000 issued under President Portillo) aggravated the scope of the contradiction. Furthermore, the appointment of military officers to command and advisory posts in the police under President Berger hints at a renewed military tutelage over the police. In terms of effectiveness, military involvement in public security has evidently failed, as MINUGUA pointed out. The crisis of common and organised criminality has gotten progressively worse through the years, with no positive effect resulting from growing military involvement.[50]

Given the nature of the crisis and the public demand for an effective governmental response, military participation can be considered a rational option. The problem is that military involvement is not integrated within an appropriate policy that includes safeguard measures such as temporal limits, phased disengagement, development of civil police capacity-building, etc. Actually, the expansion of military involvement in 2000 coincided with the beginning of a serious deterioration in the police's effectiveness. At present, the strategic distinction between internal and external security functions and responsibilities is getting ever more blurred, without any concrete effect on criminality. The same government that has daringly reduced military expenditure and placed further military professionalisation on its agenda, is now trying to cope with rising criminality through increased military involvement in civilian security structures.

The changing security environment in the region and the world, following the 9/11 terrorist attacks against the United States, introduced new

challenges. Indeed, the militarisation of responses impacted on the process of security sector reform in Guatemala, in the sense that the military had to be brought back into the picture for genuinely non-military issues. The elusiveness related to the definition of terrorism (as well as drug trafficking and organised criminality) is also contributing to widen the scope of the military's involvement.[51] The issue of the interaction between the international context and national processes is complex, and in the case of security sector transformation in Guatemala this complexity is expressed in contradictory tendencies: on the one hand, incentives and pressures for security sector transformation with an emphasis on functional and democratic security structures; on the other, incentives and pressures for short-term policy decisions that imperil long-term transformation goals. These contradictory tendencies find expression in the different formal and informal settings of international relations at the regional, bilateral and multilateral level. Clear national security policy frameworks and efficient security institutions would enable the State to deal more effectively with these challenges, optimising the positive tendencies and containing the negative pressures in the process of implementation of its own strategies. In their absence, state institutions react to the short-term stimuli of material or political reward implicit in these regional or hemispheric coordinations, without considering the long-term effect. The way in which international terrorism begins to appear as a national priority for many countries in the region, without any substantiated indication on the concreteness of the threat, is a clear example. Moreover, the proliferation of declarations and treaties reaffirming democratic security principles and methods at regional and hemispheric levels are important, but not determinant: in Guatemala, as in many other Latin American countries, the gap between the letter of the law and reality can be huge. The State often enters into international arrangements that, as reality later shows, it is unable – and sometimes unwilling – to implement. The challenge lies in the articulation of these international principles and coordinations with solid, efficient policies that respond to actual needs at the national level.

These – and more – risks and opportunities happen in the context of a young democracy. Already an electoral democracy, the challenge for Guatemala lies now in the expansion of democratic principles from the electoral system more deeply into the political sphere and into the social, economical and cultural realms of the country: democratisation[52]. However a weak state, a superficially democratic political culture[53], and serious socio-economic constraints define the context and the possibilities for its democratic consolidation. As recent Latin American history shows, this

combination of factors can lead to problems of political instability: Venezuela, Bolivia and Ecuador – to mention just some – illustrate this trend. In these situations, the temptation to resort to coercive power as the only solution for stability problems leads to the full restoration of the political function of the military and precludes effective military subordination. And an already unsubordinated military will make this turn of events more probable.

Conclusion

The processes of pacification and democratisation that started in 1986 and the adoption of a number of institutional reforms on the basis of the AFPC have allowed civil-military relations in Guatemala to advance significantly towards the demilitarisation of society and the subordination of the military to legitimate political authority. However, the structural weaknesses of fragile institutions and the very political culture of the country have prevented these goals being fully achieved. Thorough democratisation requires full and effective military subordination: a failure in this respect will render Guatemalan society more vulnerable to authoritarian restorations and the military more attracted by the magnet of politicisation.

Table 7.2   Status of Implementation of Main DDR (Demobilisation, Disarmament and Reintegration) and Security Sector Reform Provisions of the AFPC

	Challenges and opportunities	**Status**
Demobilisation, disarmament and reintegration (Part VII)		
Demobilisation of paramilitary units (§ 61).	Armed forces began demobilising CVDCs before the signature of the Peace Accords. During the Portillo administration, retired (and possibly active) military officers succeeded in mobilising the disbanded CVDC personnel around demands for monetary compensation from the State for services rendered during the armed conflict. Paramilitary leaders remain	Completed under the Arzú administration.

	active and are linked to different political parties.	
Demobilisation of the mobile military police (§ 62).	Limited opposition from unit members controlled by armed forces.	Completed under the Arzú administration.
33 per cent reduction in size of the armed forces (§ 63).	Formally completed under the Arzú administration, but did not concern officer corps. Further reductions under the successive Portillo administrations.	Reduction achieved beyond original AFPC goal.
33 per cent reduction in budget by 1999 (§ 63).	Gradual reduction achieved during the Arzú administration. New increase up to conflict levels under the Portillo administration. to be cut to half of the AFPC's target under the Berger administration.	Reduction achieved beyond original AFPC goal.
Redeployment (§ 63).	Opposition under the Arzú administration and attempts to deceive UN verification. Resilience and progress (with a prevalence of the latter trend) during the Portillo administration. Further advancement under the Berger administration.	Completed.
End of counter-insurgency training (§ 64).	Counter-insurgency training terminated.	Completed.
Reintegration of demobilised soldiers (§ 65).	Strong support from the international community; clear political will from national authorities.	Completed.
Security Concept and Agenda (Part IV.A)		
Replacement of the National Security Doctrine by a new security concept (§§ 18-19).	Initial resistance in the armed forces. Pressure from civil society and open discussion facilitated acceptance. Democratic Security and Comprehensive Security now part of official discourse.	Formally adopted. Actual extent unclear.

Creation of an Advisory Council on security with civil society participation (§ 20).	Resistance from Government under the Arzú administration. Initiation of negotiations with civil society organisations in the last year of the Portillo administration. The Berger administration accepts civil society recommendations and establishes the Advisory Council.	Actual impact of the Advisory Council will depend on success on implementation of work plan and institutional legitimacy vis-à-vis the security apparatus.
Public Security (Part IV.B)		
Creation of new national civil police (§§ 21-22).	Implemented with strong support from international community under the Arzú administration. Constant budget increase. Deep problems of corruption and disorganisation under the Portillo administration. Appointment of military advisers under the Berger administration.	Completed formally, but inefficient and unable to contain casual and organised criminality.
Constitutional and legal reforms related to the police (§§ 23, 24), and reform of the Law on Public Order (§ 25).	Constitutional reform not approved by referendum. Adoption of a new Law of the National Civilian Police under the Arzú administration. Draft proposal for a new Public Order Law submitted by civil society organisations under the Berger administration.	Partial completion.
Organisational & operational reforms related to the police (§§ 26 & 30).	Budgetary and organisational changes implemented with serious deficiencies: territorial and numeric presence not achieved; lack of coordination with the Public Prosecutor's Office; ineffective crime investigation units.	Partial completion.
Police profession and Police Academy (§§, 27, 28 & 29).	Under the Portillo and Berger administrations laws were altered; Corruption and mismanagement under the Portillo administration affected the Police Academy. No courses for officers.	Initial progress under the Arzú administration. Regress under the Portillo administration.

Regulation of private arms ownership and transfer of the national arms registry from the Ministry of Defence to the Ministry of the Interior (§§ 33-34).	Three draft laws submitted to Congress, (two from political parties and one with the support of civil society). Initial resistance to transfering the registry to the Ministry of the Interior.	Pending.
Regulation of private security companies (§ 32).	Three draft laws submitted to Congress, (two from political parties and one with the support of civil society).	Pending.
Armed Forces (Part IV.C)		
Constitutional reforms related to armed forces: definition of mission and function of the armed forces (§ 36 a).	Constitutional reforms not approved through referendum. Limitations on armed forces participation in internal security achieved at lower levels of legislation and policy; these positive developments however challenged by the civilian institutions' weaknesses.	Actual reform pending. De facto limitation threatened by institutional void.
Constitutional reforms related to armed forces: abolition of military autonomy from civilian courts and limitation of military jurisdiction (§ 36 b).	Constitutional reforms not approved through referendum. Military opposition to Military Code reform. Attempts to excluce the military from the national court system.	Pending.
Constitutional reforms related to armed forces: opening the post of Minister of Defence to a civilian (§ 36 c).	Constitutional reforms not approved through popular referendum.	Pending.
Reform of the armed forces Law (§ 37).	Initial resistance. Advances in dialogues on issues such as Military Doctrine and Defence Law.	Pending.

Reform of the military doctrine (§ 38).	Opposition under the Arzú administration. Opposition and progress under the Portillo administration. Revision of military doctrine's "axiological" elements carried out in agreement with civil society organisations.	Completed.
Adaptation of the budget of the armed forces to the State's economic capabilities (§ 39).	Progress during the Arzú administration. Budget reduced by the Berger administration to 0.44 per cent in 2004, and to 0.33 per cent in 2005.	Achieved beyond original target.
Reform of the military educational system (§ 40).	Creation, under the Arzú administration of a special military unit to address reform issues. No concrete progress made.	Pending.
Reorganisation of various military structures, including weapons procurement. (§§ 42 and 41).	Reorganisation of some services during the Arzú and Portillo administrations. The Berger Presidency announced changes in weapons procurement in consonance with military modernisation.	Partially completed.
Abolition of compulsory military service and creation of a voluntary civil service system (§§ 43-44).	Compulsory military service suspended before the signature of the Peace Accords; voluntary recruitment ever since. New Law on military and civil service approved by Congress in 2003, but not implemented.	Completed.
Presidency of the Republic (Part IV.D)		
Constitutional reform: definition of Presidential authority to mobilise the armed forces for internal security issues and establishment of congressional oversight (§ 45 a).	Constitutional reforms not approved through referendum. Norms implemented at other levels (presidential decrees).	Partial completion. Threatened by institutional void and weakness of the civilian security apparatus.

Demobilisation of the military presidential security apparatus and creation of a civil Presidential Security Service (§ 46).	Opposition from the Presidency and from some military officers under the Arzú administration. Creation of a new civilian presidential security service (SAAS) and partly in operation under the Portillo administration. SAAS full in charge of presidential security under the Berger administration.	Completed.
Information and Intelligence (Part IV.E)		
Limitation of military intelligence operations to military issues (§ 47).	Absence of civilian intelligence capacities drawing back military intelligence into public security problems.	Pending.
Creation of a civil intelligence department at the Ministry of Interior (§ 48).	Draft Law submitted under the Arzú administration for the creation of a civilian intelligence unit. Approved by Congress under the Portillo administration, but declared unconstitutional by the Constitutional Court following an appeal filed by civil society organisations. The Government tabled a Draft Law proposal supported by civil society which was approved at Committee level but subjected to revision after elections.	Pending.
Creation of a strategic information analysis service at the Presidency of the Republic (§ 49).	Established under the Arzú administration. Subjected to a severe budget cut by MPs of the ruling party under the Portillo administration. Further weakened under the Berger administration.	Completed.
Separation of intelligence-gathering functions from operations to which they give rise (§ 50).	No legislation or regulation adopted on the issue. The Ministry of Defence attempted to create its own "Strategic Analysis" Department on 2003, a decision cancelled under the Berger Presidency.	Pending.

Prohibition of the establishment of networks or groups incompatible with the duties assigned to intelligence officers (§ 51).	No legislation or regulation adopted on the issue. The weakness of the State's intelligence capacity for public security issues has, reportedly, encouraged the creation of private intelligence units to protect the private sector against criminality.	Pending.
Creation of a legislative commission for parliamentary oversight of intelligence services (§ 52 a).	No legislation or regulation adopted on the issue.	Pending.
Adoption of a Law regulating access to classified military and diplomatic information (§ 52 b).	No governmental initiative on this issue under the Arzú administration. Under the Portillo administration, civil society organisations and SAE agreed on Draft Law that was approved at committee level, but failed to be adopted.	Pending.
Prohibition of establishment and use of files and records containing political information on citizens' activities (§§ 53 –54).	Discussed in the context of the above-mentioned Law.	Pending.

Notes

[1] Mario Solórzano Marínez : *Guatemala: Autoritarismo y Democracia*. San José de Costa Rica, EDUCA-FLACSO, 1987, pp. 73-100.

[2] The fight against armed insurrection became the overriding organising logic of the Guatemalan State as of the early 1960s, allowing for the development of a distinct brand of authoritarianism. For an analysis of its characteristics, see Edelberto Torres-Rivas: "Construyendo la Paz y la Democracia: El fin del poder Contrainsurgente", *Del Autoritarismo a la Paz* (Gabriel Aguilera & Edelberto Torres-Rivas, Eds.). Guatemala, FLACSO, 1998. pp. 25-46.

[3] For detailed analysis on civil-military relations during the armed conflict years, see Angela Delli Sante: *Nightmare or Reality: Guatemala in the 1980's*. Amsterdam, Thela Publishers (1996); Susanne Jonas: *The Battle for Guatemala: Rebels, Death Squads, and U.S. Power*. Boulder, Westview Press (1991); Michael McClintock: *The American Connection: State Terror and Popular Resistance in Guatemala*. Vol. 2. London, Zed Press (1985) and Jennifer Schirmer: *Las intimidades del proyecto politico de los militares en Guatemala*. Guatemala, FLACSO (199).

[4] Torres-Rivas: *op. cit*. pp. 28-30. See also "Marco Conceptual: Bases para la consideración de la cuestión militar*", Hacia una Política de Seguridad para la Democracia. Tomo I: Documentos Finales* Bernardo Arévalo de León (Ed.). Guatemala, FLACSO-WSP-IGEDEP, 2002. pp 88-99.

[5] For an analysis of the origins of the conflict, see Comisión para el Esclarecimiento Histórico: *Guatemala: Causas y orígenes del Enfrentamiento Armado Interno*. Guatemala, F&G Editores, 2000. For a description of its different phases, see Gabriel Aguilera Peralta: "La Guerra Interna 1960-1994", *Historia General de Guatemala,* Tomo VI. Guatemala, Asociación de Amigos del País, 1997.

[6] During the democratic decade of 1944-1954, the armed forces splintered into revolutionary and conservative factions that supported competing political projects. Friction between these groups continued after the US intervention in 1954. In 1960, a military revolt was crushed by the Government, but several of the military officers that led the movement went into clandestine activity and created different movements. On February 1962, four of these movements joined to create the Rebel Armed Forces (FAR). See Héctor Alejandro Gramajo Morales: *De la Guerra...a la Guerra*. Guatemala, Fondo de Cultura Editorial, 1995 and McClintock (*op. cit.*).

[7] The Historical Clarification Commission was established in 1997 as a result of the Peace Accords, with a mandate to make an official report on the use of violence and the violation of human rights throughout the armed conflict. For its final report, see Comisión para el Esclarecimiento Histórico: *Guatemala, Memoria del Silencio* (5 volumes). Guatemala, UNOPS, 1999. For detailed analysis of human rights violations during the internal armed confrontation, see Patrick Ball, Paul Kobrak and Herbert F. Spirer: *State Violence in Guatemala, 1960-1996. A Quantitative Reflection* (Washington D.C., American Association for the Advancement of Science, 1999) and Victoria Sanford: *Violencia y Genocidio en Guatemala* (Guatemala, F&G Editores, 2003).

[8] For an analysis of military thinking in Latin America before and after the Cold War, see Brian Loveman: *For la Patria. Politics and the Armed Forces in Latin America*. Wilmington, Delaware, SR Books, 1999. For an analysis of National Security Doctrine in Latin America, see Manuel Antonio Garretón and Genaro Arriagada: "Doctrina de Seguridad Nacional y Régimen Militar" in *Estudios Sociales Centroamericanos,* No. 76.

See also Jorge Tapia Valdés: "La Doctrina de Seguridad Nacional y el Rol Político de las Fuerzas Armadas" in *Nueva Sociedad*, No. 47. On the establishment of National Security Doctrine in Guatemala, see Gramajo Morales (*op. cit.*) and McClintock (*op. cit.*).

[9]   Comisión de Esclarecimiento Histórico, *op. cit*. See also Héctor Rosada Granados: *Soldados en el Poder: proyecto militar en Guatemala 1944-1990* (San José de Costa Rica, Thela-Tesis 1999) and Torres-Rivas, Edelberto (*op. cit.*).

[10]   The degree to which political liberalisation ran hand in hand with counterinsurgent repression during this period can be observed in the dramatic rise in human rights violations that took place during the years of 1982 to 1985: see Ball and others (*op. cit.*).

[11]   Augusto Varas: "La autonomía militar en América Latina", *Autonomisación castrense y democracia en América Latin***"** (Augusto Varas, Ed.). Caracas, Editorial Nueva Sociedad, 1988. See also Dirk Kruijt: "Politicians in Uniform: Dilemmas about the Latin American military", *European Review of Latin American and Caribbean Studies***,** Vol. 61, December 1996, pp. 7-19.

[12]   For an analysis of civil-military dynamics between 1986-1996, see Bernardo Arévalo de León : *Sobre Arenas Movedisas: Sociedad, Estado y Ejército en Guatemala, 1997.* Guatemala, FLACSO, 1998. See also also Gramajo Morales (*op. cit.*) and Jennifer Schirmer (*op. cit.*).

[13]   *Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society* (Mexico City, 19 September 1996); see also a web edition for instance @ http://www.usip.org/library/pa/guatemala/guat_960919.html. Negotiated from 1991 to 1996, the AFPC is only one element of a comprehensive corpus (arrived at between 1994 and 1996) which include agreements specifically dealing with human rights, the resettlement of the population groups uprooted by the armed conflict, the establishment of a Commission for Historical Clarification, the identity and rights of indigenous peoples, agrarian and other socio-economic issues, a definitive ceasefire, on constitutional reforms and electoral regime, the reintegration of the Guatemalan National Revolutionary Unity (UNRG) into legal political life. The Agreement on a Firm and Lasting Peace, which officially ended the conflict, was signed on 29 December 1996. The Guatemalan Peace Accords stand in contrast to most similar agreements in that they were not limited to issues of the immediate finalisation of armed struggle (DDR) but included ambitious issues of social, economic, political and cultural development. Furthermore, the liberalisation and transition processes were not the result of the peace negotiations, but preceded and enabled a negotiated solution to the conflict. For an analysis of the negotiations, see Gabriel Aguilera Peralta: "Realisar un Imaginario: La Paz en Guatemala" in Aguilera Peranta and Torres-Rivas, Edelberto (*op. cit.*), Dinorah Azpuru: "Peace and Democratisation in Guatemala: Two Parallel Processes" in Cynthia J. Arnoson *Comparative Peace Processes in Central America*. Washington, D.C., Woodrow Wilson Center Press, 1999) and Héctor Rosada Granados *El lado oculto de las negociaciones de Paz*. Guatemala, Fundación Friederich Ebert, 1998).

[14]   The issue of disarmament, demobilisation and reintegration (DDR) of insurgents was dealt with in a separate text; the *Agreement on the Basis for the Legal Integration of the Unidad Revolucionaria Nacional Guatemalteca* (Madrid, Spain, 12 December 1996); see also a web edition @ http://www.usip.org/library/pa/guatemala/guat_961212.html.

[15]   See also the contribution in this book by Rut Diamint: "The 1995 Central American Framework Treaty on Democratic Security: The Tenets and Challenges of Sub-Regional Security Cooperation in Latin America". The *"Democratic Security"* concept was

developed in the context of the Central American integration process, building upon the work developed by the *"South American Peace Commission"*, a group of democratic academics opposing militarisation of the State and of international relations. It is a security concept which recognises that threats to domestic security are not limited to political-military issues. The intention was to develop a concept and a regional architecture that would substitute National Security Doctrine and its regional embodiment, the *Central American Defence Council* ("CONDECA"). The new security conception was reflected in the 1995 *Central American Framework Treaty on Democratic Security*. See also the contribution in this book by Rut Diamint: "The 1995 Central American Framework Treaty on Democratic Security: The Tenets and Challenges of Sub-Regional Security Cooperation in Latin America".

[16] The previous police was fully used for counter-insurgency operations. Placed under *de facto* military control, it committed human rights violations and was rife with corruption. Government and insurgents agreed that instead of attempting to reform the existing structure, it would be better to create a completely new institution.

[17] The rationale of these measures is explicitly spelled out in the *Agreement on Constitutional Reforms and Electoral Regime* (Stockholm, 7 December 1996), Part I, §§ 20-27; see also the web edition for instance @ http://www.usip.org/library/pa/ guatemala/guat_961207.html.

[18] The decade between the arrival in presidential office of freely elected civilians and the ending of the armed conflict was one of gradual transfer of political power from the military to the civilians. The first civilian President, Vinicio Cerezo, has recognised that at the beginning of his mandate he could exercise only 33 per cent of actual political power, with the rest in the hands of the military. The *Estado Mayor Presidencial*, that during previous years had turned into a key counter-insurgency control unit and developed its own intelligence and operative capacities (coordinated with but autonomous from the army's Directorate of Intelligence), became the main mechanism through which the military monitored and controlled the new political authorities. See Bernardo Arévalo de León (1998), *op. cit*.

[19] MINUGUA: *Informe Final. Asesoría de Fortalecimiento del Poder Civil*. Guatemala, November 2004.

[20] The Voluntary Committees for Civilian Self-Defence (CVDCs) were demobilised between August and December 1996. Although "voluntary" in name, most of them resulted from of a coercive mobilisation by the army of the civilian population residing in the areas in which the insurgent groups operated. As the intensity of conflict was reduced in certain regions, many of them (although formally still existing) were deactivated. A total of 270,906 "*patrulleros*" were demobilised in this process, and 14,000 guns, originally provided by the army, were handed over. The CVDCs were to regain notoriety later, in relation to their demand for compensation from the State. The social network that they represented even after demobilisation was used by retired (and possibly active) military officers in the context of electoral politics. After social protests, the Portillo administration agreed to compensate them for "services to the State during the armed conflict", but only paid about half of those that were supposedly entitled. The limited financial capacities of the new administration and doubts raised about the very constitutionality of compensation precluded further compensations, with ensuing social protests (*ibid*., §§ 10 and 19-26).

21   This fact in itself illustrates the degree to which, by 1996, there had been an actual transformation of the relations between the military, the State and society: since 1986 and until the Government of Ramiro De León Carpio, there was a limited selection of candidates (based upon rank and experience) from which the President could select key military positions like Minister of Defence, Chief of the Army's Staff, and Chief of Presidential Staff, with hardly any deviation from these institutional (military) choices. Arzú was able to exercise his Presidential authority to make appointments that were clearly against the army's established institutional interests, ignoring the official military proposals. See Arévalo de León (1998), *op. cit.*

22   MINUGUA: *Informe Final.*, *op. cit*., § 59.

23   Reintegration programmes that included economic compensation, technical and professional training, and advisory services were effectively implemented (*ibid.,* §§ 27-29).

24   *Ibid*., §§ 34-40.

25   The document was publicly presented by the President as a final text, but MINUGUA considered it only as a draft (*ibid.*, § 68).

26   *Ibid*., §§ 50-51.

27   For a full analysis on the referendum and its implications for the peace process, see Dinorah Azpuru (Ed.): *The Popular Referendum (Consulta Popular) and the Future of the Peace Process in Guatemala.* Washington, Woodrow Wilson International Center for Scholars, 1999 (Working Papers. Latin American Program). For an analysis focusing on the Peace Accords, see Arévalo de León: "*Demilitarisation and Democracy: Implications of the Popular Referendum for the Agreement on the Strengthening of Civilian Power and the Role of the Army in a Democracy",* (*ibid*.).

28   For an analysis of civil-military relations during Alvaro Arzú's administration, see Arévalo de León: "Oportunidades y estancamientos. El contexto de las relaciones civiles-militares al inicio del proyecto POLSEDE", *Hacia una Política de Seguridad para la Democracia en Guatemala. Investigación Acción Participativa y Reforma del Sector Seguridad* (Bernardo Arévalo de León, Beltrán Doña, José y Fluri, Phillip H. (Eds.). Münster 2005, DCAF-Lit Verlag.

29   The appointment of the Director of the police was the prerogative of the Minister of the Interior.

30   In June 2000, Minister Estrada Velásquez and Chief of Staff of the Armed Forces Arévalo Lacs, among other officers holding the rank of Colonel at the time, were promoted to the rank of General. Upon departure from the Ministry of Defence, General Arévalo Lacs was appointed Minister of the Interior, formally retiring from military service.

31   MINUGUA: *Informe Final.*, *op. cit*., §§ 30, 41-42.

32   *Ibid*., § 71.

33   The final recommendations of the POLSEDE project included documents entitled "Conceptual framework for the study of the military question", "Society, State and army in Guatemala at the beginning of the 21st century", "Security concept and agenda", "Intelligence System", "Notes for a reform of the security system in Guatemala"; "Role of the armed forces in a democratic society" and "Military doctrine". For the full final texts and analysis of the process and its implications, see Arévalo de León and others (Eds.)**:** *Hacia una Política de Seguridad para la Democracia en Guatemala***,** *op. cit*. The White Paper process took place in the context of a larger dialogue (supported by UNDP

and several bilateral cooperation agencies) between civil society and government. See Gobierno de la República de Guatemala : *Libro Blanco de la Defensa Nacional de la República de Guatemala*. Guatemala, 2003.

[34] MINUGUA: *Informe Final.*, *op. cit*., §§ 58-66. For an analysis of post-conflict military expenditure in Guatemala, see Carmen Rosa de León Escribano, Rosa and Miguel Angel Sagone Aycinena: *Social Audit: Defence Budget in Guatemala*. Guatemala, IEPADES-IDRC, 2004. See also Miguel Angel Sagone Aycinena and Pedro Trujillo Alvarez : *Fortalecimiento de la Participación Ciudadana y Control Civil de la Asignación y Supervisión Presupuestaria del Sector Defensa*. Guatemala, FOSS-IEPADES, 2004.

[35] MINUGUA : *Informe Final.*, *op. cit*., §§ 31-32.

[36] According to governmental projections, total military expenditure for 2005 should be of 0.33 per cent of GIP, (*ibid*., § 66).

[37] *Ibid*., §§ 45-48.

[38] *Ibid*., §§ 74-77.

[39] *Ibid*., §§ 101-106.

[40] Two succesive verification efforts by MINUGUA in 2001 and 2002 clearly assessed the level of institutional deterioration and made concrete recommendations to strengthen institutional capacity (*ibid*., §§ 150-152).

[41] *Ibid*., §§ 117-119, 125-152.

[42] *Ibid*., §§ 106,116, 143-144. An original proposal prepared by the Arzú government and approved by Congress under the Portillo administration contained unconstitutionalities and was successfully challenged by civil society groups. The Ministry of the Interior established a High-Level Commission with participation of civil society groups and framed a new draft which was sent for congressional approval, went through committee work, but failed to be tabled for final approval at plenary level due to lack of interest on the side of the government party. The draft law was returned to committee level revision by the new congressional authorities after the elections.

[43] On the 9/11 implications for security issues in Latin America, see Cristina Eguizábal and Ruth Diamint: "La Guerra contra el terrorismo y el futuro de las democracias latinoamericanas". In: *Foreign Affairs en Español*, Vol. 1, Spring 2002, web edition: http://www.foreignaffairs-esp.org/20020201faenespessay7935/cristina-eguisabal-rut-diamint/la-guerra-contra-el-terrorismo-y-el-futuro-de-las-democracias-latinoamericanas.html.

[44] MINUGUA: *Informe Final.*, *op. cit*., §§ 158-160.

[45] *Ibid*., § 33.

[46] For a comprehensive analysis of the implementation of the Peace Accords, see: Pásara, Luis; *Paz, Ilusión y Cambio en Guatemala: el proceso de paz y sus actores, logros y límites*. Universidad Rafael Landívar. Guatemala, 2003. Also MINUGUA. *Informe del Secretario General de las Naciones Unidas sobre la Verificación de los Acuerdos de Paz de Guatemala*. Mimeo. Guatemala, Septiembre 2004 (b).

[47] Collaboration between these organisations and members of the parliamentary commissions of Interior and of Defence allowed consensus at this level on specific draft legislation: proposals on the penitentiary system, the creation of the General Directorate for civilian intelligence, the regulation of private security services and on control of arms and ammunition. These proposals have not been yet introduced for plenary consideration. Proposals for a law on Public Information Access and a bill with reforms to the Law on Public Order are being discussed in the Interior Commission.

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[48]   For an interesting analysis on the role of civil society on intelligence reform in Guatemala, see Ugarte, Manuel; La reforma de inteligencia en Guatemala - el aporte de la sociedad civil a solucionar problemas fundamentales del Estado, in Arévalo de León, Bernardo; Beltrán Doña, José y Fluri, Phillip H. (Editors) Hacia una Política de Seguridad para la Democracia en Guatemala. Investigación Acción Participativa y Reforma del Sector Seguridad. DCAF-LitVerlag, Münster 2005.

[49]   For a useful analysis on the role of civil society on intelligence reform in Guatemala, see Manuel Ugarte: "La reforma de inteligencia en Guatemala - el aporte de la sociedad civil a solucionar problemas fundamentales del Estado" in Arévalo de León and others (2005), *op. cit*.

[50]   MINUGUA, *op. cit.*, 2004 (a); §§ 13-116 and 159.

[51]   Under the Portillo administration, a General was appointed as Coordinator against terrorism shortly after 9/11. Military intelligence is involved in all regional coordination on the issue. Military officers regularly participate in regional and hemispheric related meetings. The idea of a regional security force (with a strong military component) to combat transnational crime cartels and youth gangs operating in the region is in the air.

[52]   There is an open and rich debate on the challenges of democratic rule in Latin America. A good reader on the subject is Agüero, Felipe and Stark, Jeffrey. Fault lines of Democracy in Post-Transition Latin America**.** North-South Center Press, Miami 1998. We are using here democratisation in the sense of the continued process of extension of democratic rights into the different realms of social life. See Varas, Augusto *"Democratisation in Latin America: A Citizen Responsibility"* in that book. Also Garretón, Manuel Antonio. *"Problems of Democracy in Latin America: on the process of transition and consolidation"* in *International Journal*, XLIII, summer 1988.

[53]   Public opinion polls indicate a limited or conditioned support for democracy. For detailed analysis see Azpuru, Dinorah. La cultura política de la democracia en Guatemala**.** ASIES, Guatemala 2005.

PART IV

CONCLUSIONS

Chapter 8

Democratic Security Sector Governance:
A Global Perspective

Alexandre Lambert

Introduction

This concluding chapter assesses the (comparative) regional approaches to democratic security sector governance in the OSCE area, Africa and the Americas and based on major findings in parts I-III of the present volume. The first chapter further elaborates the international regime of security sector reform and governance in the Euro-Atlantic area by taking into account the contribution of relevant players like for instance NATO and the European Union. Based on major findings elaborated in Parts II and III, the second and third chapters further analyse the continental regimes that have emerged in Africa and the Americas. The additional evaluation and considerations provided in this chapter should be understood as complementary to the overall analysis already provided in Parts I-III. The conclusion finally draws a tentative comparison between the three world regions and against the background of the general guidelines as outlined in the Preface to the present volume. In order to further illustrate democratic security sector governance in Africa and the Americas, the six most important documents that were actually examined in the individual contributions within parts II and III are annexed to the present volume. Since the Asia-Pacific and Middle East regions clearly lag behind in addressing security sector governance at both regional and sub-regional levels, they have not been subject to an adjacent section or chapter in the present volume.

Democratic Security Sector Governance in the OSCE Area

Good and democratic governance of the security sector is relatively developed in Europe and the broader OSCE region. This is particularly true if considered from a multilateral perspective. As pointed out by Victor-Yves Ghebali in his introduction to the present book, the *OSCE Code of Conduct on Politico-Military Aspects of Security (1994)*, in particular its sections VII and VIII, currently offer a "model" regime of politically-binding norms for the democratic control and use of armed forces. Compared with other regulatory instruments on security sector reform and governance that have emerged in the OSCE area, the Code has the advantage of having been negotiated and adopted by the 55 (now 56) OSCE participating States.[1] Introducing politically-binding norms and provisions in the security sector which was hitherto an almost "sacrosanct" area of state sovereignty, especially section VII dealing with democratic control of armed forces (in peacetime) has been deemed "revolutionary" from an international customary law perspective.[2] This innovative document has reflected the changing security environment of the post-Cold War era in the context of which defence and security sector reform and the redefinition of the role of armed forces in democratic societies emerged as priority issues.[3] The OSCE Code of Conduct actually elevates and "locates the concept of (national) democratic political control of the security sector in the context of (international) confidence-building measures"[4]. Beside the OSCE but still within its geographic area, a number of other international players have addressed reform and good governance, civilian control and effective management of security sector institutions since the end of the Cold War.

        NATO has been providing substantial assistance to Eastern European countries' defence reforms in the framework of its Partnership for Peace (PfP) with democratic control of armed forces being one of the programme's constitutive pillars.[5] In particular, within the Partnership Action Plan (PAP), NATO contributes what is called "Defence-Institution-Building" (DIB).[6] Democratic political control of security sector institutions has actually become a requirement for NATO membership and is referred to in important enlargement documents like the Membership Action Plan (MAP).[7]

        The *European Union* addresses security sector reform and governance in the context of a wide range of institutions and procedures, including enlargement, the relationship with associated and partner countries, as well as in the framework of the new Neighbourhood Policy.[8] While the Union's approach actually builds on the experience of the OSCE[9], it is mainly concerned with the legal accountability of police, military and

secret services.[10] In addition, the Union provides for some kind of "comprehensive democracy clause" in the Amsterdam Treaty (1997) according to which a member state may be suspended from its treaty rights and privileges in the case of failure to uphold the "principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law"[11].

However, the Union started to become a more proactive actor in security sector governance since the adoption of the European Security Strategy (ESS) in 2003. According to this strategic security document, the Union first of all aims to become a "global security player". Moreover, the ESS. identifies "security sector reform" (SSR) as an important policy tool to integrate an ever-broadening internal and external security agenda. Building on the SSR concept elaborated by the OECD's Development Assistance Committee (DAC), the Union has developed, in 2005-2006, SSR-concept papers issued by the Council of Ministers and the Commission. The EU's new role in SSR is linked to the idea of comprehensive security and aims at developing a cross-cutting security approach that better coordinates and integrates the different activities in the context of the Common Foreign and Security Policy (CFSP) and European Security and Defence Policy (ESDP), as well as between relevant EU institutions and between those and member states. If compared with NATO involvement in SSR, the nature of the Union's contributions remain largely civilian. For instance, the bulk of activities developed even in the context of the ESDP relate to civilian crisis management.[12]

Given that democratic security sector governance emerged as a precondition of membership in two dynamic continental players (the Alliance and the Union), it has provided relatively strong incentives for their respective membership aspirants and candidates to make progress in this field. Even a long-established NATO-member state like Turkey is now required to make progress in the area of democratic security sector governance in order to improve and accelerate its accession negotiations with the European Union. As a matter of fact, the overwhelming majority of OSCE participating States are even EU or NATO member states, or are willing to become new members, or have established partnership relations with at least one of them. Together with Victor-Yves Ghebali's considerations on the OSCE in Part I of the present book, all this illustrates that there is indeed a relatively well-developed "regime" of democratic security sector governance in the OSCE region. The fact that this "regime" is institutionally well developed and geographically well covered is further illustrated by the fact that democratic security sector governance has also

become subject to the *Council of Europe (CoE)*[13] and has been addressed even in the framework of the *Commonwealth of Independent States (CIS)*.[14]

Despite the increasing importance of security sector governance in the OSCE area, no set of shared criteria or best practices of democratic and civilian control of armed forces are currently available.[15] The provisions of section VII and VIII of the OSCE Code of Conduct currently remain the main "political criteria", as the Code remains the most important normative reference document. Beside the Code, the OECD-DAC guidelines on "security system reform and governance" now belong to the most regularly used 'policy guidelines' worldwide.[16] The EU actually drew up its own SSR-approach on the basis of the OECD guidelines. Eventually, the Union's so-called "Copenhagen Criteria" of membership add a specific category of political criteria that indirectly deal with security sector governance issues and if considered from the perspective of comprehensive and cross-dimensional security.[17] Finally, the Geneva Centre for Democratic Control of Armed Forces issued a couple of handbooks for parliamentarians on security sector governance-related issues.[18] However, much remains to be done in the OSCE region to better coordinate both norm- and standard-setting as well as implementation in the field of security sector governance.

There has actually been some competition in the OSCE area among established (and even new) democracies in the context of their "outreach activities" to post-communist Central and Eastern Europe. Instead of ameliorating dialogue on common and shared standards, many established democracies have preferred to promote their national "models" of civil-military relations. Moreover, within the first decade of security (sector) and defence reform in post-communist Europe, there has been some emphasis on providing assistance to the military rather than civilians. This has been visible in the context of NATO enlargement and the Alliance's activities with partner countries. PfP, often considered a step towards potential membership in the Alliance, has been criticised for not delivering sufficient training for civilians, including civil servants involved in security and defence management: "The PfP may have unexpected adverse effects on strengthening the civilian hold on the military, however, because its programmes focus on building military rather than civilian expertise."[19]

Nevertheless, as all member States of NATO, the European Union and the Council of Europe (as well as most of OECD countries), are also participating States to the OSCE, they are bound by sections VII and VIII of the Code of Conduct that provide an all-encompassing normative framework and guidance for the conduct of military and security forces[20] – and in the context of the world's largest regional security architecture. Although the

regional model of security sector governance in the OSCE region is currently the most advanced of its kind, the OSCE-"template" cannot be directly applied beyond its own area. However, it has been illustrated in the present volume that extra-European regions have indeed drawn inspiration from the OSCE model. As indicated by Victor-Yves Ghebali in his introduction to the present volume, bearing witness in this connection are the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA) and the Central American Democratic Security Concept and Framework Treaty. The next two sections therefore assess the comparative approaches to democratic security sector governance in Pan-African and Pan-American affairs.

Democratic Security Sector Governance in Africa

After the Cold War, the African countries did not receive the same attention at the global level as other regions like for instance Central and Eastern Europe or East Asia. However, the withdrawal of the imperial security umbrella over Africa by the superpowers actually empowered Africans to devise indigenous and more relevant conflict management and security approaches. For instance, the almost complete silence of the international community over the Liberian civil war prompted the creation of the Monitoring Group of the Economic Community of West African States (ECOMOG). Moreover, Africans started to develop their own regional and sub-regional approach to democratic and well-governed security. South Africa, after its successful post-apartheid transition, became a driving force and a somewhat "exportable" model of security sector reform, especially in the Southern African sub-region and the context of the South African Development Community (SADC). Nigeria also played a leading role within the Western African security context, including ECOWAS. In addition, specific experience related to African sub-regional peacekeeping fostered inter-state cooperation and triggered collective dialogue and institutional processes related to security sector reform in West Africa.

Drawing from the OSCE experience, African leaders started sub-regional and continental dialogue on security sector governance based on the premise that sustainable development will not be feasible without security, stability, cooperation and integration at the continental level.[21] As pointed out in parts I and II of the present volume, the 2002 *Draft Code of Conduct on Armed and Security Forces in Africa* (see Annex 3 of the present volume) is a particularly promising normative instrument at the continental level. Moreover, in 2000, the African states adopted another landmark instrument

of security sector governance in Pan-African relations: the *Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government* (See Annex 1 of the present volume) – the prohibition of "unconstitutional changes of government" being reconfirmed in the Constitutive Act of the African Union (2002).[22] This instrument does not only condemn and reject unconstitutional changes of governments (Art. 4) as such, but also contains a concrete suspension clause providing that "Governments which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union" (Art. 30).

Noticeably, civil society has played a key role in the elaboration of regional and sub-regional instruments on security sector governance in Africa. This is true for the *2000 Solemn Declaration of the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA)* (see Annex 2 of the present volume), as well as the West African Code of Conduct for Armed Forces and Security Services (WACOCAS). Civil society also played an important role in the context of the evolving African security architecture that takes into account security sector governance. Moreover, the Solemn Declaration on a Common African Defence and Security Policy (2004) commits African States to developing a continental security architecture based on African ownership. Similarly, the African Union's launch of the African Common Defence and Security Policy can be considered as an attempt to bring African solutions to African problems.[23] Pan-African dialogue on security and defence policy is also reflected in peacekeeping initiatives such as the project of an African Standby Force, as well as the establishment of an African Union Peace and Security Council.[24]

Last but not least, the African Peer Review Mechanism (APRM) has been broadly discussed and in parts I and II of the present volume. The APRM is one of NEPAD's most significant attributes and a major instrument to evaluate and monitor performance made by the member States of the African Union in different fields including security sector governance. As emphasised by Ajodele Aderinwale in his contributing chapter, both NEPAD and the APRM were drawn out of the CSSDCA process. Even the Solemn Declaration on a Common African Defence and Security Policy and even the Declaration on a Framework for an OAU Response to Unconstitutional Change of Government largely draw from the same Pan-African civil society movement and initiative. As regards the project of a common African Defence and Security Policy, it inherited the CSSDCA's comprehensive approach to security. This Memorandum, which actually represents an institutionalised version of the CSSDCA, acknowledges the subordination of the military to the civilian authority, as well as the rejection

of unconstitutional changes of government (Art.14); it also emphasises human security and the special needs of democratic governance, including popular participation in national defence as crucial elements of Africa's security.

Adedeji Ebo has pointed out in his contribution to the present volume that the launch of the above-mentioned continental African Draft Code of Conduct initiated by UNREC recently also inspired the development of sub-regional norm-setting instruments. Thus, in October 2006, the ECOWAS Defence and Security Commission formally adopted the above-mentioned West African Code of Conduct. Since considerable challenges remain to implement the continental Code, it is expected that the success of a more modest sub-regional approach could form the building blocks for a region-wide Code in the future. Both projects finally illustrate that it is possible to assemble armed forces, civil society, multilateral organisations and academics to discuss and jointly elaborate regulatory frameworks on security sector governance in Africa.

On the one hand, Africans have drawn up continental and sub-regional frameworks to address democratic security sector governance. To some extent, this is in contrast to the current situation in other world regions like for instance the Asia-Pacific or Middle East areas which lag behind in developing multilateral approaches to security sector governance, as they still seem to be shaped by the principle of non-interference in the internal (security) affairs of states.[25] On the other hand, effective use and further development of multilateral security institutions and procedures, as well as implementation of related norms and provisions to transform security sectors will partly depend on the prospects of peace and stability on the continent. In no other world region do the eradication of poverty and the achievement of other Millennium Development Goals (MDGs) currently depend as much on the progress made in the field of security as in Africa.[26]

Democratic Security Sector Governance in the Americas

The Americas is another world region that developed regional and sub-regional norms and procedures to better manage and democratically control military and security forces as a means of promoting peace and enhancing inter-state confidence-building. However, if compared to the relatively coherent and focused institutional framework emerging in post-Cold War Africa, the approach that emerged on the American continent is set up on a different background and is more complex in nature. It is therefore necessary to further elaborate some of its aspects.

It has been pointed out by the authors contributing to the section on the Americas and mentioned also in the introduction that, despite the progress made on democratisation, effective implementation of democratic governance and civilian control of military and security forces still face certain challenges in Latin American countries. In the vast amount of literature devoted to that region, the military autonomy from civilian control and oversight appears as the most salient feature. In many of the post-colonial and post-authoritarian democracies of the region, the military have played a most significant political role. Although the post-Cold War democratisation wave led to their formal retreat from the political scene, the military still often maintain a "tutelary role" over the political system in many countries of the Hemisphere.[27] The legacies of military regimes also weigh overwhelmingly in the relationship between the armed forces and the police. The military still control a vast amount of economic resources and possess a quasi-monopoly over intelligence. While the threat of military putsches alongside populist policies persists, political intervention of paramilitary forces is a reality leading to a militarisation of domestic law enforcement. Although military organisations lost some of their authority with the return of Latin American societies to democracy and elected civilian governments, their historical alliances with dominant sectors of society still allow them to wield significant power. In her contributing chapter, Rut Diamint labelled this phenomenon "logrolling" related to the above-mentioned "tutelary" conduct of the military as a collective entity within the democratic framework. In other words, while the democratisation process has left a gap within civilian approaches to the security governance, the military maintain "prerogatives" over security sector reform.[28]

Nevertheless, domestic, sub-regional, and continental commitments on security sector governance do exist in the Americas and are partly comparable to those of Europe. However, compared to the local and sub-regional peace initiatives in Central America that contain innovative

elements regarding the democratic and civilian control of armed and security forces, efforts to address security sector governance at the continental level are a relatively recent phenomenon. During the final decade of the Cold War (1979 – 1989), the OAS had played only a rudimentary role in the hemisphere due to US unilateral action in Latin America. In particular, it was too weak to contribute to the resolution of Latin America's – mainly domestic – armed conflicts. However, in 1995, after three decades of bloody civil wars in the region, the governments of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama adopted the *Framework Treaty on Democratic Security in Central America* (see Annex 5 of the present volume). This document was elaborated on the background of the conviction that peace and national reconciliation will only be sustainable on the basis of a conceptual link between security, democracy and economic development.[29] The Framework Treaty is the main Central American normative instrument on democratic governance and civilian control of military and security institutions. Moreover, parts of its provisions seem to be inspired by the OSCE Code of Conduct.[30]

Interestingly, provisions regarding democratic civilian control and reform of the security sector have been adopted in some domestic peace regimes, too. The Central American sub-regional peace process actually provides a precedent in this respect. For instance, the subordination of the armed forces to the civilian authority appears in item 9 of Chapter I of the El Salvador 1992 Peace Agreement. However, the most significant case is provided by Guatemala's *Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society* of 1996 (see Annex 6 of the present volume). This document sets standards for democratic governance and transformation of the security sector in the context of post-conflict reconstruction and national reconciliation. Its comprehensive approach reaches out to areas including army reductions, reorientation of the armed forces towards an external defence mission, democratic reforms of military doctrine, educational and justice systems, and dismantling of security units implicated in human rights abuses, as well as the creation of a national civilian police force and civilian intelligence capabilities. As pointed out by Bernardo Arévalo de Léon in his contributing chapter, major obstacles – among them the continuing direct or indirect involvement of the military – regrettably hamper the full implementation of the Agreement.

With regard to the continental level, Céline Füri pointed out that the OAS member States waited until the 2001 American Summit in *Quebec City* to adopt commitments on security sector governance. Both the *Declaration*

and *Action Plan* (see Annex 4 of the present volume) of the Summit acknowledge the crucial importance of "… constitutional subordination of armed forces and security forces to the legally constituted civilian authorities". Besides, the 2001 Inter-American Democratic Charter integrates the democratic clause of Quebec City, which provides that any unconstitutional alteration or interruption of the democratic order in a state of the Hemisphere constitutes an insurmountable obstacle to the participation of that state's government in the Summit of the Americas process. Since the Quebec City Plan of Action offers an Inter-American framework for the implementation of a cross-dimensional development-democratisation-security agenda, it actually takes an approach similar to the above-mentioned Central American Framework Treaty.[31]

The emerging Pan-American approach to "democratic security" is also reflected at other sub-regional levels. In addition to Central America, the Andean Community's Declaration Regarding a South American Peace Zone underscores that peace, security and cooperation should be grounded in a commitment to reinforce mutual trust and promote development in the region.[32] Similar commitments are to be found in a 1992 United Nations General Assembly Resolution on the Zone of Peace and Cooperation of the South Atlantic: the document reaffirms that questions related to peace and security, on the one hand, and development, on the other hand, are interrelated as well as inseparable.[33] In a speech delivered at the OAS Committee on Hemispheric Security in 2002, Brazilian Ambassador Valter Pecly Moreira stressed that the Declaration of MERCOSUR, Bolivia and Chile as a Zone of Peace called for the enhancement of inter-state cooperation on a wide range of issues, including the establishment of a uniform method of reporting military expenditures, the improvement of military-civilian dialogue, as well as the deepening of strategic policy relations at domestic, bilateral, sub-regional and hemispheric levels.[34] This statement clearly shows efforts towards comprehensive and cross-sectoral security comparable to the Helsinki process that helped overcome the East-West divide in Europe, and is similar also to new trends in the European Union and the African Union. The cross- and multi-dimensional approach to security has thus become a common feature of Pan-European, Pan-African and Pan-American regimes and also relates to their new commitments on security sector governance.

Since the end of the Cold War, the transformation of the international security environment has urged the adoption of new security concepts that go beyond the military's own view and encompass a gamut of non-military dimensions. As regards the Americas, the 2002 "Declaration of

Bridgetown on the Multidimensional Approach to Hemispheric Security" recognises that "security threats, concerns and other challenges in the hemispheric context are of diverse nature and multidimensional scope, and that the traditional concept and approach must be expanded to encompass new and non-traditional threats, which include political, economic, social, health, and environmental aspects".[35] The declaration also acknowledges that the transnational nature of the new threats and challenges requires enhanced cooperation and coordination of hemispheric and national institutions with due consideration for sub-regional differences and characteristics. This new approach was endorsed by an OAS declaration recognising that the security of the Hemisphere encompasses political, economic, social, health and environmental factors, an approach which has been welcomed also by the Association of Caribbean States (ACS).

However, the holistic approach to security is not necessarily compatible with the agenda of the "Inter-American Convention Against Terrorism (2002)".[36] According to Norman Girvan, the convention militarises public security agendas of the countries of the region and has been framed at the expense of fundamental human rights and the rule of law. Referring to a statement made by Prime Minister Owen Arthur of Barbados in his opening address to the 32nd OAS General Assembly in 2002, Girvan further pointed out that a "meaningful definition of security cannot be limited to traditional military operations, but must adopt an integrated approach that addresses the conditions creating social instability such as HIV/AIDS, illegal arms and drug trafficking, trans-national crime, ecological disasters and the poverty that afflicts some 170 million people in the hemisphere."[37] The Barbados delegation to the Assembly stressed that there was an inextricable link between economic disenfranchisement, poverty, armed conflicts on the one hand, and the apathy and disillusionment of many citizens on the other hand. In short, when combined, these inter-linked problems may actually produce the root causes of terrorism.[38]

The issue of multidimensional security also appeared on the agenda of the Special OAS Conference on Security held in Mexico in 2003[39], a meeting in the framework of which the member States were called upon by the General Assembly to submit their replies to the Questionnaire on New Approaches to Hemispheric Security issued by the Committee on Hemispheric Security no later than 30 September 2002.[40] This Questionnaire requested information on a wide range of issues, including traditional and new concepts of security and security threats, as well as on institutional aspects of Hemispheric Security like for instance the relationship between the OAS and the Inter-American Defence Board (IADB).[41] The national

reply submitted to that questionnaire by the US delegation listed three generations or categories of security threats, risks and challenges. The first category included *traditional threats* mainly related to international or inter-state security threats like aggression. The second category referred to a new generation of *transnational threats* that do not respect national borders and often arise from non-state actors who take advantage of the massive flow of legitimate travel and commerce occurring in an increasingly interdependent hemisphere in order "to cloak their illicit activities".[42] Those threats, which encompass terrorism, drug trafficking, organised crime, uncontrolled mass migration, arms trafficking, including conventional armaments and small arms and light weapons (SALW), as well as the proliferation of weapons of mass destruction (WMD), are crosscutting in nature and thus need coordinated and cross-sectoral responses at the national level. In addition, and in order to effectively address them, states must reinforce international cooperation since none of them can effectively combat them alone. According to the US view, the first two categories of threats constitute the major elements of contemporary security challenges. As to the third category, that of *non-traditional risks and challenges* to hemispheric security, it includes fragile democratic regimes, human rights abuses, natural disasters, environmental disasters, economic instability, corruption, diseases such as HIV/AIDS, and extreme poverty. In connection with this specific category, the US reply affirmed: "While it is important to recognise the seriousness of these concerns (third category), the Hemisphere's security architecture is not the best way to address them."[43] Considering that a too narrow and too broad definition of security should be avoided, it argued: "As a region, we must be careful about labelling problems that are primarily economic or social as security issues or else we may find ourselves using wrong tools to fix real problems."[44]

At their Special Conference on Security, the OAS participating States adopted a "Declaration on Security in the Americas", which by reference to the Declaration of Bridgetown, affirmed that "the traditional concept and approach should be expanded to encompass new and non-traditional threats".[45] The Declaration is also interesting because of its commitments on democratic governance. In the spirit of the Inter-American Democratic Charter, it states that representative democracy, including good governance, is an indispensable condition for the stability and peace, as well as the political, economic and social development of the states in the Hemisphere. It also contains a key provision on civilian control according to which "the constitutional subordination of all state institutions to the legally constituted civilian authority and respect for the rule of law on the part of all

institutions and sectors of society are fundamental values that contribute to stability and peace in the states of the Hemisphere."[46]

This leads us back to the question of the role of the military in the Hemisphere. All contributors to the volume's section on the Americas observed that Latin American civil-military relations are still characterised by weak civilian management and oversight of defence policy. It has already been indicated by Victor-Yves Ghebali in his introductory chapter and further elaborated by the experts contributing to part III of the present volume that the general lack of civilian security and defence expertise constitutes one of the major challenges to more effectively implementing democratic governance of the security sector in the Americas. In order to develop more sound civil-military relations it is required that civil servants, congressional advisers and political parties increase their knowledge and acquire the skills and capacities to manage security and defence policy. As highlighted by Bernardo Arévalo de Léon in his contributing chapter, many of the persisting challenges to the strengthening of the democratic civilian control in Latin American societies do actually go back to the authoritarian regimes formerly established by European colonial powers. However, it appears that the problem persists due to the very nature of US bilateral (military) assistance programmes. For instance, the Pentagon, through its Southern Command, continues to offer courses and training programmes specifically for the military. This failure of US Foreign Defence Policy to develop appropriate training for civilians involved in security and defence policy management is thus comparable with NATO's failure to train civil servants in Central and Eastern European Partner countries. In any event, the failure on the Central American continent appears to be blatant in the case of Guatemala, where the US armed forces have been running a civil-military relations programme labelled "Expanded-International Military Education and Training (E-IMET)".[47]

This trend of militarised security policies in the Western Hemisphere and triggered by the United States is also illustrated in the context of the armed forces' involvement in human security issues. For instance, in 1997, the Conference of Central American Armed Forces (CFAC*)* was created which constitutes an association of top Central American Military Commanders for the purpose of providing the Secretary of the Central American Integration System (SICA) with support and advice on defence and security policies. Within the CFAC, a Humanitarian and Rescue Unit (UHR-CFAC) was also created to conduct military operations in case of natural disasters, as well as to hold UNESCO-sponsored seminars on the promotion of a "culture of peace and non-violence" in the region. The

Guatemala City final declaration adopted by one such seminar in 1998 recognised the need to strengthen the "institutional relations between the armed forces of Central America" and "between those forces and civil society" – an objective different from that of the "armed forces integration with civil society" as provided in paragraph 20 of the OSCE Code of Conduct.[48] In her contributing chapter, Rut Diamint points out that the CFAC is not so much a conference as an international military organisation whose organs are managed exclusively by the military without any institutionalised involvement of ministries of foreign and homeland affairs. Such a trend appears to contradict the US position as stated in the above-mentioned reply to the Questionnaire on New Approaches to Hemispheric Security and according to which "civilian entities" may often be best suited to deal with the new security threats, with or without the assistance of the armed forces" because the new transnational threats are best handled through multi-faceted responses by various national institutions, and not solely by the armed forces.[49]

However, in the aftermath of the terrorist attacks of 9/11, the conduct of the "global war on terror" has contributed to a re-militarisation of US foreign policy, a trend which has heavily affected the agendas of global security cooperation. As regards the Americas, it is also illustrated by the US anti-drug policy, which has become a predominantly military affair. This new trend is strongly felt by Latin American societies which face new challenges to allocate resources to non-military development programmes and to consolidate the peace and democratisation dividend of the 1990s.

In sum, regional instruments on security sector governance tend to be less developed in the Americas as compared with Europe and the OSCE region. In particular, a more coherent and integrated approach to security sector governance in the Hemisphere will depend on the willingness of many Latin American countries to put their militaries not only *pro forma* but also *de facto* under civilian control and democratic oversight. Unfortunately, Pan-American relations still lack strong and dynamic multilateral institutions that can create stronger external incentives for member states to make progress on security sector governance. Nevertheless, the framework set in the Hemisphere appears to be more sophisticated than the relatively focused and limited framework that has been drawn on the African Continent, let alone in Asia or the Middle East.

Conclusion

Both the democracy-deficit and the limited scope of regional and sub-regional cooperation and integration raise major institutional obstacles to more effectively implementing security sector governance. This holds true for all world regions and has been illustrated in the present volume in the cases of Africa and the Americas. Even Europe needs to develop its own approach, as major challenges remain in post-communist Europe and the relationship between Russia and Western Europe.

At the time of the Cold War, good governance did not play a significant role within international aid programmes, as governments were basically free to decide how to spend the money and assistance they received. As a matter of fact, many recipient countries in the developing world spent a considerable share of assistance on their military while keeping civilian and social institutions under-funded. However, since the 1990s, good governance has become a precondition for international aid. This new approach was finally applied even to the security sector, which is by definition the most cherished segment of the state's sovereignty. Major international development actors do not only emphasise the new relevance of good and democratic governance of the security sector. They actually started to address research and have provided respective policy guidelines. For instance, while the World Bank and the International Monetary Fund have started to put the issue of security sector reform more regularly on their agendas[50], the OECD issued (the above-mentioned) practical guidelines on security sector reform and governance. The inextricable links between security, democracy and development and the new emphasis on security sector governance in the context of regional conflict prevention are also put forward in the (above-mentioned) 2002 Human Development Report.

If compared with Europe and the Americas, one of the major challenges to the democratisation and good governance of African societies is that, in many cases, States and nations do not generally coincide. Besides this post-colonial legacy, widespread armed conflict, epidemics and under-development place heavy burdens on the Sub-Saharan continent. However, and in contrast to the relative neglect of security sector governance in the Asia-Pacific and Middle East regions, African leaders have started to adopt a comprehensive security agenda that includes security sector governance at regional and sub-regional levels.[51] Moreover, the African approach to security sector governance profits from a considerable share of local ownership. On the one hand, benchmark projects like the Draft Code of Conduct show some parallels with the OSCE Code of Conduct. On the other

hand, the framers of the former based their project on the security needs specific to the African security environment. For instance, security sector governance in Africa needs to take into account a wide range of non-statutory military and security forces, including paramilitary forces, militia forces, intelligence organisations, guerrilla armies and armed bands, as well as mercenaries and private security companies.

As regards the Americas, there is no continental integration process comparable to the EU or a multilateral collective security akin to NATO. This gap is partly connected with the relatively peaceful inter-state relations in the Western Hemisphere in the 20th century. Moreover, as consequence of the Monroe Doctrine, economic and security involvement in Latin America by extra-Hemispheric powers has systematically been ruled out by the United States since the second half of the 19th century. The predominant role of the United States in Hemispheric affairs in general (in particular in Central America and the Caribbean) has also hampered the development of a meaningful multilateral cooperation and local ownership in many Latin American countries. The Organisation of American States (OAS) has never developed a genuine cooperative or collective defence regime going beyond some limited confidence-building measures. Parallel military-to-military structures, such as the Inter-American Defence Board or the US Southern Command, are seemingly dominating military affairs in Pan-American relations. Finally, major challenges to implementing security sector reform in the Western Hemisphere remain intertwined with the imbalance of civil-military relations and the relative autonomy of the military from the civil authority. Contrary to the Central and Eastern European armed forces, Latin American military establishments had never been put under firm civilian control. Although they formally left politics to elected civilian governments after the end of the Cold War, they still constitute important players and stakeholders in political, social and economic affairs of their respective countries.

There are some interesting similarities in the approaches to security sector governance in Africa and the Americas. For instance the prohibition of unconstitutional change of governance is addressed both in the "Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government" (2000) – and reconfirmed in the Constitutive Act of the African Union (2002) – as well as in the Inter-American Democratic Charter (2001). Last but not least, comparative assessment of the OSCE region, Africa and the Americas reveals that all three world regions have made considerable progress in developing more comprehensive, holistic and

trans-institutional security agendas that are more appropriate to address the wide range of military and non-military security threats in the 21st century.

At the global level, the progress achieved in the field of democratic security sector governance currently depends on the states' capacity to reconcile the objectives of democratic governance with the global counter-terrorism agenda imposed by the United States in the aftermath of 9/11. One cannot rule out that the promising links between security, democracy and development may be hijacked by the war-on-terrorism strategy, including new military solutions to a wide range of civil problems. In order to avoid the new consensus on human security leading to another area of military dominance and spending, special emphasis must be put on the development of popular participation in security and defence coupled with sound public security strategies that include the empowerment of local police structures, civilian intelligence services and enhanced inter-state cooperation of non-military agents. In addition, a comprehensive approach to security sector reform and governance must encompass the democratic and civilian control of paramilitary and internal security forces, as well as non-statutory forces and private military companies.

To conclude, the cases of Africa and the Americas show that civil society, backed by key political leaders and international players, can be a driving force to promote good and democratic governance of security sector institutions. Some of the elements of the regimes emerging in those two world regions drew inspiration from European, North-Atlantic and OSCE "models". Their complementary lessons could serve as a ground for promoting regional and sub-regional processes in other world regions, including the Asia-Pacific and Middle Eastern areas. However, since most security sectors in those remaining world regions still tend to be shrouded in secrecy, their political and military leaders may accept an opening up of debate on the principle of non-interference in internal affairs. Regional integration based mainly on economic cooperation and reconstruction remains on a weak footing if states do not adhere to shared political values and build cross-border institutions and confidence respectively.

Notes

[1]   In 2006, the European Union formally became the 56th member participating in the OSCE. Previously, the Union had actually played a key role in the negotiation and adoption of the Code.

[2]   Kooijmans, Peter, "The Code and International Law", De Nooy, Gert (ed.), *Cooperative Security, the OSCE, and its Code of Conduct*, The Hague (Kluwer Law International), 1996, pp. 33-40, p. 37.

[3]   Paragraph 10 of the 1994 CSCE Budapest Document ("Towards a Genuine
        Partnership in a New Era") – within which the Code forms chapter IV under the
        section on the "Budapest Decisions" – emphasises that the Code "sets forth principles
        guiding the role of armed forces in democratic societies". The Budapest Document is
        available at: http://www.osce.org/documents/mcs/1994/12/4048_en.pdf.

[4]   Heiner Hänggi (ed.), *Practical Confidence-Building Measures: Does Good
        Governance of the Security Sector Matter?*, Geneva Centre for the Democratic Control
        of Armed Forces, Working Paper No. 107, Geneva, January 2003, p. 10.

[5]   The *Partnership for Peace Framework Document* is available at: http://www.nato.int/
        docu/comm/49-95/c940110b.htm. See also the *Partnership Work Programme (PWP)
        2001-2003*, Generic Section. The PWP is available at: http://nato.int/pfp/docu/
        d990616a.htm.

[6]   See for instance Susan Pond's report on "Partnership Action Plan on Defence
        Institution Building (PAP-DIB): Concept and Implementation", Brussels (NATO),
        2005, available at:
        http://se1.isn.ch/serviceengine/FileContent?serviceID=DCAF&fileid=0F05E5A7-
        6719-4287-BBAE-DB0FC290AE89&lng=en.

[7]   *NATO Membership Action Plan (MAP)*, Press Release NAC-S(99)66, 24 April 1999,
        available at: http://www.nato.int/docu/pr/1999/p99-066e.htm. Both the 1995 *Study on
        NATO Enlargement* and the 1997 *Madrid Summit Declaration* state that democracy is
        a prerequisite for membership of the Alliance. However, article 7 of chapter 1
        (principles and purposes of enlargement) of the study on enlargement emphasises that
        "there is no fixed or rigid list of criteria for inviting new member states to join the
        Alliance". Nevertheless, the section indirectly prescribes a strong commitment to
        democratic governance, including to OSCE principles, by membership aspirant
        countries. The Study can be found at: http://www.nato.int/docu/basictxt/enl-9501.htm.
        Article 8 of the 1997 Madrid Declaration confirms that the study on NATO
        enlargement "will continue to apply with regard to future aspirants, regardless of their
        geographic location. No European democratic country whose admission would fulfill
        the objectives of the (North Atlantic) Treaty will be excluded from consideration."
        The Declaration of Madrid on "Euro-Atlantic security and cooperation" is available at:
        http://www.nato.int/docu/pr/1997/p97-081e.htm.

[8]   Heiner Hänggi & Fred Tanner, "Promoting Security Sector Governance in EU's
        Neighbourhood", EU Institute for Security Studies, *Chaillot Paper*, No. 80, July 2005.

[9]   *EU Statement on the Draft Decision on OSCE Concept on Security Sector Governance
        (SSG)*, Finnish Presidency of the Council of the European Union Joint PC-FSC
        Meeting, 15 November 2006, PC.DEL/999/06, http://www.eu2006.fi/news_and_
        documents/other_documents/vko46/en_GB/1163675002597.

[10]   David Law, "Security Sector Reform and the Future of the Code of Conduct",
        Helsinki Monitor, No.2 (2006), pp. 160-174, p. 163. An electronic version of the
        article is available at: http://www.dcaf.ch/ssr_wg/SSR_Code.pdf. The EU has been
        referring to these issues in the Resolution of the European Parliament on the
        Communication from the Commission's "Agenda 2000: for a stronger and wider
        Union" (1997), as well as to the OSCE Code of Conduct in the 2000 European Union
        Annual Human Rights Report. *Ibid*. The Resolution (COM(97)2000-C4-0371/97) is
        available at:

http://www.europarl.eu.int/enlargement/positionep/resolutions/041297a_en.htm. *Ibid*, footnote No. 7. The Agenda (DOC/97/6, Strasbourg, 15 July 1997) is available at: http://www.infoeuropa.ro/ieweb/imgupload/1997_Agenda_2000.pdf. Finally, the 2000 human rights report is available at:

http://ec.europa.eu/comm/external_relations/human_rights/doc/report_00_en.pdf.

[11] European Union, Amsterdam Treaty, articles 6 and 7.

[12] David Law & Oksana Mishlovska: "The Evolution of the Concepts of Security Sector Reform and Security Sector Governance: the EU perspective", in: P. Fluri & D. Spence (eds.), *The European Union and Security Sector Reform*. London: (John Harper Publishing), forthcoming 2007.

[13] See for instance: *Democratic Oversight Over the Security Sector in Member States*, Council of Europe, Parliamentary Assembly, Doc. 9712, Strasbourg, 13 February 2003, http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc03/EDOC9712.htm.

[14] The CIS Inter-Parliamentary Assembly adopted a "Model Law on Parliamentary Oversight over State Military Organisations" (2001), which was prepared by the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and adopted at the CIS' 18th Inter-Parliamentary Assembly , Res. No. 18-33, 24 November 2001. It is available also at the DCAF website under: http://www.dcaf.ch/publications/kms/details.cfm?lng=en&id=20136&nav1=4.

[15] Even academic contributions to help conceptualise and categorise the principle of democratic civilian control of armed forces remain rare. An overview of best practices of democratic governance in the defence sector is provided in Alexandre Lambert, "Categorisation of Democratic Civilian Control (DCC)", Geneva Centre for the Democratic Control of Armed Forces, *Working Paper*, No. 164, June 2005, http://www.dcaf/ch/publications/WP164.htm;. Furthermore, Maria Rasmussen's civil-military relations assessment framework (based on a distinction between different levels of challenges in civil-military relations) offers a comprehensive assessment tool to measure the performance of transition countries. Her assessment framework is available at the website of the Centre for Civil-Military Relations (CCMR), http://www.ccmr.org/public/library_details.cfm?library_id=5518). See also Douglas Bland, "Patterns in Liberal Democratic Civil-Military Relations", *Armed Forces & Society*, Vol. 27, No. 4, Summer 2001, pp. 525-540, as well as: Born, Hans, "Democratic Oversight of the Security Sector: What Does It Mean?", Geneva Centre for the Democratic Control of Armed Forces, *Working Paper*, No. 9.

[16] OECD-DAC *Guidelines on Security System Reform and Governance*, available at: www.oecd.org/dataoecd/8/39/31785288.pdf. It should be added that a number of OECD countries do not belong to the OSCE area. Among the 30 states that ratified the OECD convention, there are only five that are non-OSCE: Australia, Japan, South Korea, Mexico and New Zealand; see the OECD website under: www.oecd.org/document/58/0,2340,en_2649_201185_1889402_1_1_1_1,00.html.

[17] The Copenhagen Criteria are available at: http://ec.europa.eu/enlargement/enlargement_process/accession_process/criteria/index_en.htm. See also the European Union glossary,

http://europa.eu/scadplus/glossary/accession_criteria_copenhague_en.htm.

[18] See for instance: "Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices, Handbook for Parliamentarians"; or: "Making Intelligence

Accountable: Legal Standards and Best Practice for Oversight of Intelligence Agencies"; or: "Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel"; these handbooks are available at http://www.dcaf.ch and have been translated into many different languages.

[19]   Dan Reiter, "Why NATO Does not Spread Democracy", *International Security*, Vol. 25, No. 4 (Spring 2001), pp. 41-67, p. 60.

[20]   David Law, *Security Sector Reform in the Euro-Atlantic Region:Unfinished Business*, Geneva Centre for the Democratic Control of Armed Forces, http://www.dcaf.ch/ ssr_wg/pb_secsecrec_ch02.pdf?navsub1=22&navsub2=3&nav1=3 p. 1.

[21]   A comparable process is still absent in the Asia-Pacific and Middle East regions.

[22]   See: http://www.au2002.gov.za/docs/key_oau/au_act.htm. The Constitutive Act transformed the OAU into the African Union (AU). Additional instruments to promote democratic governance in Africa are the *OAU/AU Declaration on the Principles Governing Democratic Elections in Africa* (AHG/Decl. 1 XXXVIII), the *African Charter for Popular Participation in Development and Transformation* (Arusha 1990), as well as the decisions to establish a *Pan-African Parliament*.

[23]   African Union, *Solemn Declaration on an African Common Defence and Security Policy*, http://www.africa-union.org/News_Events/2ND%20EX%20ASSEMBLY/ Declaration%20on%20a%20Comm.Af%20Def%20Sec.pdf.

[24]   "Roadmap for the Operationalisation of the African Standby Force", African Union Experts' Meeting on the Relationship between the African Union and the Regional Mechanism for Conflict Prevention, Management and Resolution, Addis Ababa, 22-23 March 2005,
http://www.iss.co.za/AF/RegOrg/unity_to_union/pdfs/au/asf/
roadmapmar05.pdf.

[25]   For a discussion of security sector governance in Asia see for instance: Carolina G. Hernandez, "Good Governance of the Security Sector and Confidence-Building: The East Asian Experience", Heiner Hänggi (ed.), *Practical Confidence-Building Measures: Does Good Governance of the Security Sector Matter?*, Geneva Centre for the Democratic Control of Armed Forces, Working Paper, No. 107, pp. 23-26. As regards the discussion on security sector reform in the Middle East, see among others: Arnold Luethold, "Security Sector Reform in the Arab Middle East: A Nascent Debate", Alan Bryden and Heiner Hänggi, (eds.), *Reform and Reconstruction of the Security Sector*, Geneva Centre for the Democratic Control of Armed Forces, Münster (LIT), 2004, pp. 93-118; Mark Sedra, "Consolidating an Elusive Peace: Security Sector Reform in Afghanistan", Alan Bryden and Heiner Hänggi, (eds.), *Reform and Reconstruction of the Security Sector*, Geneva Centre for the Democratic Control of Armed Forces, Münster (LIT), 2004, pp. 207-229; and: Walter Slocombe, "Iraq's Special Challenge: Security Sector Reform "Under Fire", Bryden and Hänggi, *op. cit., Reform and Reconstruction of the Security Sector*, Geneva Centre for the Democratic Control of Armed Forces, Münster (LIT), 2004, pp. 231-255.

[26]   In the United Nations Development Programme's *Human Development Report (2002)*, Chapter 4, it is emphasised that the establishment of democratic civilian control over military and security forces does play a key role in addressing the need to better integrate security and development concerns on the African continent.

27   Elisabeth Wood, *Spain, Brazil and Chile: Reshaping Civil-Military Relations in New Democracies*, New York University, December 1999, available at: http://www.geopolitics.com/claudia_heiss/militareswood.htm, p. 1.

28   Rut Diamint, "Civilians and the Military in Latin American Democracies", *Disarmament Forum*, Vol. 2 (2002), pp. 15-24, p. 15.

29   For instance, its provisions that "… each of the Parties shall establish and maintain at all times effective control over their military and public security forces by their constitutionally-established civil authorities; shall see to it that those authorities fulfill their responsibilities within this framework and shall clearly define the doctrine, missions and functions of those forces and their obligation to act solely in this context …" are close to key provisions under section VII of the OSCE Code of Conduct (e.g. its paragraphs 20 and 21).

30   See: www.summit-americas.org/Hemispheric%20Security/Framework3893-96.htm.

31   It shall be added that Article 9 of the Charter of the OAS declares: "A Member of the Organisation whose democratically-constituted government has been overthrown by force may be suspended from the exercise of the right to participate" in relevant OAS bodies and functions. The Charter of the OAS can be found at http://www.oas.org/juridico/English/charter.html.

32   *Declaration Regarding a South American Peace Zone*, Andean Community, Second Meeting of Presidents of South America, Guayaquil, 27 July, 2002, http://www.comunidadandina.org/INGLES/documentos/documents/CG_anex2.htm.

33   United Nations General Assembly, A/47/49 (1992), "Zone of Peace and Cooperation of the South Atlantic".

34   "Bilateral and Sub-Regional Aspects of Security and Defence: The Experience of MERCOSUR, Bolivia, and Chile", Presented by Ambassador Valter Pecly Moreira, Permanent Representative of Brazil to the Committee on Hemispheric Security, Meeting held at Washington D.C., 29 October 2002, Permanent Council of the OAS/Ser.G, Organisation of American States CP/CSH/INF.14.02, Committee on Hemispheric Security.

35   OAS General Assembly, Declaration of Bridgetown, "The Multi-dimensional Approach to Hemispheric Security", adopted at the fourth plenary session held on 4 June 2002, AG/DEC. 27 (XXXII-O/02).

36   *Inter-American Convention Against Terrorism*, OAS General Assembly, Second Plenary Session, 3 June 2002, AG/RES. 1840 (XXXII-O/02), available at: http://www.oas.org/main/main.asp?sLang=E&sLink=http://www.oas.org/legal/intro.htm.

37   Norman Girvan, "Multi-dimensional vs. Military Security", *The Greater Caribbean this Week*, published on the website of the Association of Caribbean States, http://www.acs-aec.org/column/index38.htm, p. 1.

38   *Ibid*.

39   *Work Programme of the Committee on Hemispheric Security in Preparation for the Special Conference on Security*, AG/RES. 1643 (XXIX-O/99), 7 June 1999.

40   *Special Conference on Security*, AG/RES. 1908 (XXXII-O/02), Item 7, http://www.oas.org/juridico/english/ga02/agres_1908.htm. See also: Permanent Council of the Organisation of American States, Committee on Hemispheric Security, Concepts of Security in the Hemisphere, Questionnaire (CP/CSH-338/00, rev. 5) and Answers, http://www.oas.org/csh/english/newq&a.asp.

[41]   In its reply to the Questionnaire of 25 April 2002, the US government supported the establishment of a permanent OAS Advisory Defence and Security body with the IADB as its cornerstone. This new body would thus provide the OAS Secretary General and Permanent Council with the educational, technical, and advisory expertise on defence and security issues "that the OAS needs to better serve its member states". See: The Permanent Representative of the USA to the OAS, Washington D.C., US Response to the Committee on Hemispheric Security's "Questionnaire on the New Approaches to Hemispheric Security", (CP/CSH-338/00 REV 5), April 25, 2002 (http://scm.oas.org/pdfs/2002/cp09944.pdf), p. 7.

[42]   *Ibid*, p. 2.

[43]   *Ibid*, p. 3.

[44]   *Ibid*, p. 2.

[45]   *Declaration on Security in the Americas*, OAS Special Conference on Security, Mexico City, 2003, 27-28 October 2002, OEA/Ser.K/XXXVIII, CES/DEC.1/03 rev. 1, 28 October 2003, pp. 1-2.

[46]   *Ibid*, p. 3.

[47]   Thomas C. Bruneau, "Civil-Military Relations Programme in Guatemala : Lessons Learned and Future Challenges", The Centre for Civil-Military Relations (CCMR), Naval Postgraduate School, Monterey, California, *Occasional Paper*, No. 1, July 1999, p. 4.

[48]   "Declaration of the Second Central American Military Forum for the Culture of Peace and Non-Violence", *UNESCO Culture of Peace Programme*, Seminar held at Guatemala City, Guatemala, 17 April, 1998, http://www.unesco.org/cpp.

[49]   US reply to the Questionnaire on New Approaches to Hemispheric Security, *op. cit*, pp. 2-3.

[50]   Michael Brzoska, "Development Donors and the Concept of Security Sector Reform", Geneva Centre for the Democratic Control of Armed Forces, Occasional Paper No. 4, Geneva, November 2003. See also Nicole Ball: "Transforming security sectors: the IMF and World Bank approaches", *Conflict, Security and Development*, No. 1 (1), 2001, pp. 45-66 (also available at:http://csdg.kcl.ac.uk/Publications/html/journal.htm).

[51]   See also: Nicole Ball and Kayode Fayemi, *Security Sector Governance in Africa: A Handbook*, Lagos, Centre for Democracy and Development, 2004.

ANNEXES

Annex 1

Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government (2000)[1]

We, Heads of State and Governments of the Organisation of African Unity, meeting at the Thirty-sixth Ordinary Session of our Assembly in Lome, Togo from 10 – 12 July, 2000 have undertaken a review of the Political Developments on the Continent and in particular the state of consolidating democracy in Africa.

We express our grave concern about the resurgence of coup d'etat in Africa. We recognise that these developments are a threat to peace and security of the Continent and they constitute a very disturbing trend and serious set back to the ongoing process of democratisation in the Continent.

We recognise that the phenomenon of coup d'etat has resulted in flagrant violations of the basic principles of our Continental Organisation and of the United Nations. The phenomenon also contradicts and contravenes the position taken by our Organisation in Harare in 1997 following the coup d'etat in Sierra Leone, in which we unequivocally condemned and rejected any unconstitutional change of government. We reaffirm that coups are sad and unacceptable developments in our Continent, coming at a time when our people have committed themselves to respect of the rule of law based on peoples will expressed through the ballot and not the bullet.

We recall our Decision AHG/Dec.141 (XXXV), adopted during the Thirty-fifth Ordinary Session of our Assembly, in which we unanimously rejected any unconstitutional change as an unacceptable and anachronistic act, which is in contradiction of our commitment to promote democratic principles and conditions.

We recall further the mandate by the Seventieth Ordinary Session of the Council of Ministers, held in Algiers, in July 1997, to the Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution to reactivate, as a matter of urgency, the sub-committee on unconstitutional change, in order to finalise its work in the light of the Harare discussions particularly, as regards the measures to apply in coup d'etat situations occurring in Member States.

We reaffirm the provisions of the OAU Charter and the provisions of the African Charter on Human and Peoples' Rights. We recognise that the principles of good governance, transparency and human rights are essential elements for building representative and stable governments and can contribute to conflict prevention.

Having reviewed the state of democracy in the Continent, and bearing in mind all our previous Decisions on this issue, as well as our strong determination to put an end to this unacceptable development.

We have agreed on the following elements of a Framework for an OAU response to Unconstitutional Changes of Government:

a) a set of common values and principles for democratic governance;

b) a definition of what constitutes an unconstitutional change; and

c) measures and actions that the OAU would progressively take to respond to an Unconstitutional Change of Government; and

d) an implementation Mechanism.

We are of the view that there is need to provide a solid underpinning to the OAU's agenda of promoting democracy and democratic institutions in Africa. Beyond invoking relevant Declarations issued by various sessions of our Assembly and the Council of Ministers, consideration could be given to the elaboration of a set of principles on democratic governance to be adhered to by all Member States of the OAU. These principles are not new; they are, as a matter of fact, contained in various documents adopted by our Organisation. What is required here is to enumerate them in a coherent manner which will bear witness to our adherence to a common concept of

democracy and will lay down the guiding principles for the qualification of a given situation as constituting an unconstitutional change. In this regard, and without being exhaustive, we have also agreed on the following principles as a basis for the articulation of common values and principles for democratic governance in our countries:

i) adoption of a democratic Constitution: its preparation, content and method of revision should be in conformity with generally acceptable principles of democracy;

ii) respect for the Constitution and adherence to the provisions of the law and other legislative enactments adopted by Parliament;

iii) separation of powers and independence of the judiciary;

iv) promotion of political pluralism or any other form of participatory democracy and the role of the African civil society, including enhancing and ensuring gender balance in the political process;

v) the principle of democratic change and recognition of a role for the opposition;

vi) organisation of free and regular elections, in conformity with existing texts;

vii) guarantee of freedom of expression and freedom of the press, including guaranteeing access to the media for all political stake-holders;

viii) constitutional recognition of fundamental rights and freedoms in conformity with the Universal Declaration of Human Rights of 1948 and the African Charter on Human and Peoples' Rights of 1981;

ix) guarantee and promotion of human rights.

We believe that the strict adherence to these principles and the strengthening of democratic institutions will considerably reduce the risks of unconstitutional change on our Continent. Indeed, experience has shown that unconstitutional changes are sometimes the culmination of a political and institutional crisis linked to nonadherence to the above common values and

democratic principles. Our Organisation should therefore support all efforts aimed at promoting adherence to these principles.

In order to give practical effect to the principles we have enunciated, we have agreed on the following definition of situations that could be considered as situations of unconstitutional change of government:

i) military coup d'etat against a democratically elected Government;

ii) intervention by mercenaries to replace a democratically elected Government;

iii) replacement of democratically elected Governments by armed dissident groups and rebel movements;

iv) the refusal by an incumbent government to relinquish power to the winning party after free, fair and regular elections.

We have also decided that:

Whenever an unconstitutional change as provided for in the definition of unconstitutional change above, takes place in a Member States, our Current Chairman of the OAU and our Secretary-General, on behalf of our Organisation, should immediately and publicly condemn such a change and urge for the speedy return to constitutional order. The Current Chairman and the Secretary-General should also convey a clear and unequivocal warning to the perpetrators of the unconstitutional change that, under no circumstances, will their illegal action be tolerated or recognised by the OAU. In that regard, the Current Chairman and the Secretary-General should urge for consistency of action at the bilateral, inter-state, sub-regional and international levels. The Central Organ should thereafter convene, as a matter of urgency, to discuss the matter.

At the request of its Chairman, the Secretary-General or any OAU Member State, the Central Organ may be convened to consider any given situation that could be considered as constituting an unconstitutional change. Following the initial response of condemning the unconstitutional change by the Central Organ:

(a) A period of up to six months should be given to the perpetrators of the unconstitutional change to restore constitutional order. During the six month period, the government concerned should be suspended from participating in the Policy Organs of the OAU. Apart from the sanctions provided for under Article 115 of the OAU Financial Rules and Regulations, the governments concerned should not participate in meetings of the Central Organ and Sessions of the Council of Ministers and the Assembly of Heads of State and Government. Its exclusion from participating in the OAU Policy Organs should not affect the country's membership in the OAU and therefore will not preclude it from honouring its basic obligations towards the Organisation including financial contributions to the OAU regular budget;

(b) The Secretary-General should, during this period gather facts relevant to the unconstitutional change of Government and establish appropriate contacts with the perpetrators with a view to ascertaining their intentions regarding the restoration of constitutional order in the country; the Secretary-General should seek the contribution of African leaders and personalities in the form of discreet moral pressure on the perpetrators of the unconstitutional change in order to get them to cooperate with the OAU and facilitate the restoration of constitutional order in the Member State concerned; the Secretary-General should speedily enlist the collaboration of the Regional Grouping to which the "country in crisis" belongs. At the expiration of the six months suspension period, a range of limited and targeted sanctions against the regime that stubbornly refuses to restore constitutional order should be instituted, in addition to the suspension from participation in the OAU Policy Organs. This could include visa denials for the perpetrators of an unconstitutional change, restrictions of government-to-government contacts, trade restrictions, etc. In implementing a sanctions regime, the OAU should enlist the cooperation of Member States, Regional Groupings and the wider International/Donor Communities. Careful attention should be exercised to ensure that the ordinary citisens of the concerned country do not suffer disproportionately on account of the enforcement of sanctions.

In order to give effect to these measures, we have decided that existing OAU mechanisms, particularly the Central Organ, at all its three levels, will be the instrument for implementing this Framework for an OAU response to unconstitutional changes in Africa. In this regard, we request our Secretary-General to explore how best to enhance the capacity of that Policy Organ to

enable it implement in an effective and credible manner, the principles contained in the Framework.

We have agreed on the establishment of a Central Organ sanctions sub-committee of 5 members chosen on the basis of regional representation. The sub-committee will regularly monitor compliance with Decisions taken on situations of unconstitutional changes and recommend appropriate review measures to the Policy Organs of the OAU.

Notes

[1]   See also the contribution of 'Funmi Olonisakin (chapter 2) to the present volume.

Solemn Declaration of the Conference for Security, Stability, Development and Cooperation in Africa (2000)[1]

1. We, the Heads of State and Government of the Member States of the Organisation of African Unity (OAU), meeting in Lome, Togo, at the 36th Assembly of our Organisation, have considered the report of the Ministerial meeting of the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA) held in Abuja, from 8 to 9 May, 2000. The Ministerial Conference was convened pursuant to the decision taken in Algiers in July 1999, proclaiming 2000 as the Year of Peace, Security and Solidarity in Africa as well as the Declaration adopted on 9 September, 1999, at our 4th Extraordinary Summit in Sirte, in the Great Socialist Peoples Libyan Arab Jamahiriya, which, inter alia, decided on the establishment of an African Union and the convening of the Ministerial Conference.

2. We recall the Decisions we have taken, over the years, to promote political stability and economic development in our Continent. In the realm of promoting stability, the African Charter for Popular Participation in Development and the Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World, were adopted in 1990.

3. In June 1993, in Cairo, Egypt, we adopted a Declaration establishing the Mechanism for Conflict Prevention, Management and Resolution to forge, within the OAU, a new institutional dynamism for the prevention, management and resolution of conflicts. In 1981 and 1998 respectively, the African Charter on Human and People's Rights and the Protocol on the establishment of the African Court on Human and People's Rights, were adopted. Both were important instruments for ensuring the promotion, protection and observance of human rights as an integral part of our

Organisation's wider objective of promoting collective security for durable peace and sustainable development.

4. In July 1997, during our Summit in Harare, we took a stand against Unconstitutional Changes of Government. This led the Algiers Summit of July 1999 to adopt a decision on Unconstitutional Changes of Governments to reinforce respect for democracy, the rule of law, good governance and stability.

5. In the area of development and cooperation, the Lagos Plan of Action and the Final Act of Lagos were adopted in 1980; the Treaty establishing the African Economic Community and the Cairo Agenda for Re-launching the Economic and Social Development of Africa, were adopted in 1991 and 1995 respectively. The Sirte Declaration of September 1999, included measures for accelerating the process of economic integration and addressing the question of Africa's indebtedness.

6. We recall that these concerns were at the core of the initiative launched by the African Leadership Forum on the CSSDCA process. We note that the conference on Security, Stability, Development and Cooperation in Africa as proposed in the Kampala Document was not conceived as a one-off event, but rather as a process. The underlying thinking of the CSSDCA process as articulated in the four calabashes of the Kampala Document of 1991 was a recognition of the fact that the problems of security and stability in many African countries had impaired their capacity to achieve the necessary level of intra and inter-African cooperation that is required to attain the integration of the continent and critical to the continent's socio-economic development and transformation. In this regard, we have used both the revised Kampala Document and the working document elaborated by our experts in Addis Ababa to enrich our thinking on the CSSDCA process.

7. We note that all the major decisions taken by our Organisation since its inception reflect the inter-linkage between peace, stability, development, integration and cooperation. We believe that the CSSDCA process creates a synergy between the various activities currently undertaken by our Organisation and should therefore help to consolidate the work of the OAU in the areas of peace, security, stability, development and cooperation. It should provide a policy development forum for the elaboration and advancement of common values within the main policy organs of the OAU.

8. We are convinced that the interactive approach embedded in the CSSDCA initiative, should provide an invaluable tool for the pursuit of the agenda of the OAU in the new millennium, with particular reference to the issues of Security, Stability, Development and Cooperation.

Declaration of principles

9. In recognition of the importance of the CSSDCA, which shall encompass four major areas henceforth called Calabashes: Security, Stability, Development and Cooperation in furthering Africa's interests within the ambit of the OAU, we affirm the following general and specific principles:

General principles

  a. Respect for the sovereignty and the territorial integrity of all Member States;

  b. The security, stability and development of every African country is inseparably linked to that of other African countries. Instability in one country affects the stability of neighbouring countries and has serious implications for continental unity, peace and development;

  c. The interdependence of Member States and the link between their security, stability and development make it imperative to develop a common African agenda. Such an agenda must be based on a unity of purpose and a collective political consensus derived from a firm conviction that Africa cannot make any significant progress without finding lasting solutions to the problem of peace and security;

  d. The peaceful resolution of disputes, with emphasis on seeking African solutions to African problems;

  e. The prevention, management and resolution of conflicts provide the enabling environment for peace, security, stability and development to flourish;

  f. The responsibility for the security, stability and socio-economic development of the Continent lies primarily with African States;

g. While recognising that the primary responsibility for the maintenance of international peace and security has with the United Nations Security Council, the OAU, in close cooperation with the United Nations and the Regional Economic Communities, remains the premier organisation for promoting security, stability, development and cooperation in Africa;

h. Democracy, good governance, respect for human and peoples' rights and the rule of law are prerequisites for the security, stability and development of the Continent;

i. Africa's resources should be used more effectively to meet the needs of African peoples and to improve their well-being;

j. The fulfillment of the objectives of the CSSDCA, requires the strengthening of Africa's solidarity and partnership with other regions of the world, in order to meet the challenges of globalisation and avoid further marginalisation;

k. HIV/AIDS and other pandemics on the continent constitute a threat to human security as well as short and long term sustainable growth in Africa;

l. Member States should adhere in good faith to all CSSDCA principles and ensure their implementation.

Specific principles

Security

10. Recognising that security should be seen in its wholesomeness and totality including the right of peoples to live in peace with access to the basic necessities of life, while fully enjoying the rights enshrined in the African Charter on Human and Peoples Rights and freely participating in the affairs of their societies; and bearing in mind that Africa's security and that of its Member States are inseparably linked with the security of all African peoples;

We affirm that:

a. Security should be recognised as a pillar of the CSSDCA process. It is an indispensable condition for peace, stability, development and cooperation. It underscores the organic links that exist between the security of Member States as a whole and the security of each of them on the basis of their history, culture, geography and their common destiny. This implies individual and collective responsibilities exercised within the basic framework of the African Charter on Human and Peoples Rights and other relevant international instruments;

b. The concept of security must embrace all aspects of society including economic, political, and social and environmental dimensions of the individual, family, and community, local and national life. The security of a nation must be based on the security of the life of the individual citisens to live in peace and to satisfy basic needs while being able to participate fully in societal affairs and enjoying freedom and fundamental human rights;

c. The security of all Africans and their States as a whole is indispensable for stability, development and cooperation in Africa. This should be a sacred responsibility of all African States – individually and collectively- which must be exercised within the basic framework of the African Charter on Human and Peoples' Rights and other relevant international instruments;

d. Member States should in times of peace undertake the delimitation and demarcation of common borders;

e. There is an imperative need to build and enhance Africa's capacity for peace support operations, emergency relief preparedness and natural disaster response at the sub-regional and continental levels, including the strengthening of regional efforts and initiatives;

f. Foreign intervention in the internal affairs of Member States, especially in situations of conflict should be resisted and condemned by all Member States;

g. The problem of refugees and displaced persons constitutes a threat to peace and security of the continent and its root causes must be addressed;

h. Uncontrolled spread of small arms and light weapons as well as the problem of landmines pose a threat to peace and security in the African continent.

Stability

11. Noting that stability requires that all States be guided by strict adherence to the rule of law, good governance, peoples participation in public affairs, respect for human rights and fundamental freedoms, the establishment of political organisations devoid of sectarian, religious, ethnic, regional and racial extremism;

We affirm that:

a. The Executive, legislative and judicial branches of government must respect their national constitutions and adhere to the provisions of the law and other legislative enactment promulgated by National Assemblies. No one should be exempted from accountability;

b. The active and genuine participation of citisens of every country in the decision-making processes and in the conduct of public affairs must be fostered and facilitated;

c. All rights and freedoms of citisens should be promoted and protected;

d. There shall be no hindrance to the promotion of political pluralism. All forms of extremism and intolerance foster instability;

e. Terrorism, in all its manifestations, is inimical to stability.

Development

12. Noting that the attainment of self-reliance, sustainable growth and economic development will be facilitated by the promotion of economic cooperation and integration; that effective diversification of the resource and production base is vital for rapid social and economic transformation; that

popular participation, equal opportunity, transparency in public policy-making and partnership between government and peoples are necessary for the achievement of development; that improved access to resources and markets for Africa's exports as well as debt cancellation and capacity-building in all fields of human endeavour are crucial for Africa's development;

We affirm that:

a. The accelerated economic development of our countries is at the centre of our national policies and in this regard, comprehensive programmes will be put in place at the national and regional levels to address capacity constraints, infrastructural problems and weak industrial and technological base;

b. Self-sustaining economic growth and development must be grounded on self-reliance and diversification of the production base of African economies;

c. Unilateral imposition of economic sanctions and blockade are unjust and constitute a serious constraint to development;

d. Rapid physical and economic integration of the continent through the African Economic Community and the Regional Economic Communities is vital for Africa's economic recovery and development and for enhancing prospects to achieve competitiveness in a globalising world;

e. The principles of popular participation, equal opportunity and equitable access to resources for all people must underlie all development objectives and strategies;

f. Partnership, trust and transparency between leaders and citisens will be critical to ensure sustainable development, based on mutual responsibilities and a shared vision;

g. An effective solution to Africa's external debt problem including total debt cancellation in accordance with the mandates given to the Presidents of Algeria and South Africa is crucial to supporting Africa's programme on poverty eradication;

h. (h) The inalienable sovereign right of African countries to control their natural resources must be respected.

Cooperation

13. Noting the importance of regional and sub-regional cooperation and integration to the development of our continent, and the efforts so far made in this connection to implement the Abuja Treaty establishing the African Economic Community, as well as the various initiatives of the Regional Economic Communities (RECs); and stressing the need to articulate and harmonise the macro-economic policies, strengthen the institutions for regional integration and build regional infrastructural networks, particularly in the transport and communication sectors;

We affirm that:

a. Member States should further intensify efforts at economic integration to compete better in the global economy and work towards a shortened time-table for the realisation of the African Economic Community (AEC);

b. Member States should act jointly and collectively to develop, protect, manage and equitably utilise common natural resources for mutual benefit;

c. Taking into account the growing global interdependence, African countries must seek to explore further, opportunities for beneficial cooperative relations with other developing and industrialised countries;

d. In pursuing closer cooperation and integration, African countries will need to transfer certain responsibilities to continental or sub-regional institutions within the framework of the African Economic Community and the Regional Economic Communities;

e. The promotion of North-South and South-South cooperation is an important strategy in Africa's development effort, particularly in addressing issues such as Official Development Assistance (ODA) and Foreign Direct Investment (FDI) flows, external debt and terms of trade which impact on Africa's development;

f. The process of regional and continental integration will be facilitated by enhanced effort at harmonisation and coordination of economic programmes and policies of Regional Economic Communities.

Plan of action

14. Having identified the General and Specific Principles that will guide the CSSDCA process and having reached a consensus on the need to put in place measures for the implementation of those principles, we, the Heads of State and Government of the Organisation of African Unity, have agreed on the following Plan of Action.

Security

We agree to:

a. Reinforce Africa's capacity for Conflict Prevention, Management and Resolution by strengthening the OAU Mechanism for Conflict Prevention, Management and Resolution, in particular, through the mobilisation of additional resources and logistical support for the operational activities of the Mechanism and the enhancement of the effectiveness of the Central Organ;

b. Strengthen the capacity of the OAU mechanism for negotiation, mediation and conciliation, inter-alia, through the use of African statesmen and eminent personalities in overall efforts to prevent, manage and/or resolve conflicts;

c. Establish modalities for more effective cooperation, coordination and harmonisation between the OAU and African and non-African organisations on the one hand, and between the OAU and the UN, as the World body which is primarily responsible for the maintenance of international peace and security, on the other, especially, in relation to peace-building and peace-making and peace-keeping;

d. Adopt confidence-building measures based on trust, transparency, good neighbourliness, respect for the territorial integrity, security

concerns of States and non-interference in their internal affairs, as the bedrock of inter-state relations. In this regard, negotiations for the delimitation and demarcation of disputed borders, exchange of information and cooperation at the sub-regional level on security matters, especially on issues relating to terrorism, cross border criminal activities and joint military training as well as emergency relief preparedness and natural disaster response;

e.   Recommit ourselves to politically negotiated approaches for resolving conflicts so as to create an environment of peace and stability on the continent that will also have the effect of reducing military expenditure, thus releasing additional resources for socio-economic development;

f.   Ensure that parties to conflicts commit themselves to fully cooperate with the efforts made within the framework of the OAU Mechanism for Conflict Prevention, Management and Resolution and of regional mechanisms;

g.   Endorse the proposed OAU Early Warning System which should be made fully operational expeditiously, to provide timely information on conflict situations in Africa. This should be complemented by a corresponding preparedness by our States to facilitate early political action by the OAU, based on Early Warning information;

h.   Enhance OAU's capacity for mobilising support and resources for the reconstruction and rehabilitation efforts of countries emerging from conflicts;

i.   Implement the Decision of the 31st Summit on Ready Contingents within Member States for possible deployment by the UN and in exceptional circumstances, by the OAU, as well as the recommendations of the meetings of the African Chiefs of Defence Staff;

j.   Address the root causes of the problem of refugees and displaced persons on the continent and work towards the mobilisation of resources to provide adequate assistance for asylum countries to enable them mitigate the impact of the refugee burden;

k. Address the phenomena of armed elements and political activists in Refugee Camps, impunity, crimes against humanity, child soldiers and drug addiction, which have contributed to the state of insecurity in some parts of the continent;

l. Work towards ending the illicit proliferation and trafficking in small arms and light weapons that has played a major role in perpetuating intra and inter-State conflicts in Africa;

m. Monitor progress and regularly evaluate the implementation of the Algiers Decision declaring the year 2000, as the Year of Peace, Security and Solidarity in Africa.

Stability

We agree to:

a. Intensify efforts aimed at enhancing the process of democratisation in Africa. In this regard, the strengthening of institutions that will sustain democracy on the continent including the holding of free and fair elections should be encouraged;

b. Adopt and implement a set of guidelines for dealing with unconstitutional and undemocratic changes in Africa in line with the Decisions that we took during the 35th Ordinary Session of our Assembly held in Algiers in 1999;

c. Encourage the participation and contribution of Civil Society in our States, to the efforts to bring about further democratisation in our Continent;

d. Recommit ourselves to the promotion of Good Governance, a culture of peace and accountability by leaders and officials, as a shared community value;

e. Encourage civic education on good governance and the promotion of African values in African institutions and schools;

f.   Uphold and guarantee the rule of law, the protection and defence of the rights of citisenship as acquired at independence and as provided for in national constitutions;

g.   Vigorously combat racism, extreme nationalism, religious extremism and xenophobic tendencies;

h.   Promote and encourage cohesion, national solidarity and identity within African societies;

i.   Protect and promote respect for Human Rights and Fundamental Freedoms, such as the freedom of expression and association, political and trade union pluralism and other forms of participatory democracy;

j.   Ensure the equitable distribution of national income and wealth, as well as transparency in the exploitation of Africa's resources. In this regard, the negative impact of external and internal interests in the exploitation of Africa's resources and corruption, which continue to fuel conflicts on the continent, should be addressed in a more cohesive and effective manner;

k.   Promote greater burden-sharing in addressing refugee problems in Africa and, especially, reduce its negative impact on the environment and the economies of asylum countries;

l.   Condemn genocide, crimes against humanity and war crimes in the Continent and undertake to cooperate with relevant institutions set up to prosecute the perpetrators. Similarly, we agree to take measures to prevent the occurrence of genocide on our Continent, and encourage ratification of the protocol on the establishment of African Court on Human and Peoples' Rights and the statute of the International Criminal Court.

Development

We agree to:

a.   Accelerate the implementation process of the Abuja Treaty establishing the African Economic Community;

b. Implement the Cairo Agenda for Re-launching the economic and Social Development of Africa;

c. Implement the Sirte Summit Declaration on the establishment of the African Union and other Decisions, including the establishment of a Pan-African Parliament;

d. Initiate action in cooperation with other developing countries to establish an open, rule-based, accountable, predictable, just, equitable, comprehensive and development-oriented global system of economic relations that takes into account the special situation of African economies;

e. Create stable and predictable economic environment that will allow for linkages between different economic sectors and dynamic local entrepreneurship, while establishing and reinforcing linkages between the formal and informal sectors;

f. Design programmes for poverty eradication and the improvement of the living standards of African peoples;

g. Support the appeals made by Tunisia to Heads of State and Government at Regional and International Fora for the creation of a World Solidarity Fund to combat poverty;

h. Build and nurture African solidarity and unity of action, based on shared values, common development interests and goals for the benefit of Africa and its peoples. Such solidarity should be manifested in situations where African countries and peoples are subjected to external pressures and sanctions;

i. Encourage and strengthen work ethics as well as create the necessary conditions to stop brain drain, particularly, through increased development of African human resources and the establishment of a register of African experts;

j. Strengthen partnership between the State and the private sector and create the propitious environment for the development and expansion of our economies;

k. Develop the human resources of our Continent;

l. Enhance relevant skills development through the optimal and efficient utilisation of existing institutions and develop new centres of excellence, and where necessary draw on, inter alia, the diaspora to supplement existing capacities and facilitate technology and skills transfer;

m. Implement reforms to enhance economic development;

n. Ensure the enactment of appropriate national laws to extend equal opportunities with respect to health, education, employment and other civic rights to all citisens, especially women and the girl child;

o. Mobilise financial resources, pursue the objective of the cancellation of Africa's debt and of improved market access for Africa's exports;

p. Develop as a priority, the main sectors of the economy, at all levels, such as agriculture, energy, industry, trade, transport and communication and human resources;

q. Give special emphasis to the empowerment of women to enable them actively and independently participate in activities aimed at promoting economic development;

r. Develop programmes to improve the skills of Youths, so as to facilitate their employment and enhance their role in development;

s. Promote sustainable environmental policies and sustained economic growth.

Cooperation

We agree to:

a. Pursue with vigour, the implementation of the Abuja Treaty, establishing the African Economic Community;

b. Implement the Cairo Agenda for Re-launching the Economic and Social Development of Africa;

c. Implement the Sirte Declaration of 9-9-99;

d. Elaborate a strategy for the dissemination and popularisation of the decisions of the OAU/AEC and the RECs;

e. Improve coordination at the level of the OAU to ensure accelerated integration at the regional levels and improved coordination among the RECs, and between the OAU/AEC and the RECs;

f. Promote financial cooperation and integration of financial markets;

g. Promote intra-African and international cooperation with a view to finding an effective solution to Africa's outstanding problems in the fields of debt, trade, investment and AIDS pandemic;

h. Implement the outcome of various studies undertaken on the establishment of self-financing mechanisms for the RECs;

i. Improve the modalities for undertaking regular review and the implementation of cooperation agreements, within Africa and between Africa and its development partners;

j. Improve various trade related facilities, including transport, communication, border formalities, to ensure the free movement of persons and goods at all levels;

k. Promote joint ventures between Member States and Regional Cooperation programmes;

l. Take necessary measures to identify static and dynamic comparative advantage, through joint harmonisation of regional policy framework, as the basis for the expansion of the production base in African countries and as a guide for cooperation between African countries in the areas of industry, trade, energy, transport, communication and human resources;

m. Strengthen Regional Economic Communities;

n. Promote South-South Cooperation and Cooperation between Africa and the Industrialised countries;

o. Improve access to information and communication technologies;

p. Forge close cooperation with a view to addressing problems related to natural disasters through the establishment of appropriate institutions and promotion of capacity building.

Implementation mechanism

15. In order to implement the CSSDCA within the framework of our Organisation and ensure the sustainability of the process, we agree to:

a. Establish a Standing Conference which should meet every two years during our Summit. Provision should be made for African Parliamentarians to make their contributions to the Conference through the Pan-African Parliament, while representatives of the civil society may forward their views and recommendations to the Standing Conference through the OAU General Secretariat;

b. Convene of Review Meetings of Plenipotentiaries and Senior Officials of OAU Member States to monitor the implementation of the CSSDCA decisions, in-between Sessions of the Standing Conference. To this end, we request our Secretary General to work out the modalities and financial implications for realising this objective;

c. Incorporate CSSDCA principles and guidelines in national institutions that would have responsibility for helping in the monitoring of the implementation of CSSDCA activities;

d. Request the Secretary General to initiate internal administrative arrangements for designating, within the OAU Secretariat, a Unit to coordinate CSSDCA activities;

e. Take necessary measures to ensure that detailed discussions are undertaken on the various Calabashes in order to implement the CSSDCA process. In this regard, the Secretary General is requested to coordinate the consultations with a view to ensuring the convening of the meetings on the Calabashes;

f. Review the progress report of the Secretary General on the CSSDCA process during our next Extra-Ordinary Summit in Sirte, Libya in 2001 and the conclusions of the discussions on the various Calabashes at our Summit in 2002;

g. Review the agreements deriving from these meetings and discussions after considering the outcome of consultations to be undertaken by the Secretary General, during our Summit in Sirte, Libya, in 2001.

Notes

[1] See also the contribution of Ayodele Aderinwale (chapter 3) in the present volume.

Annex 3

Draft Code of Conduct on Armed and Security Forces in Africa[1]

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 citisens 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 citisens 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 Cooperation 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 cooperate 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 cooperate 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 internallydisplaced 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.

Notes

[1] See also the contribution of Adedeji Ebo (chapter 4) in the present volume.

Annex 4

Quebec City Action Plan (2001)[1]

To strengthen democracy, create prosperity and realise human potential, our Governments will:

4. HEMISPHERIC SECURITY*

Recognising that democracy is essential for peace, development and security in the Hemisphere which, in turn, are the best basis for furthering the welfare of our people, and noting that the constitutional subordination of armed forces and security forces to the legally constituted authorities of our states is fundamental to democracy:

Strengthening Mutual Confidence

Hold the Special Conference on Security in 2004, for which the OAS Committee on Hemispheric Security will conclude the review of all issues related to approaches to international security in the Hemisphere, as defined at the Santiago Summit;

Continue with priority activities on conflict prevention and the peaceful resolution of disputes, respond to shared traditional and non-traditional security and defence concerns and support measures to improve human security;

Support the efforts of the Small Island Developing States (SIDS) to address their special security concerns, recognising that for the smallest and most vulnerable states in the Hemisphere, security is multi-dimensional in scope, involves state and non-state actors and includes political, economic, social and natural components, and that the SIDS have concluded that among the threats to their security are illicit drug trafficking, the illegal trade in arms, increasing levels of crime and corruption, environmental vulnerability exacerbated by susceptibility to natural disasters and the transportation of nuclear waste, economic vulnerability particularly in relation to trade, new

health threats including the Human Immunodeficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) pandemic and increased levels of poverty;

Improve the transparency and accountability of defence and security institutions and promote greater understanding and cooperation among government agencies involved in security and defence issues, through such means as increased sharing of defence policy and doctrine papers, information and personnel exchanges, including, where feasible, cooperation and training for participation in UN peace-keeping activities and to respond better to legitimate security and defence needs, by improving transparency of arms acquisitions in order to improve confidence and security in the Hemisphere;

Continue promoting greater degrees of confidence and security in the Hemisphere, inter alia through sustained support for measures, such as those set forth in the Santiago and San Salvador Declarations on Confidence and Security Building Measures (CSBMs), and for existing mechanisms, agreements and funds, and consider signing and ratifying, ratifying, or acceding to, as soon as possible and as the case may be, the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, the Inter-American Convention on Transparency in Conventional Weapons Acquisitions, and the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials, giving full support to the UN Conference on the Illicit Trade in Small Arms and Light Weapons in all Its Aspects to be held in July 2001, bearing in mind the results of the Regional Preparatory Meeting of Latin America and the Caribbean, held in Brasilia in November 2000, and the work of the OAS, which contributed a regional perspective to the discussions;

Strongly support the Third Meeting of State Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, to be held in September 2001 in Managua, Nicaragua, and the Review Conference of the 1980 UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, to be held in December 2001 in Geneva; as well as the efforts of the OAS to pursue the goal of the conversion of the Western Hemisphere into an anti-personnel- landmine-free zone;

Call for an experts meeting, before the Special Conference on Security, as a follow-up to the regional conferences of Santiago and San Salvador on CSBMs, in order to evaluate implementation and consider next steps to further consolidate mutual confidence;

Promote financial support to the OAS Fund for Peace: Peaceful Settlement of Territorial Disputes, established to provide financial resources to assist with defraying the inherent costs of proceedings previously agreed to by the parties concerned for the peaceful resolution of territorial disputes among OAS member states;

Support the work leading up to the Fifth Meeting of Defence Ministers of the Americas to take place in Chile, as well as meetings that will take place subsequently;

Fight Against Terrorism

Support the work initiated by the Inter-American Committee on Terrorism (CICTE) established within the OAS as a result of the Commitment of Mar del Plata adopted in 1998, and encourage hemispheric cooperation to prevent, combat and eliminate all forms of terrorism, taking into account the approval of the Statute and Work Plan of CICTE;

Consider signing and ratifying, ratifying, or acceding to, as soon as possible and as the case may be, those international agreements related to the fight against terrorism, in accordance with their respective internal legislation;

(***** Mexico understands that all of Chapter 4 of the Plan of Action, including its title "Hemispheric Security"and all of its concepts and provisions, will be addressed in the appropriate OAS fora, in conformity with the mandate of the Second Summit of the Americas, held in Santiago de Chile, in April 1998.)

Notes

[1]   See also the contribution of Céline Füri (chapter 5) to the present volume. The Quebec City Action Plan encompasses 18 sections, ranging from democracy, development and security to disaster management and indigeneous peoples. In this annex, only section 4 on hemispheric security is included since it is the section with the main provision on security sector governance.

Annex 5

Framework Treaty on Democratic Security in Central America (1995)[1]

The Governments of the Republic of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, hereinafter referred to as "The Parties",

CONSIDERING

That the basic goal of the Central American Integration System and of the Alliance for Sustainable Development is to integrate Central America so that it will be consolidated as a region of peace, freedom, democracy and development;

That the goals of the Central Integration System, which were established in the Tegucigalpa Protocol, are to achieve the sustainable development of Central America, which entails implementing a New Regional Security Model, which is unique, comprehensive and indivisible, based on the progress made in the region's intensive process of pacification and integration;

That the countries of Central America have reaffirmed their commitment to democracy, based on a government of laws and the guarantee of basic freedoms, economic freedom, social justice, and the strengthening of a community of democratic values among the countries, which are joined together by ties of history, geography, brotherhood and cooperation;

That the sustainable development of Central America can only be achieved by establishing a regional legal community that will protect, ensure and promote human rights and guarantee security under law, and will ensure peaceful relations and integration among the countries of the region;

That any situations that breach the peace and affect the security of any Central American countries also affect all the countries of the region and their inhabitants;

That agreement on the goals of democratic consolidation is not incompatible with recognition of the special characteristics of each country in the region, which includes the special status of those countries that have decided on the elimination or constitutional permanence of their armed forces;

That in recent years, as peace and democracy have been consolidated, the countries of Central America have made important progress in attaining these goals by demobilising and reducing military forces and budgets, separating police functions from national defence functions, eliminating compulsory military service, and where necessary, adopting policies on impunity, terrorism and drug trafficking, as well as the growing professionalism of the public security institutions, among other things;

That the Central American Democratic Security Model is based on the supremacy and strengthening of civil power, the reasonable balance of forces, the security of persons and of their property, the elimination of poverty and extreme poverty, the promotion of sustainable development, the protection of the environment, the elimination of violence, corruption, impunity, terrorism, drug trafficking, and arms trafficking. Also, the Central American Security Model will increasingly devote resources to social investments;

That it is essential, for attaining the goals and principles set forth herein, to continue the efforts mentioned and to adopt a model legal instrument for comprehensive achievement of all aspects of the New Democratic Security Model that will ensure the permanence of the gains made;

Agree to sign this Treaty on Democratic Security in Central America, as an instrument to complement the Tegucigalpa Protocol.

TITLE I

GOVERNMENT OF LAWS

Article 1

The Central American Democratic Security Model is based on democracy and the strengthening of its institutions and a government of laws; on governments elected by universal, free and secret suffrage and unconditional respect for human rights in the countries of the Central American region.

The Central American Democratic Security Model has its *raison d'être* in respect for, promotion of and safeguarding of all human rights, so that its provisions ensure the security of the Central American countries and their inhabitants, by creating conditions that permit their personal, family and social development in peace, freedom and democracy. It is based on strengthening civil power, political pluralism, economic freedom, the elimination of poverty and extreme poverty, the promotion of sustainable development, the protection of the consumer, the environment and the cultural heritage; the elimination of violence, corruption, impunity, terrorism, drug trafficking, and arms trafficking; the establishment of a reasonable balance of forces that will take into consideration the domestic situation of each country and need for cooperation among all Central American countries to ensure their security.

Article 2

The Central American Democratic Security Model shall be governed by the following principles relating to this topic:

a. A government of law, which includes the supremacy of the rule of law, the existence of security under the law, and the effective exercise of civil liberties;

b. Strengthening and ongoing improvement of democratic institutions in each country, for mutual consolidation of them within their own sphere of action and responsibility, through a continuous and sustained process of consolidation and strengthening of civil power, limiting the role of the armed forces and of the public security forces to the authority given them

constitutionally, and the promotion of a culture of peace, dialogue, understanding and tolerance based on the democratic values that the countries have in common;

c. The principle of subordination of the armed forces, the police and the public security forces to constitutionally established civil authorities chosen in free, honest and pluralistic elections; and

d. Maintenance of a flexible and active dialogue and mutual collaboration on security issues in the broad sense of the term in order to ensure that democracy in the region is irreversible.

Article 3

To ensure the security of the individual, the Parties undertake to see to it that all actions taken by the public authorities are consistent with their legal system and fully respect international human rights instruments.

Article 4

Each of the Parties shall establish and maintain at all times effective control over their military and public security forces by their constitutionally established civil authorities; shall see to it that those authorities fulfill their responsibilities within this framework and shall clearly define the doctrine, missions and functions of those forces and their obligation to act solely in this context.

Article 5

Public and private corruption is a threat to democracy and the security of the people and of the countries of the Central American region. The Parties undertake to make every effort to eliminate all forms of them at all levels.

In this connection, the meeting of the State comptroller entities of each Party shall assist the Security Commission in the design, establishment and implementation of regional programs and projects to modernise and harmonise legislative, investigative, educational and corruption preventive measures.

Article 6

The Parties shall make every effort to eliminate the impunity of criminals. The Security Commission shall make contact with the institutions and officials connected with this problem in order to help develop programs to harmonise and modernise the criminal justice systems of Central America.

Article 7

The Parties recognise the importance of having their public authorities, military forces and public security forces conduct their activities in accordance with the principles and recommendations in the following resolutions of the General Assembly and the United Nations:

a. 40/34 Declaration on the Fundamental Principles of Justice for Victims of Crime and Abuse of Power;

b. 43/173 Set of Principles for the Protection of all Persons Subjected to any kind of Detention or Imprisonment;

c. 45/113 United Nations Rules for the Protection of Minors Deprived of Liberty;

d. 3452 (XXX) Declaration on the Protection of all Persons against Torture and Other Cruel, Inhumane or Degrading Punishment;

e. 34/169 Code of Conduct for Officials Responsible for Law Enforcement.

As well as the Basic Principles on the Use of Force and Fire Arms by Officials Responsible for Enforcing the Law, adopted by the Eighth United Nations Congress on Prevention of Crime and Treatment of Delinquents.

Article 8

To strengthen democracy, the Parties reaffirm their obligation to refrain from providing political, military, financial or any other support to individuals, groups, irregular forces or armed bands that threaten the unity and order of the State or that advocate the overthrow or destabilisation of the democratically elected government of any other of the Parties.

Moreover, they reiterate their obligation to prevent the use of their territory for organising or conducting military actions, acts of sabotage, kidnapping or criminal activities in the territory of another country.

Article 9

The Parties recognise the importance of the Treaty of Mutual Legal Assistance in Criminal Matters, signed in Guatemala City, the Republic of Guatemala, on October 29, 1993, and the special nature of any constitutional provisions and any treaties and conventions that stipulate the right of asylum or sanctuary.

TITLE II

SECURITY OF PERSONS AND THEIR PROPERTY

Article 10

The Central American Democratic Security Model shall be governed by the following principles in connection with this Title:

a. Democratic security is integral and indivisible. The solution of problems of security of persons in the region shall therefor be based on a comprehensive and interrelated view of all aspects of sustainable development in Central America, in their political, economic, social, cultural and ecological expressions;

b. Democratic security is inseparable from human considerations. Respect for the essential dignity of human beings, improvement of the quality of life and the full development of human potential are required for all aspects of security;

c. Supportive humanitarian aid in the event of emergencies, threats and natural disasters; and

d. Poverty and extreme poverty are regarded as threats to the security of the people and to the democratic stability of Central American societies.

Article 11

To contribute to the consolidation of Central America as a region of peace, freedom, democracy and development, the following objectives are established:

a. To guarantee for all persons security conditions that will enable them to participate and benefit from national and regional sustainable development strategies, through the impetus of a market economy that will make economic growth with equity possible;

b. Establish and strengthen mechanisms for operational coordination of the competent institutions, to make more effective at the national and regional level the struggle against crime and all threats against democratic security that require the use of military, security or police forces, such as terrorism, unlawful trafficking in arms, drug trafficking and organised crime;

c. Strengthen cooperation, coordination, harmonisation and convergence of policies on the security of persons, as well as border cooperation and furtherance of social and cultural ties among the peoples; and

d. Promote cooperation among the countries to ensure security under law for the property of persons.

Article 12

The General Secretariat of the Central American Integration System shall be in charge of organising and managing a Central American Security Index and shall from time to time make progress reports on it to the governments concerned, through the Security Commission of Central America.

Article 13

The Parties undertake to:

a. Help spur regional promotion of all human rights and the culture of peace, democracy and integration among the peoples of Central America;

b. Promote the contribution of the mass media in the Parties to achieving the objectives set forth in the preceding subparagraph; and

c. Promote projects to integrate border development, in a spirit of Central American solidarity and democratic participation of the people.

Article 14

The Parties undertake to promote ongoing professional training and modernisation of their public security forces to enable them to conduct the broadest and most effective campaign against criminal activity and protect the rights embodied in the domestic laws of each country.

Also, they undertake to put into operation the Central American Institute of Advanced Police Studies.

Article 15

The Parties recognise that poverty and extreme poverty damage human dignity and are a threat to the security of the people and to the democratic stability of the societies of Central America, and to that end, they undertake to give priority to efforts to overcome the structural causes of poverty and improve the quality of life of the people.

Article 16

Tailoring the national budgets to the reality in each country shall be aimed at benefitting the social sector in health, education and other fields that help to improve the quality of life of the people, particularly the most deprived classes of society.

Article 17

The Parties undertake to cooperate in eradicating drug trafficking and the unlawful trade in precursors and related crimes, pursuant to international, regional and subregional agreements to which they are Parties or any agreements they have concluded on these topics, particularly the Agreement Establishing the Permanent Central American Commission for the Eradication, Production, Trafficking in, Consumption and Illicit Use of Narcotics and Psychotropic Substances. To this end, they shall set up streamlined and effective mechanisms for communication and cooperation among officials responsible for this work.

Article 18

The Parties undertake to prevent and combat every kind of criminal activity having regional or international impact, without any exception, such as terrorism, sabotage, and organised crime, and to prevent by every means the planning, preparation and conduct of such activities within their territory.

To that end, they shall strengthen cooperation and shall promote the exchange of information among the agencies responsible for migration control, the police and other competent officials.

Article 19

The Parties shall endeavor, if they have not already done so, to initiate the necessary proceedings to approve, ratify or accede to the following international agreements:

a. Convention for the Suppression of Unlawful Seizure of Aircraft, 1963;

b. Convention to Prevent and Punish Acts of Terrorism Involved in Offenses Against Persons and Any Related Extortion when such crimes are of International Transcendence, 1971;

c. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, 1971;

d. Convention on Prevention and Punishment of Crimes against Persons who are Internationally Protected, including Diplomatic Agents, 1973; and

e. International Convention against the Taking of Hostages, 1979.

Article 20

The Parties undertake to take steps to combat the activities of organised gangs trafficking in persons when such crimes are of international transcendence in the region, in order to seek comprehensive solutions to this problem.

Article 21

The Parties undertake to make every effort to promote cooperation to ensure protection of the consumer, the environment, and the cultural heritage of Central America, pursuant to any international and regional agreements to which they are Parties or any they have signed on these topics, particularly the Agreement Establishing the Central American Commission on the Environment and Development. To that end, they shall establish streamlined and effective mechanisms for communication and cooperation among officials working in these areas.

Article 22

The Parties recognise that for effective cooperation in these areas, it is essential, in the event this has not yet been done, to initiate the necessary proceedings to approve, ratify or accede to international and regional agreements on protection of the environment and the cultural heritage.

Article 23

The Parties reaffirm their resolve to appropriately reintegrate into society refugees, displaced persons and uprooted persons who return voluntarily and peacefully to their territories, so that such persons can enjoy all of their rights and improve their quality of life on an equal footing with others, taking into consideration the domestic situation prevailing in each country.

Article 24

The Parties undertake to take positions and adopt joint strategies for defending their nationals abroad who face repatriation or expulsion.

Article 25

The Security Commission, based on any proposals it receives from the competent regional organs and in coordination with them, shall formulate and forward to the sectoral or intersectoral councils concerned recommendations on the following topics, among others:

a. Strengthen internal controls of borders, ports, airports, air space and territorial seas to detect the following: unlawful trafficking of cultural artifacts and facilitate their recovery; unlawful trade in wood, plant and animal species; trafficking in and handling toxic wastes and hazardous substances; drug trafficking and related crimes, particularly the unlawful trade in precursors, money laundering and other activities; theft of vehicles, boats and aircraft, without affecting any regional mechanisms they may agree upon to prevent and punish such crimes;

b. Define criminal activities and harmonise and modernise their laws on protecting consumers, the environment, the cultural heritage and any other topics that require such action, with a view to establishing a common standard of security;

c. Conclude agreements on the topics included under this heading; and

d. Promote cooperation and coordination between entities having jurisdiction and the public ministries of the Parties with a view to streamlining their activities aimed at strengthening the fight against crime.

TITLE III

REGIONAL SECURITY

Article 26

The Central American Democratic Security Model shall be governed by the following principles, in connection with this heading:

a. Equal sovereignty of States and enforcement of the law and stability of legal institutions in their relations with each other;

b. Peaceful settlement of disputes, renouncing the threat or use of force as a means of settling their differences. The countries shall refrain from any act that might worsen conflicts or hamper the settlement of any disputes by peaceful means;

c. Renunciation of the threat or the use of force against the sovereignty, territorial integrity and political independence of any country in the region that is a signatory of this Treaty;

d. Self determination of Central America, by which the signatory states to this Treaty, define their own regional strategy for sustainable development and international coordination;

e. Solidarity and security of the peoples and governments of Central America in the prevention and joint settlement of common problems on this topic;

f. Prohibiting the use of their territory to invade other countries, to serve as a refuge for irregular forces, or to establish organised crime;

g. The democratic security of each of the countries signing this Treaty is closely connected with the security of the region. Accordingly, no country shall strengthen its own security at the expense of the security of other countries;

h. Collective defence and solidarity in the event of armed attack by a country outside the region against the territorial integrity, sovereignty, and

independence of a Central American country, in accordance with the constitutional provisions of the latter country and of the international treaties in force;

i. The national unity and territorial integrity of the countries in the framework of Central American integration; and

j. Respect for the goals and principles of the Charter of the United Nations (UN) and the Charter of the Organisation of American States (OAS).

Article 27

The following are additional goals of the Model regarding this topic:

a. Establish an early warning system to prevent threats against the security of any of the Model's categories and an ongoing confidence-building program among the countries of Central America;

b. Continue efforts to establish a reasonable balance between military and public security forces, in accordance with the internal and external situation of each State Party, conditions in Central America, and the decisions of the civil authorities of the democratically elected governments of the Parties;

c. Establish a Central American Mechanism for Security Information and Communication;

d. Establish and strengthen Central American mechanisms for the peaceful settlement of disputes, pursuant to the provisions of this Treaty;

e. Coordinate in the region ways to cooperate with international efforts in maintaining and reestablishing international peace and security; and

f. Promote law enforcement on the borders of the countries signing this Treaty, through delimitations, demarcations, and settlement of pending territorial disputes, where appropriate, and ensure the joint defence of the territorial, cultural and ecological heritage of Central America, in accordance with the machinery of international law.

Article 28

Without prejudice to the Annual Program of Confidence Building Activities, which the Security Commission should prepare and carry out, the Parties, pursuant to any treaties to which they are Parties, undertake to:

a. Notify the other Parties in writing, through diplomatic channels, no less than thirty days beforehand, about any land, air or naval maneuver, movement of forces, or military exercise conducted under such conditions as may be determined by the Security Commission, as regards: number of troops, location with respect to the border, nature and quantity of equipment that will be employed, among other things, and

b. Invite the other Parties to witness the above mentioned activities. The Parties shall accord such observers the same immunity from civil and penal jurisdiction as is accorded to diplomatic agents under the Vienna Convention on Diplomatic Relations, during the duration of their mission and for any acts carried out in the performance of their duties.

Article 29

In the event of unforeseen military operations to deal with immediate security threats, the State that undertakes such operations must report on them as soon as possible, pursuant to the provisions of the previous article.

Article 30

The Parties undertake to combat unlawful trafficking in military weapons, material and equipment, as well as small arms for personal protection. To that end, they undertake also to establish specific, modern and standardised regulations within their national jurisdictions.

Article 31

When a situation of unlawful weapons trafficking cannot be resolved within the framework of national legal procedures, the State or States involved shall endeavor to solve the problem by means of communication and cooperation among their competent officials.

Article 32

The Parties undertake to continue their efforts to limit and control armaments, by means of a reasonable balance of forces, in accordance with the internal and external situation in each country.

Article 33

The reasonable balance and the adjustment of military forces and budgets to achieve it shall take into consideration the constitutional provisions of each Party and their defence needs, in light of such basic factors as relevant geographic conditions and borders, and the presence of foreign military forces or advisers, among others.

Article 34

The Parties undertake to refrain from acquiring, maintaining or permitting the stationing in or transit through their territories of weapons of indiscriminate mass destruction, including chemical, radiological and bacteriological weapons. The Parties likewise undertake not to construct or to allow anyone to construct in their territories, facilities to manufacture or store such weapons.

The Parties recognise the effectiveness of the Treaty on the Permanent Neutrality of the Panama Canal and on the operation of the Canal, as States acceding to the Protocol of the Treaty, which guarantees at all times peaceful and uninterrupted transit of the ships of all countries through the Canal.

Article 35

In order to achieve effective control of armaments, the Parties undertake the following:

a. To submit to the Security Commission, as often as the Council of Ministers of Foreign Affairs determines, a report on the make up of their military and public security institutions, and the organisation, facilities, armaments, material and equipment of those institutions, aside from any aspects that by their nature are reserved to the constitution of each State;

The report, which is classified as confidential for the State and region, shall be drawn up according to the format and inventory content the Security Commission may decide and shall include all naval, air, land and public security data needed to make the information provided complete, transparent and verifiable, solely and exclusively by the decision-making bodies of the Model established in Article 47 of this Treaty or by whomever those bodies may designate;

b. To provide information to the Security Commission on their respective military and public security expenditures approved in their budgets for the fiscal year, using as a frame of reference the "Instrument for the Standardised International Presentation of Reports on Military Expenditures, " adopted by the United Nations on December 12, 1990, pursuant to Article 52.k of the present Treaty; and

c. To organise the system for Central American registry of weapons and their transfer, pursuant to such proposal as the Security Commission may draw up.

Article 36

Regarding any information requested pursuant to the previous Article, each Party may request in the Security Commission from any other Party such explanations as it deems necessary, for sixty days following submission of such information. The Parties undertake to provide the explanations requested, within sixty days following the date of such requests.

Article 37

The Security Commission shall set up a standardised registry for weapons, explosives and equipments used solely by the armed forces or the public security forces; this registry must be updated with information the Parties undertake to provide continually.

Article 38

The Parties undertake to submit, to each other and pursuant to any Treaties to which they may be parties, in the Security Commission in the first half of each year, a report on any foreign military personnel and advisers that take part in military or public security activities in their territory. Likewise, they shall keep a registry of such advisers as perform technical duties connected with training or installation and maintenance of military equipment, and they shall provide a copy of such registry to the Security Commission.

The registry shall be kept in accordance with any regulations the Security Commission decides upon, which may also set reasonable limits on the number of advisers of all military public and security categories and specialties, taking into account the internal situations and requirements of each Party.

Article 39

If any military incidents occur between two or more of the Parties, the ministers of foreign affairs must immediately establish contact to review the situation, avoid any increase in tensions, cease any military activity, and prevent further incidents.

Article 40

In the event that direct channels of communication are not sufficient to achieve the objectives described in the preceding article, any of the Parties may ask that a meeting of the Security Commission or of the Council of Foreign Ministers be called, if deemed necessary. If so, the Chair of the Council of Ministers shall make the necessary consultations with member countries and may call a meeting of the Security Commission beforehand to obtain its recommendations.

Article 41

The Meeting of Presidents, the Council of Ministers of Foreign Affairs and the Security Commission shall reach decisions by consensus on all matters concerning the peace and security of the region.

Article 42

Any armed aggression, or threat of armed aggression, by a state outside the region against the territorial integrity, sovereignty or independence of a Central American state shall be considered an act of aggression against the other Central American states.

In any event, the Central American countries, at the request of the state attacked, shall act jointly and in solidarity to ensure in international fora and agencies the legal political defence, through diplomatic channels, of the Central American state attacked.

Article 43

In the event of armed aggression, after exhausting all avenues of reconciliation and peaceful settlement of disputes, the Central American states, shall, if possible, undertake, at the request of the attacked state, to ensure, through such measures and procedures as may be decided upon by the Council of Ministers of Foreign Affairs, in accordance with the constitutional provisions of the states concerned, the United Nations Charter, the Charter of the Organisation of American States, and any treaties to which the states concerned may be parties.

The Council of Ministers shall set up an *ad hoc* operational organisation to plan and coordinate in compliance with the commitments contained in this article, as well as operational support in the area of solidary cooperation to deal with emergencies, threats and disasters.

Article 44

In the event of any external armed conflict and in order to preserve the guaranties and rights of their people, the Parties undertake to comply fully with the rules and principles of international human rights law.

Article 45

Without affecting the provisions of the United Nations Charter and the Charter of the Organisation of American States on the peaceful settlement of disputes, the Parties reaffirm their obligation to settle any dispute that arises that might endanger the peace and security of the region, through negotiation, investigation, mediation, reconciliation, arbitration, court settlement or any other peaceful means of dispute settlement.

Article 46

The Parties reaffirm their obligations assumed in the Treaty of Tlatelolco to Ban Nuclear Weapons in Latin America, of February 14, 1967, and the importance of initiating, if they have not already done so, the necessary steps to approve, ratify or accede to the following international conventions:

a. Protocol for Banning the Use in Warfare of Poisonous Asphyxiating and Similar Gases, of 1925; and

b. Convention on Banning the Development, Production and Storage of Bacteriological, Biological, and Poisonous Weapons and on the Destruction of Them, 1972.

TITLE IV

ORGANISATION AND INSTITUTIONALISATION

Article 47

The following are the decision-making bodies of the Democratic Security Model in Central America:

a. The Meeting of Presidents;

b. The Council of Ministers of Foreign Affairs; and

c. The Security Commission.

The sectoral and intersectoral Councils shall establish the necessary coordination with the Council of Ministers of Foreign Affairs, to which they shall report on all of their agreements and resolutions on security matters.

In this context, the ministers of defence and security or their equivalents, shall advise and assist the Council of Ministers of Foreign Affairs, on topics relating to the Council's operation, within the areas of their competence.

The Advisory Committee established by the Tegucigalpa Protocol may transmit, through the General Secretariat of the Central American Integration System, its opinions to the Security Commission on matters covered in this Treaty, concerning the security of persons and their property.

Article 48

The Meeting of Presidents is the highest decision-making body of this Model and is responsible for dealing with regional and international security matters that might require its decisions pursuant to the provisions of the Tegucigalpa Protocol.

Article 49

The Council of Foreign Ministers is the decision-making body responsible for all matters concerning regional and international security, in its capacity as the principal coordinating organ of the Central American Integration System.

Article 50

The Security Commission is a subsidiary decision-making body for execution, coordination, evaluation and follow-up, and for drafting proposals and recommendations on early warning, and where appropriate, taking prompt action, and is subordinate to the Meeting of Presidents and to the Council of Ministers of Foreign Affairs.

Article 51

The Security Commission is composed of delegations of the Central American States whose members are Vice Ministers of Foreign Affairs and Vice Ministers or the responsible officials in the areas of Defence and Public Security. The Vice Ministers of Foreign Affairs shall head the delegations of each state.

Article 52

The Security Commission shall have the following responsibilities or duties:

a. Implement decisions on security matters entrusted to it by the Meeting of Presidents or the Council of Ministers of Foreign Affairs and any decisions that it makes itself in the area of its competence;

b. Evaluate compliance with Central American agreements on security matters;

c. Review security problems in the region that require concerted action and draft proposals to deal with them effectively. Such studies and recommendations shall be submitted to the Council of Ministers of Foreign Affairs for consideration and approval;

d. Establish the necessary communication and coordination, through the General Secretariat of the Central American Integration System, with the agencies, institutions and secretariats of the regional integration subsystems, whose assistance is deemed necessary to deal comprehensively with security problems;

e. Strengthen the mechanisms for coordinating operations in the areas of defence, public security, and human rights cooperation when faced with emergencies, threats and natural disasters;

f. Draft proposals for coordination and regional support with international agencies and bodies devoted to maintaining international peace and security and the fight against threats to the security of persons and their property, which proposals shall be submitted beforehand to the Council of Ministers of Foreign Affairs for approval;

g. Organise the Central American Mechanism on Information and Communication for Security;

h. Draft activities for an ongoing annual confidence building program, which will involve the participation of the armed forces and the security forces in the region, together with the civil societies in Central America;

i. Develop a system of periodic reports and a system for registry of weapons and transfer of them, seeing to it that the information provided is complete, transparent, and easily verifiable, and make proposals for gradually establishing a reasonable balance of forces in the region;

j. Review the information provided by the Parties on foreign military personnel and advisers and other foreign personnel who might take part in military or public security activities in their territory, pursuant to Article 38 of this Treaty;

k. Review the information provided by the governments on their military security budgets for the fiscal year and draft joint proposals for possible updating of future budgets, taking into consideration the internal situation in each country;

l. Establish contact with the Central American organisations that group together other branches or organs of the state, in order to reach agreement on standardising and modernising laws concerning the subject and on training programs for court and police officials;

m. Draft their rules of procedure, which shall be submitted to the Executive Committee of the Central American Integration System for information;

n. Provide all protection measures necessary for the security and confidentiality of information received from the various Central American States; and

o. Monitor compliance with the provisions of this Treaty and perform any other duties given it herein.

Article 53

For the better performance of its duties, the Security Commission may organise its work into sectoral subcommittees, which may be on defence, public security, legal or intersectoral matters.

Article 54

The General Secretariat of the Central American System shall provide technical and administrative secretariat services, at meetings of the Security Commission and its subcommittees.

Article 55

The Security Commission shall regularly meet as often as its members decide and shall hold special meetings when so decided by the Meeting of Presidents or the Council of Ministers of Foreign Affairs or when requested by one or more of its members to review an urgent matter. All members must be present to constitute a quorum for its meetings.

Article 56

If the Security Commission fails to reach a consensus, the chair is authorised to submit the topic to the Council of Ministers of Foreign Affairs for decision.

Article 57

The Council of Ministers of Foreign Affairs, in its capacity as the principal coordinating organ of the Central American Integration System, shall be responsible for adopting and recommending to the Meeting of Presidents any measures on prevention, crisis management, or dispute settlement it deems necessary to deal with situations of any kind that, in the judgment of the governments or the competent organs of the Central American Security System, constitute a potential threat to the security of the states and their people.

Article 58

The governments, through their ministries of foreign affairs, shall submit the situations indicated in the previous article to the Security Commission for review. They may also submit them directly to the Council of the Ministers of Foreign Affairs.

The organs, institutions and secretariats of the Central American Integration System shall, through its General Secretariat, call the attention of the Council of Ministers of Foreign Affairs to any situation indicated in the previous article.

Article 59

Without affecting the Annual Program of Confidence-Building Activities, which the Security Commission is to draft and implement, the Parties undertake to:

a. Establish and strengthen mechanisms for direct and prompt communication among border officials; and

b. Promote the exchange of military and public security views and information, consultations, and periodic visits among defence and public security and similar institutions, as well as to award scholarships reciprocally in their military and police academies.

Article 60

The Central American Mechanism on Information and Communication for Security shall be composed of:

a. The Central American Security Index, organised and managed by the General Secretariat of the Central American Integration System, with the support of the Central American Integration Secretariats and Institutions and of any international agencies it deems appropriate; and

b. The standing communication mechanism the Parties undertake to establish and put into operation to facilitate sure, effective and prompt contact among their competent civil, military and public security officials, with each other and with the Security Commission, to prevent incidents, respond to alerts and facilitate attainment of the goals and obligations set forth in this Treaty.

Article 61

The Council of Ministers of Foreign Affairs shall see to the enforcement of provisions and the compliance with the obligations set forth in this Treaty.

For these purposes, the Security Commission shall inform the Council of Ministers of Foreign Affairs about the following items in particular:

a. Compliance by the Parties with the physical actions provided for in this Treaty, such as timely submittal of the required reports;

b. Compliance by the Parties with any weapons ceilings that may be set, taking into account the internal and external situation of each Party and the conditions prevailing in the region;

c. Compliance by the Parties with the obligation not to introduce any weapons that are banned in Article 34 of this Treaty or that may be banned in the future;

d. Compliance by the Parties with the obligations to provide notification of military activities or maneuvers, as well as any other notifications specified in this Treaty; and

e. The findings of investigations undertaken on their own initiative or mandated by the Council of Ministers of Foreign Affairs, regarding complaints of violation of the obligations set forth in this Treaty.

Article 62

The investigations shall be conducted by the Security Commission or by any *ad hoc* collegiate body of experts that it may designate and deem the most appropriate for the purpose. The investigations shall be conducted through on site inspections, collection of data, conduct of laboratory technical tests, and any other procedure that it deems necessary for objective verification of the facts.

Article 63

The Council of Ministers of Foreign Affairs shall be the organ charged with coordinating the efforts of the region as a whole with initiatives undertaken in the struggle against threats to democratic security in the Hemisphere and elsewhere in the world, and to that end, shall be the organ responsible for preparing positions and concluding cooperation agreements or conventions with institutions or bodies charged with maintaining international peace and security, except for any preestablished commitments of each State Party with the international community.

TITLE V

FINAL PROVISIONS

Article 64

The Central American Democratic Security Model is part of the Central American Integration System, and its contents complements the provisions of the Tegucigalpa Protocol, to which this Treaty is subordinated.

Article 65

The Council of Ministers of Foreign Affairs shall inform the United Nations and the Organisation of American States of all arrangements or decisions having to do with peace and security in the region when knowledge about them is considered important for the organs responsible for security at the Hemisphere and global level.

Article 66

No provision of this Treaty shall be interpreted as being contrary to the provisions of the United Nations Charter, the Charter of the Organisation of American States, or the Tegucigalpa Protocol.

Article 67

Any dispute as to the application or interpretation of this Treaty shall be submitted to the Meeting of Presidents for settlement, and if such dispute is not resolved, the means of peaceful settlement provided for in Article 45 shall be employed, and, if necessary, said dispute shall be submitted to the Central American Court of Justice for judgment.

Article 68

This Treaty is open to reservations.

Article 69

This Treaty shall be ratified by each signatory state, in accordance with their constitutions. This Treaty and the instruments of ratification shall be deposited with the Secretary General of the Central American Integration System.

Article 70

This Treaty shall remain in force indefinitely and shall enter into force one week after the third instrument of ratification is deposited for the first three depositing states, and on the date of deposit of their ratification instruments for all other states.

Article 71

Five years after this Treaty has entered into force, and at the request of the States Parties, either before or after that, the Security Commission shall call a meeting of all the Parties to evaluate and decide on any amendments they may deem necessary. Such amendments shall be submitted to the Meeting of Presidents for consideration, through the Council of Ministers of Foreign Affairs.

Article 72

Denunciations to this Treaty shall be reported to the depository, which shall notify the Parties thereof. Such denunciations shall take effect one year after the date of their notification; however, the provisions of this Treaty shall continue to apply to those regional projects or actions already under way until such projects or actions are completed. This Treaty shall remain in force so long as at least three of the States Parties are bound by it.

Article 73

The provisions of this Treaty shall be interpreted and applied in accordance with their letter and spirit in light of the Tegucigalpa Protocol and the rules of international law.

Article 74

The General Secretariat of the Central American Integration System shall, upon entry into force of this Treaty, send a certified copy of it to the General Secretariat of the United Nations, for the purposes of Article 102, paragraph 2 of the UN Charter, and to the General Secretariat of the Organisation of American States.

TITLE VI

SPECIAL PROVISION

Article 75

The Republics of Costa Rica and Panama sign this Treaty with express reservations with regard to the following Articles: 26 subparagraphs g and h; 27 subparagraphs a, b, c; 28; 29; 32; 33; 35; 36; 37; 38; 42 and 43.

TITLE VII

TRANSITORY PROVISIONS

Article 76

Until this Treaty enters into force, the Security Commission shall continue to operate pursuant to the mandates received from the Meeting of Presidents and any that may be received from the Council of Ministers of Foreign Affairs, and shall respect the purpose of this Treaty.

Article 77

The Parties shall increase their efforts to obtain any technical and financial assistance that may help to clear mine fields in the region, pursuant to any international, regional, and subregional agreements to which they may be Party and any they may conclude on this subject.

Article 78

This Treaty replaces any rules on security or defence matters contained and embodied in the Charter of the Organisation of Central American States (ODECA) and any additional agreements that may have been adopted at the regional level for developing it.

IN WITNESS THEREOF, the undersigned sign this Treaty in seven original identical copies, in the city of San Pedro Sula, Department of Cortés, Republic of Honduras, on the fifteenth day of December nineteen hundred and ninety-five.

Notes

[1] See also the contribution of Rut Diamint (chapter 6) to the present volume.

Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society (Guatemala Peace Accords, 1996)[1]

Whereas:

Peace rests upon democratisation and the creation of structures and practices which will, in the future, prevent political exclusion, ideological intolerance and the polarisation of Guatemalan society,

It is essential to overcome deficiencies and weaknesses in civil institutions, which are frequently inaccessible to most of the population, and the prevalence of patterns of thought and behaviour that have been detrimental to the rights and freedoms of citisens,

The signing of an agreement on a firm and lasting peace provides a historic opportunity to overcome the after-effects of past armed confrontation and ideological clashes and to rebuild and strengthen institutions in accordance with the needs of national development and the reconciliation of the Guatemalan people,

With the active and permanent participation of the people through Guatemalan organisations, political forces and social sectors, this renewal of institutions must embrace all levels, from local authorities to the functioning of State bodies, so that all those who are entrusted with public authority fulfil their commitment to serve social justice, political participation, and the security and full development of the individual,

It is vitally important to strengthen civilian power as the expression of the will of the people through the exercise of political rights, reinforce the legislative branch, reform the administration of justice and guarantee public security, all of which are crucial for the enjoyment of civil liberties and rights; and, within a democratic institutional framework, it is incumbent

upon the Guatemalan armed forces to discharge the essential task of protecting national sovereignty and territorial integrity,

Together with the agreements already signed, this Agreement seeks to create the conditions for genuine reconciliation among the people of Guatemala, based upon respect for human rights and the diversity of its peoples and on their shared determination to overcome the lack of social, economic and political opportunities, which undermines democratic coexistence and restricts the development of the nation,

The implementation of this Agreement will benefit the whole population, consolidate the governance of the country and enhance the legitimacy of its democratic institutions in the interest of the people of Guatemala,

The Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (hereinafter referred to as "the Parties") have agreed as follows:

I. THE STATE AND ITS SYSTEM OF GOVERNMENT

1. In order to deepen the democratic and participatory process in such a way as to strengthen civilian power, it is of crucial importance to enhance, modernise and reinforce the State and its republican, democratic and representative system of government.

2. Pursuant to article 141 of the Political Constitution of the Republic, sovereignty is rooted in the people, who delegate its exercise to the legislative, executive and judicial branches. The Parties agree that the enhancement, modernisation and reinforcement of the branches of the State require full and complete respect for the principle of their independence, separation and non-subordination to each other.

3. At the same time, the three branches must coordinate their efforts to fulfil their responsibilities arising out of the duty of the State to ensure, for all the inhabitants of Guatemala, life, freedom, justice, security, peace and the full development of the individual. Public authority, in the service of the common good, must be exercised by all the institutions of the State in such a way that no person, social sector, military force or political movement can usurp its exercise.

II. THE LEGISLATIVE BRANCH

4. Legislative authority belongs to the Guatemalan Congress, which is composed of deputies elected directly by universal and secret vote. It has a fundamental role to play in the representation of Guatemalan society, since democracy requires a body in which the overall situation of the country is embodied in an institutional form, harmoniously integrating a variety of interests.

5. For the legitimacy of the legislative body to be strengthened, it must fully discharge the following duties:

a.   The legislative function, in the interest of the people of Guatemala;

b.   Public discussion of essential national issues;

c.   Representation of the people;

d.   Its responsibilities towards the other branches of the State.

6. The Parties agree that the legislative branch must be enhanced, modernised and reinforced, and that the Presidency of the Congress will be requested to set up a multi-party agency for that purpose. This agency will work in conjunction with those legislative commissions which have been entrusted with responsibilities in connection with the follow-up to the agreements on a firm and lasting peace and the process of modernisation and strengthening of the Congress of the Republic. Its agenda, minimal and open-ended, will give priority to the following aspects:

a.   Revision of the Act on the Rules of Procedure of the Congress, in order to streamline parliamentary work and enable the Guatemalan Congress as a branch of the State to carry out what is required of it by the Political Constitution and by public opinion, and to enhance efficiency in the initiation, discussion and adoption stages of the legislative process;

b.   Proper utilisation of constitutional mechanisms for the supervision of the executive branch, to ensure clarity in government policy, consistency in its programmes, transparency in the planning and

implementation of the State budget, examination and evaluation of the responsibility of ministers and other high-ranking officials for their administrative acts or omissions, and monitoring of government administration to protect the general interests of the population while preserving institutional legitimacy;

c.   Appropriate legislative measures to strengthen the administration of justice;

d.   Legal or constitutional reforms to maintain the number of deputies in the Congress at a constant level;

e.   Reform of article 157 of the Constitution so that deputies cannot serve more than two consecutive terms, so as to avoid disrupting political careers while at the same time ensuring the renewal of political leadership in the Congress;

f.   Support for the work of the commissions, particularly the Office of the Technical Advisory Unit;

g.   Redefinition of the functions of the Congressional Human Rights Commission to allow for a more effective follow-up of the resolutions and recommendations contained in reports produced by the Counsel for Human Rights and other recognised public entities on the situation of human rights in Guatemala.

7. The Parties agree to request the Presidency of the Guatemalan Congress that the aforementioned congressional agency should be set up within a period not to exceed three months after the signing of the agreement on a firm and lasting peace, and that its work should be completed and submitted for consideration in plenary no more than one year after its establishment.

III. SYSTEM OF JUSTICE

8. One of the major structural weaknesses of the Guatemalan State stems from the system of administration of justice, which is one of the key public services. This system and the functioning of judicial proceedings within it suffer from faults and deficiencies. The antiquated legal practices, slow proceedings, absence of modern office management systems and lack of

supervision of officials and employees of the judicial branch breed corruption and inefficiency.

9. The reform and modernisation of the administration of justice should be geared to preventing the judiciary from producing or covering up a system of impunity and corruption. The judicial process is not a simple procedure regulated by codes and ordinary laws but rather an instrument for ensuring the basic right to justice, which is manifested in a guarantee of impartiality, objectivity, universality and equality before the law.

10. A priority in this respect is to reform the administration of justice in order to put an end to inefficiency, eradicate corruption and guarantee free access to the justice system, impartiality in the application of the law, judicial independence, ethical authority and the integrity and modernisation of the system as a whole.

11. In order to address all the foregoing, the Government undertakes to adopt, where it is within its power, and to promote in the Guatemalan Congress, where it is within the latter's competence, the following measures:

Constitutional reforms

12. Promote the reform of the following articles of the Constitution in the Guatemalan Congress:

CHAPTER IV - The judiciary

Section I: General provisions

a.   Article 203: the article should contain an initial reference to guarantees of the administration of justice and, as such, include: free access to the system of justice in the person's own language; respect for the multi-ethnic, multicultural and multilingual nature of Guatemala; legal assistance to those who cannot afford their own counsel; the impartiality and independence of judges; reasonable and prompt resolution of social conflicts and provision of alternative conflict-resolution mechanisms;

b.   The summarised contents of article 203 should be included in a separate paragraph;

c.   Articles 207, 208 and 209 should refer to the Act on Careers in the Judiciary and include the following provisions:

- Rights and duties of judges, the dignity of the profession and adequate remuneration;

- System of appointment and promotion of judges based on competitive examinations to promote professional excellence;

- Right and duty to pursue professional legal training and career development;

- Disciplinary system, with pre-established guarantees, procedures, levels of jurisdiction and penalties, and the principle that a judge or magistrate can be investigated and punished only by his peers;

d.   Article 210: the guarantee in the second paragraph should be deleted, since its contents would be covered by the three previous articles. This article should refer only to personnel of the judiciary who are not judges or magistrates.

Legal reforms

13. Promote the following legal reforms in the Guatemalan Congress:

Careers in the judiciary

a.   Establish careers in the judiciary as provided for by article 209 of the Constitution in accordance with the contents of this Agreement;

Public Defender's Office in criminal matters

b.   Establish a Public Defender's Office in criminal matters to provide legal assistance to those who cannot afford to retain their own counsel.

It would be functionally autonomous and independent from the three branches of Government, have the same standing as the Public Prosecutor's Office and have effective country-wide coverage;

Penal Code

c.   Institute a reform of the Penal Code that gives priority to the criminal prosecution of those offences that are most detrimental to society, takes into account the country's cultural differences and customs, fully protects human rights and characterises threats and coercion of judicial personnel, bribery, graft and corruption as particularly serious offences which are severely punished.

Administrative initiatives and measures

14. Take such administrative initiatives and measures as are necessary to:

a.   Provide the judiciary and Public Prosecutor's Office with more financial resources to enable them to carry out their technological modernisation and to expand their coverage throughout the country, institute multilingualism in the system of justice in accordance with the Agreement on Identity and Rights of Indigenous Peoples, and implement an effective protection plan for witnesses, prosecutors and individuals who cooperate with the justice system. In this regard, by the year 2000, the Government intends to increase net public expenditure allocated to the judiciary and the Public Prosecutor's Office as a proportion of gross domestic product by 50 per cent over its 1995 level;

b.   Provide the necessary resources to the Public Defender's Office so that it can be established and begin its activities in 1998.

Commission on the strengthening of the justice system

15. The Parties also agree that, within 30 days after the signing of the agreement on a firm and lasting peace, the President of Guatemala will propose that a commission be established with the mandate to prepare within

six months, following an extensive debate on the justice system, a report and a set of recommendations for implementation as soon as possible. That commission, which will receive advisory assistance from the Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA), shall include the qualified representatives of the various public institutions and social and private bodies that are involved in and/or are knowledgeable about the justice system.

16. The work of the Commission shall include and not be limited to the following:

Modernisation

a.   How to effectively separate administrative functions from jurisdictional functions in the judiciary and the Public Prosecutor's Office, so as to relieve judges and prosecutors from burdensome tasks that prevent them from dedicating themselves fully to their proper mandates, instituting a modern and effective management system in both institutions;

b.   The adequate distribution of available financial resources in order to strengthen the system, bearing in mind the need for more rational use of resources;

c.   Outlining the basic elements of a bill for the civil service of the judiciary;

Access to the justice system

d.   With the participation of indigenous peoples' organisations, follow up on the commitments undertaken under the Agreement on Identity and Rights of Indigenous Peoples concerning how justice is administered among those peoples, with a view to facilitating a simple and direct access to the justice system by major sectors of the country that are currently outside the system or that are at a disadvantage when they appear in court;

Streamlining

e. Phase in oral legal proceedings in order to extend the benefits of such a system to those areas where it does not exist, and the guarantee of direct access to a judge in all proceedings;

f. Implement the expansion and recognition of alternative conflict-resolution mechanisms;

Professional excellence

g. Devise a system for the selection and appointment of appeals court magistrates through competitive examinations;

h. Strengthen the Judicial Training School and the training unit of the Public Prosecutor's Office as the main bodies for the selection and further training of judges, magistrates and prosecutors;

Non-State partners

i. Promote the active involvement in the legal reform process of those bodies outside the State system of justice which play a decisive role in such reform.

IV. EXECUTIVE BRANCH

17. With a view to the strengthening of civilian power and the modernisation of the executive branch, the Government undertakes to adopt, when it falls within its purview to do so, and to promote to the Congress, when it falls within the purview of that body to do so, the following measures:

A. Security agenda

18. Security is a broad concept. It is not limited to protection against external armed threats, which is the responsibility of the army, or protection against threats to the public order and internal security, which is the responsibility of the National Civil Police. All the Guatemala peace agreements posit that a firm and lasting peace must be based on respect for human rights and for the multi-ethnic, multicultural and multilingual character of the Guatemalan nation; national economic development with social justice; social participation; the conciliation of interests; and democratic institution-building.

19. Within this context, the security of the citisens and the State cannot be dissociated from the citizens' full exercise of their political, economic, social and cultural rights and duties. Social and economic imbalances, poverty and extreme poverty, social and political discrimination and corruption, among others, are risk factors and a direct threat to democratic coexistence, social peace and, hence, to democratic constitutional order.

20. The Parties believe that an Advisory Council on Security would help the executive branch to implement this concept of integral security. The Council shall be composed of eminent personalities representing the economic, social, professional, academic, ethnic, political and cultural diversity of Guatemala. These personalities shall be selected by the President of the Republic so that the Council can fully carry out its function of studying and presenting broadly consensual strategies in response to the major risks confronting the country and making the necessary recommendations to the President of the Republic.

B. Public security

National Civil Police

21. The protection of life and the security of the citisens, the maintenance of public order, the prevention and investigation of crime and the swift and transparent administration of justice cannot be guaranteed without the appropriate structuring of the public security forces. The design of a new model and its implementation are fundamental aspects of the strengthening of civilian power.

22. Accordingly, the restructuring of the country's existing police forces into a single National Civil Police, which would be responsible for public order and internal security, is necessary and cannot be delayed. This new police force should be professional and under the authority of the Ministry of the Interior. To that end, the Government undertakes to adopt, when it falls within its purview to do so, and to promote to the Congress of the Republic, when it falls within the purview of that body to do so, the following measures:

Constitutional reforms

23. The reform of the Constitution shall establish the functions and main characteristics of the police force as follows:

"The National Civil Police shall be a professional and hierarchical institution. It shall be the only armed police force competent at the national level whose function is to protect and guarantee the exercise of the rights and freedoms of the individual; prevent, investigate and combat crime; and maintain public order and internal security. It shall be under the direction of the civil authorities and shall maintain absolute respect for human rights in carrying out its functions.

"The law shall govern the requirements and procedures for admission to the police profession, as well as promotions, advancement, transfers, disciplinary action against officers and employees in the profession and other questions related to the functioning of the National Civil Police. "

Legal reforms

24. This includes submission of a bill on security and the police, which would govern the functioning of the police system in Guatemala in accordance with constitutional reforms and the provisions contained in this Agreement.

25. The issue of a new Act on Public Order shall be promoted, consistent with democratic principles and the strengthening of civilian power. Any excess in the application of the new Act shall be duly punished. The limitations established by law in the interest of maintaining public order shall in no case permit excesses that would violate the general enjoyment of rights nor shall they empower the authorities to restrict rights other than those described in article 138 of the Constitution.

Organisation

26. The police shall be organised as follows:

a.   A single police force shall be established under the authority of the Ministry of the Interior;

b.   It shall be hierarchically structured with a chain of command and duly established responsibilities;

c.   The multi-ethnic and multicultural character of Guatemala shall be taken into account in the recruitment, selection, training and deployment of police personnel;

d.   The necessary specialised departments shall be established to carry out its work, including the control of drug trafficking and smuggling, tax and customs control, arms registry and control, information and criminal investigation, conservation of the cultural heritage and the environment, border security, transit and road safety.

Police profession

27. The police profession shall be established in accordance with the following criteria:

a.   All members of the new police force shall receive training at the Police Academy, where they will be given extensive professional preparation and imbued with a culture of peace, respect for human rights and democracy, and compliance with the law;

b.   Appropriate regulations shall be established to govern recruitment and personnel administration policies. Professional police officers shall be required to provide their services within the institution for a minimum of two years;

c.   Members of the police force shall receive decent wages commensurate with their functions and an adequate benefits package.

The Police Academy

28. The Police Academy shall oversee admission to the police profession, and advancement and specialisation within it. It must guarantee objectivity and equality of opportunity in its selection of candidates and the suitability of the recruits for the performance of their duties as professional police officers.

29. The Police Academy shall train the new police personnel as officers, inspectors, commanders and chiefs and retrain the current personnel, providing them with sufficient resources to carry out their assignments. Basic police training shall last a minimum of six months.

Functioning

30. The Government undertakes to promote a police and public security restructuring plan based on this Agreement, to which end the support of the international community and MINUGUA will be requested, taking into consideration international standards in this area. This restructuring plan shall be given the necessary resources for the national deployment of professional personnel, taking into account all the specialties of a modern

national civil police force, and shall provide, inter alia, for the following steps to be taken:

a. By late 1999, a new National Civil Police force, comprised of at least 20,000 members, shall be functioning throughout the national territory, under the authority of the Ministry of the Interior, in order to fulfil the commitments outlined herein and the specific tasks assigned to them;

b. In particular, the capacities of the police in the area of information and criminal investigation shall be strengthened, in order to enable them to collaborate effectively in crime control and the swift and effective administration of justice with emphasis on coordination between the National Civil Police, the Public Prosecutor's Office and the judiciary;

c. Cooperation between the National Civil Police and the municipal police forces shall be strengthened within the context of their respective powers;

d. A transition procedure shall be established for the implementation of the provisions of paragraph (a) above in order to ensure that the graduates of the Academy are a positive element in the National Civil Police as a whole;

e. The communities shall participate, through their representatives, in promoting the police profession, proposing candidates who meet the requirements and supporting the officers who will be responsible for public security at the local level;

f. By the year 2000, the Government undertakes to increase its expenditure on public security as a percentage of the gross domestic product by 50 per cent over the amount expended in 1995.

International cooperation

31. The Parties urge the international community to grant such technical and financial cooperation as is required for the immediate implementation of all measures that will lead to the modernisation and professionalisation of the public security system in Guatemala.

Private security companies

32. The Government undertakes to sponsor, in the Guatemalan Congress, a bill to regulate the functioning and scope of such companies in order to monitor their operations and the professionalism of their personnel and ensure, in particular, that the companies and their employees remain within the appropriate sphere of operation, under the strict control of the National Civil Police.

Ownership and bearing of arms

33. In accordance with the Comprehensive Agreement on Human Rights, and in order to combat the proliferation of firearms in the hands of individuals and the lack of control of their acquisition and use, the Government of Guatemala undertakes to sponsor amendments to the Arms and Munitions Act so as to:

a. Restrict the owning and bearing of weapons by individuals, in accordance with the provisions of article 38 of the Constitution;

b. Confer responsibility in the matter to the Ministry of the Interior. The question of the owning and bearing of offensive weapons will be taken up in very exceptional, justified cases, and for that the opinion of the Ministry of Defence will be required.

34. In accordance with this Act, the Government undertakes to:

a. Enforce the system of registration of weapons in circulation and identification of their owners;

b. Transfer the registers which are currently deposited in the Arms and Munitions Control Department of the Ministry of Defence to the Ministry of the Interior, with verification by MINUGUA, in a process which will be completed by the end of 1997.

C. Armed forces

35. The signing of an agreement on a firm and lasting peace constitutes a fundamental change in relation to the conditions which have prevailed in Guatemala for more than three decades. This change has positive implications for State institutions, and in particular the Guatemalan armed forces. The role of the Guatemalan armed forces is defined as that of defending Guatemala's sovereignty and territorial integrity; they shall have no other functions assigned to them, and their participation in other fields shall be limited to cooperative activities. The measures laid down in this Agreement ensure that the doctrine, means, resources and deployment of the armed forces are in line with their functions and Guatemala's development priorities.

Constitutional reforms

36. The Government undertakes to sponsor the following amendments to the Guatemalan Constitution:

a.   Article 244. Constitution, organisation and functions of the armed forces. The Guatemalan armed forces are a permanent institution in the service of the nation. They are unique and indivisible, essentially professional, apolitical, loyal and non-deliberative. Their function is to protect the sovereignty of the State and its territorial integrity. They consist of ground, air and naval forces. Their organisation is hierarchical and based on the principles of discipline and obedience;

b.   Article 219. Military courts. The military courts shall take cognisance of the crimes and misdemeanours specified in the military code and in the corresponding regulations. Ordinary crimes and misdemeanours committed by military personnel shall be tried and judged by the ordinary courts. No civilian may be judged by military courts;

c.   Article 246. Duties and powers of the President over the armed forces. Replace the first paragraph by the following: "The President of the Republic is the Commander-in-Chief of the armed forces and shall issue his orders through the Minister of Defence, whether he is a civilian or a member of the military".

Legal framework

37. Amendments to the Constituent Act of the armed forces deriving from the amendments to the Guatemalan Constitution, and amendments deriving from the peace agreements, shall be sponsored.

Military doctrine

38. A new military doctrine shall be formulated in accordance with the reforms envisaged in this Agreement. The doctrine shall encompass respect for the Guatemalan Constitution, human rights, the international instruments ratified by Guatemala in the military field, protection of national sovereignty and independence, the territorial integrity of Guatemala and the spirit of the agreements on a firm and lasting peace.

Sise and resources

39. The sise and resources of the Guatemalan armed forces shall be sufficient to enable them to discharge their function of defending Guatemala's sovereignty and territorial integrity, and shall be commensurate with the country's economic capabilities.

Educational system

40. The necessary amendments shall continue to be made to the corresponding regulations so that the military education system is consistent, in its philosophical framework, with respect for the Guatemalan Constitution and other laws, with a culture of peace and democratic coexistence, with the doctrine defined in this Agreement, and with national values, the integral development of the individual, knowledge of our national history, respect for human rights and the identity and rights of the indigenous peoples, and the primacy of the individual.

Arms and munitions

41. The Government shall adopt the most appropriate policies for the acquisition of combat weapons and equipment in accordance with the new functions of the armed forces. The operation of the munitions factory shall

be taken into account so that it can meet the needs of the civilian public security forces.

Restructuring

42. The public educational, financial, health, commercial, assistance and insurance institutions, installations and offices corresponding to the needs and functions of the Guatemalan armed forces shall operate under the same conditions as other similar not-for-profit institutions. All the graduates of the Adolfo V. Hall institutes shall join Guatemala's military reserves. The Guatemalan armed forces shall allocate programmes to them for that purpose. The Government shall decide on an appropriate use for the television frequency allocated to the Guatemalan armed forces.

Military and community service

43. The practice of voluntary military recruitment shall be continued, until the Government of Guatemala, on the basis of the Comprehensive Agreement on Human Rights, adopts the necessary administrative decisions, and the Guatemalan Congress approves a civil service law, which shall include military service and community service; this law shall entail fulfilment of a duty and a constitutional right, which is neither compulsory nor a violation of human rights, is universal and non-discriminatory, and would reduce the length of service and offer options to citisens.

44. On the basis of these general principles, the Government undertakes to sponsor the above-mentioned law, which shall be drafted on the basis of what has been agreed on and achieved by the joint working group which is currently considering the matter.

D. Presidency of the Republic

Constitutional amendments

45. The Government shall sponsor in the Guatemalan Congress the following amendments to the Guatemalan Political Constitution:

a.   With regard to the functions of the President of the Republic, include the following:

"When the ordinary means for the maintenance of public order and domestic peace are exhausted, the President of the Republic may exceptionally use the armed forces for this purpose. The deployment of the armed forces shall always be temporary, shall be conducted under civilian authority and shall not involve any limitation on the exercise of the constitutional rights of citisens.

b.   "In order to take these exceptional measures, the President of the Republic shall issue an agreement to that end. The operations of the armed forces shall be limited to the time and modalities which are strictly necessary, and shall end as soon as the purpose has been achieved. The President of the Republic shall keep Congress informed about the operations of the armed forces, and Congress may at any time decide that such operations should cease. At all events, within 15 days of the end of such operations, the President of the Republic shall submit to Congress a detailed report on the operations of the armed forces";

c.   Amend article 246, entitled "Duties and powers of the President over the armed forces", by deleting the sentence in paragraph (b) of that article which reads: "He may, likewise, approve special pensions";

d.   Amend article 183, entitled "Functions of the President of the Republic", by deleting paragraph (r) and amending the text of paragraph (t) as follows: "To grant special pensions".

Security of the President and Vice-President

46. In order to guarantee the security of the President, Vice-President and their families and provide logistical support for the activities carried out by the Presidency of the Republic, the President of the Republic, in exercise of the powers conferred on him by law and in order to replace the Presidential Chief of Staff, shall organise an appropriate entity as he sees fit.

E. Information and intelligence

State intelligence-gathering bodies

47. The scope of the activities of the Intelligence Department of the Office of the Chief of Staff for National Defence shall be restricted to the role of the armed forces as defined in the Constitution and in the reforms envisaged in this Agreement. Its structure and resources shall be limited to this scope.

48. A Civilian Intelligence and Information Analysis Department to be established under the Ministry of the Interior shall be responsible for obtaining information to combat organised crime and ordinary crime, utilising the means available and acting within the limits allowable under the legal system, and shall ensure full respect for human rights. Citisens who are subject to restrictions on their civil or political rights may not be employed by the Civilian Intelligence and Information Analysis Department.

49. A Strategic Analysis Secretariat reporting directly to the Office of the President of the Republic shall be established to inform and advise the Guatemalan President, with a view to anticipating, preventing and resolving situations posing any type of danger or threat to the democratic State. This body shall be purely civilian in character and may secure access to information available from public sources as well as information collected by the Civilian Intelligence and Information Analysis Department of the Ministry of the Interior and the Intelligence Department of the Office of the Chief of Staff for National Defence. It shall not be empowered to undertake its own covert investigations.

50. The Strategic Analysis Secretariat, the Intelligence Department of the Office of the Chief of Staff for National Defence and the Civilian Intelligence and Information Analysis Department of the Ministry of the Interior shall scrupulously respect the separation between intelligence and information-gathering functions and the operations to which they give rise. The responsibility for dealing with any threats shall fall to the appropriate executing organs of the Government.

51. The Government undertakes to prevent the formation of networks or groups which are incompatible with the duties assigned to the intelligence and analysis offices referred to in paragraphs 47, 48 and 49.

52. With a view to preventing any abuse of power and guaranteeing respect for the freedoms and rights of citisens, the Government undertakes to encourage the Guatemalan Congress to adopt the following:

a.   A law establishing modalities for the supervision of State intelligence bodies by a designated commission of the legislative branch;

b.   A law regulating access to military or diplomatic information relating to national security, as provided for in article 30 of the Constitution, and containing provisions on classification and declassification procedures and levels.

Archives

53. All data contained in State archives shall be handled in strict compliance with article 31 of the Political Constitution. Once the constitutional reforms envisaged in this Agreement have been approved, the archives, records and any other type of State files relating to domestic security shall be transferred to the Ministry of the Interior. Archives, records and any other State files relating to the protection of the sovereignty and integrity of the territory shall be transferred to the Ministry of Defence. These Ministries shall be responsible for managing the information.

54. In keeping with article 31 of the Political Constitution, the Government shall promote criminal sanctions for attempts to maintain illegal files and records containing political information.

F. Professionalisation of civil servants

55. Article 136 of the Constitution stipulates that the right of Guatemalan citisens to seek public office must be guaranteed. However, only individuals with ability, honesty and integrity are eligible to do so. Accordingly, pursuant to the Agreement on Social and Economic Aspects and Agrarian Situation, the Government shall accord priority to the following activities:

a.   Modernisation of government services, including publication of personnel selection and classification procedures for all departments of the executive branch, and review of the staffing table to ensure that employees and officials meet the criteria of honesty and ability;

b.   Establishment of a career civil service;

c.   Promotion of the effective implementation of legislation on integrity and accountability;

d.   Strengthening and modernisation of the Comptroller's Office;

e.   Promotion of criminal sanctions for acts of corruption and misappropriation of public funds.

V.   SOCIAL PARTICIPATION

56. The strengthening of civilian power requires that the ability of citisens to participate in society also must be enhanced, by providing increased opportunities for citisen participation and building their capacity to participate.

57. In particular, social participation at the community level promotes respect for ideological pluralism and non-discrimination on social grounds, facilitates the broad, organised and harmonious participation of citisens in decision-making and enables them to shoulder their responsibilities and commitments in the quest for social justice and democracy.

58. With a view to facilitating community participation, and pursuant to the agreements already signed, the Government reiterates its commitment to decentralise the civil service in order to mobilise the full power of the State for the benefit of the population and thereby enhance the relationship between the State and the citisenry. To that end, it is necessary, inter alia, to:

a.   Strengthen municipal governments and ensure that the development council system is functioning properly. Accordingly, the relationship between these groups and the community shall be improved, to which end the authorities shall strengthen democratic practices; in addition, the relationship between these groups and the central Government shall be enhanced;

b. In particular, establish local development councils. To accomplish that goal, the various social mechanisms created to improve people's lives shall be treated on a par with the councils; these include institutions serving indigenous communities, improvement committees and other groups which encourage all neighbours to participate in the development of their communities and municipalities and which are recognised and registered by their respective municipal authorities;

c. Pursuant to the Agreement on Identity and Rights of Indigenous Peoples and the Agreement on Social and Economic Aspects and Agrarian Situation, create a set of circumstances conducive to the growth of local organisations that are representative of the population. In particular, the Government reiterates the commitment it made in the Agreement on Social and Economic Aspects and Agrarian Situation to enhance social participation with a variety of information and education tools focusing on the protection of human rights, the renewal of the political culture and the peaceful settlement of disputes. It also reaffirms its intention to empower social organisations to participate in social and economic development.

VI.   THE ROLE OF WOMEN IN STRENGTHENING CIVILIAN POWER

59. In order to increase opportunities for women to participate in the exercise of civilian power, the Government undertakes to:

a. Set up nationwide public awareness campaigns and educational programmes with a view to increasing public awareness of women's right to participate actively and decisively, both in rural areas and in the cities, in the process of strengthening civilian power, fully and equally and without any discrimination;

b. Ensure that social and political organisations adopt specific policies to enhance and promote the role of women in the process of strengthening civilian power;

c. Respect, promote, support and institutionalise women's organisations in rural areas and in the cities;

d.   Ensure that at all times in the exercise of power, women, whether organised or not, are provided with and guaranteed opportunities to participate.

60. The Parties appreciate the work undertaken at the national level by the various women's organisations and encourage them to work together to make their contribution to the process of implementing the agreements on a firm and lasting peace, especially those undertakings most directly related to women.

VII.   OPERATIONAL CONSIDERATIONS RESULTING FROM THE END OF THE ARMED CONFLICT

Voluntary Civil Defence Committees (CVDC)

61. The Government shall ask the Congress of the Republic to repeal the decree creating CVDCs, effective on the day of the signing of the agreement on a firm and lasting peace. Demobilisation and disarming of CVDCs shall take place within 30 days from the repeal of the decree. The CVDCs including those already demobilised, shall no longer have any institutional relationship with the armed forces of Guatemala and shall not be restructured in such a way as to restore that relationship.

Mobile military police

62. The Parties agree that the mobile military police shall be disbanded within one year from the signing of the agreement on a firm and lasting peace, at the end of which time its members will have been demobilised.

Reducing the sise and budget of the armed forces

63. As from the signing of the agreement on a firm and lasting peace, in keeping with the new situation and the definition of the functions of the armed services of Guatemala contained in this Agreement, the Government of Guatemala shall begin a progressive process aimed at achieving the following:

a. Reorganising the deployment of military forces in the country, in 1997, assigning them for the purposes of national defence, border patrol and protection of sea, land and air jurisdiction;

b. Reducing the sise of the armed forces of Guatemala by 33 per cent in 1997, relative to its current sise and organisation;

c. Redirecting and reallocating its budget to the constitutional functions and military doctrine referred to in this Agreement, making maximum use of available resources to achieve, by 1999, a 33 per cent reduction in military spending as a proportion of GDP, as compared to 1995. This will free resources from the Government's general budget to be applied to programmes in education, health and public safety.

Military training

64. The Government shall adapt and modify the content of those courses created in the context of the armed conflict with a view to counter-insurgency, to make them compatible with the new military education system and to guarantee the dignity of those involved, their observance of human rights, and the public-spiritedness of their role.

Reintegration programmes

65. The Government undertakes to design and implement, after the signing of the agreement on a firm and lasting peace, programmes to promote the productive reintegration of those members of the armed forces who may be demobilised as a result of this Agreement, with the exception of those found guilty of committing a criminal act. These programmes shall end within one year. The Government shall ensure that these plans receive the necessary funding.

VIII. FINAL PROVISIONS

First. - In accordance with the Framework Agreement, the Secretary-General of the United Nations is requested to ensure that this Agreement is carried out.

Second. - This Agreement is part of the agreement on a firm and lasting peace and shall take effect when the latter is signed.

Third. - This Agreement shall be widely publicised.

Mexico City, 19 September 1996.

Notes

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[1]   See also the contribution of Bernardo Arévalo de Léon (chapter 7) to the present volume.

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