PARLIAMENTARY OVERSIGHT OF THE SECURITY SECTOR

ECOWAS Parliament-DCAF Guide for West African Parliamentarians

DCAF
a centre for security,
development and
the rule of law

ECOWAS PARLIAMENT
PARLEMENT DE LA CEDEAO
PARLAMENTO DA CEDEAO

PARLIAMENTARY OVERSIGHT OF THE SECURITY SECTOR

**ECOWAS Parliament-DCAF Guide
for West African Parliamentarians**

As endorsed by the ECOWAS Parliament
on September 29, 2010

DCAF

a centre for security,
development and
the rule of law

The following people participated in the production of the ECOWAS Parliament-DCAF Guide for West African parliamentarians
Parliamentary oversight of the security sector[1]

Editors

Dr. Hans Born and Dr. Jean-Jacques Gacond of the Geneva Centre for the Democratic Control of Armed Forces

Dr. Boubacar N'Diaye, Associate Professor at The College of Wooster, Ohio and member of the Executive Committee of the African Security Sector Network

Associate Editors

Ms. Anike Doherty, Ms. Aurélie Grenet and Mr. Okey Uzoechina of the Geneva Centre for the Democratic Control of Armed Forces

Lead Authors

Dr. Hans Born and Mr. Okey Uzoechina of the Geneva Centre for the Democratic Control of Armed Forces

Authors

Honorable Bashir Adamu, Chair of the Navy Committee, House of Representatives, National Assembly of Nigeria

Dr. Kossi Agokla, Coordinator of Security Sector Reform in Africa, United Nations Regional Centre for Peace and Disarmament in Africa, Focal point for host country (Togo), and member of the African Security Sector Network

Dr. Niagalé Bagayoko-Penone, Programme manager for the Maintenance and Consolidation of Peace Programme, International Organisation of La Francophonie, and member of the Executive Committee of the African Security Sector Network

Honorable Ibra Diouf, Member of the National Assembly of Senegal and member of the ECOWAS Parliament

Mr. Sabelo Gumedze, Senior Researcher, Security Sector Governance Programme, Institute for Security Studies

Ambassador Johnny Kwadjo, African Security Dialogue and Research, Accra, Ghana, and member of the African Security Sector Network

Mr. Auwal Ibrahim Musa, Executive Director, Civil Society Legislative Advocacy Centre, Abuja, Nigeria

Dr. Boubacar N'Diaye, Associate Professor at The College of Wooster, Ohio and member of the Executive Committee of the African Security Sector Network

Colonel Moctar Ndoye, Principal Programme Officer, Civilian Police Unit, ECOWAS Commission

Colonel Meïssa Niang, Director, Control, Studies and Legislation, Ministry of Armed Forces of Senegal

---

[1] This guide is an adaptation of the IPU-DCAF Handbook for parliamentarians, *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices* (2003). The full list of contributors therefore also includes those who participated in the production of the IPU-DCAF Handbook.

Mr. Egghead Odewale, Personal Assistant to the Governor of Ekiti State of Nigeria, Dr. Kayode Fayemi

Mr. Jonathan Sandy, Head of Security Sector Reform, United Nations Political Office for Somalia, and member of the African Security Sector Network

Honorable Mélégué Traoré, Member of the National Assembly of Burkina Faso and Vice-President of the Inter-parliamentary Committee of the West African Economic and Monetary Union

Ms. Kristin Valasek, Gender and SSR Project Coordinator, Geneva Centre for the Democratic Control of Armed Forces

Dr. Istifanus Zabadi, Dean of the African Centre for Strategic Research and Studies (ACSRS) of the National Defence College, Abuja, Nigeria and West African Network for Security and Democratic Governance (WANSED) Coordinator

Editorial Committee

Honourable Members of the ECOWAS Parliament's Political Affairs, Peace and Security Committee: Stephen Kwaku Balado, Ahli Komla Apénya Bruce, Momodu Sellu Bah, Shehu Garba Mata'azu, Eloi S. Aho, Nelson G.O. Alapa, Salamatou Bala Goga, Yormie Johnson, Kanidoua Naboho, Habibou Sofara

Honourable Members of the ECOWAS Parliament's Legal and Judicial Affairs Committee: Ayitou Bruno Singo, Ibrahim Sorie, Abubakar Sodangi, Mamadou Gaoussou Simpara, Mulikat Adeola, Alfred Kwame Agbesi, Francisco Benante, D. Salifou Sawadogo

Mr. Oumarou Arboncana, Clerk of the ECOWAS Parliament's Political Affairs, Peace and Security Committee

Dr. Kabeer Garba, Bureau Manager of ECOWAS Parliament

Editorial and Research Contributors

Ms. Eka Ikpe, Ms. Cecilia Lazzarini, Ms. Beatrice Mosello and Mr. Ibrahim Yahaya

Language Editors

Ms. Cherry Ekins, Ms. Garance Stettler, Ms. Ashley Thornton and the Language Unit of the ECOWAS Parliament

Translators

Mr. Alain Faupin and Ms. Anicia Lala, member of the Executive Committee of the African Security Sector Network

Financial support

Preface

Attemps to improve governance of the security sector in West Africa face a number of formidable challenges, many of which require a regional focus given the cross-border nature of security threats faced by West African countries. In these attempts, there is increasing recognition at regional and national levels that parliamentary involvement will promote democratic security sector governance.

Parliaments play an important role in safeguarding the democratic element of overseeing the security sector and promoting security for institutions and persons within the framework of the rule of law and human rights. If effective, parliamentary oversight sets limits on executive power by setting legal parameters and adopting a budget. Parliamentary involvement in security policy and security sector reform also ensures that citizens' concerns are being heard and that the new directions and actions of security services are consistent with the constitution, international humanitarian law and human rights law.

Thus, one of the essential entry points for adressing the West African region's security concerns is to strengthen parliaments as institutional actors of security sector governance. It is my belief that the implementation of the recommendations contained in this guide would significantly benefit the status of parliamentary oversight in West Africa and foster cooperation at all levels of security sector governance to the advantage of citizens.

Hon. Mahamane Ousmane
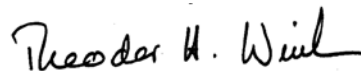Speaker of the ECOWAS Parliament
(2006-2010)

Foreword

The experience of West African states emerging from conflict over the last two decades has shown that security is a precondition for economic and social development and regional integration. Most experts also recognise that security can only be ensured through democratic control of the security sector. A system of civilian oversight is needed to ensure transparency and accountability of the armed forces and security services.

Parliaments are critical components of civilian oversight. Their role is to debate, approve, enact and oversee the implementation of security sector laws and policies, and to ensure that the latter reflect and address citizens' needs. However, parliaments can fully exercise these responsibilities only if the law gives them the power to do so and if they have the necessary technical and financial resources. In West Africa, parliaments have often been undermined or marginalised in carrying out their duties. Due to conflicts and authoritarian regimes, state security was often given priority over citizens' security and power tended to be concentrated in the hands of the executive branch to the detriment of other branches of government. Since the 1990s, however, a growing democratisation process has taken place within the region and created greater opportunities for parliaments to play an effective role in security sector oversight.

The 2001 Protocol on Democracy and Good Governance of the Economic Community of West African States (ECOWAS) constitutes a normative basis for civilian control of the armed forces and security services in the region. It provides essential norms and principles of accountability, transparency and professionalism that are critical elements of democratic governance of the security sector. However, progress in the implementation of the protocol at national levels has been slow and the commitment of ECOWAS member states to democratic values also needs to be enshrined in national security frameworks. Enhancing the contribution of national parliaments to security sector oversight is an essential step in that direction.

The project of the ECOWAS Parliament and DCAF to develop a guide for West African parliamentarians on parliamentary oversight of the security sector seeks to equip parliamentarians with the tools and knowledge needed to effectively oversee the security sector. The project was inspired by the IPU-DCAF Handbook for parliamentarians, *Parliamentary oversight of the security sector: principles, mechanisms and practices*. This publication offers examples of the ways in which parliaments around the world have responded to the challenges of security sector oversight. While recognising that no single model can be applied to every country, the ECOWAS Parliament-DCAF Guide presents a set of practices and mechanisms that have either proved successful or hold a promise of success in the West African context.

I believe this guide is an important instrument for action and will have a positive impact on the role of West African parliamentarians in the field of security sector oversight. Beyond parliamentarians, I hope this guide will encourage government officials, academics and all individuals who play a role in furthering democratic principles within national security frameworks to join efforts to ensure that the security sector is held accountable to citizens.

Ambassador Dr. Theodor Winkler
Director
Geneva Centre for the Democratic
Control of Armed Forces

Contents

Synopsis of chapters

Section I

Evolving security concepts and actors: a challenge faced by parliaments

Chapter 1 – Changing security in a changing world

In the last decade, new and emerging threats to security have altered the way security is conceived and the global security landscape. This chapter presents an overview of the evolving concept of security in the aftermath of the 9/11 terrorist attacks against the United States. The introductory section attempts to establish a link between democracy and peace and security. It touches upon democratic mechanisms for channeling and defusing conflicts. The chapter also challenges old ways of thinking about security in the face of new and emerging security threats and considers how states anticipate, prevent and respond to these threats. It further highlights the shift in focus from military security to comprehensive human security, and from individual state security to security cooperation among states. In addition, the chapter identifies advantages and disadvantages of a broad definition of security and explores opportunities and challenges posed by these dynamics.

Chapter 2 – Changing security in West Africa

This chapter is an introduction to the West African regional security context. It addresses recent developments in the regional security environment, new and emerging threats to security in the region, and the policy and practical responses to threats at the national and regional levels. The introductory section links internal armed conflict and military intervention experienced in some West African states to the withdrawal of the superpower security umbrella at the end of the Cold War, and the premature democratisation process, which already weakened state institutions could not support. The next section identifies sub-national and transnational sources of insecurity and the humanitarian consequences of armed conflict, and indicates

a shift in focus at the regional level from conflict management to anticipatory and preventive capacity. The chapter also considers the regional security architecture of the Economic Community of West African States (ECOWAS) and its responses to insecurity. The concluding sections highlight opportunities and challenges in the emerging regional security paradigm and suggest ways in which parliamentarians can promote security.

Chapter 3 – The resource-conflict linkage

This chapter posits that although natural resources should be a blessing to a country, in many cases resource wealth creates conditions conducive to conflict. It underlines the need to place the correlation between resource abundance and conflict in the context of each country's location and distribution of resources, political history, regime type, macroeconomic policy, external influences and leadership ideology. Cases are used to illustrate how proceeds from natural resources or the battle for control of resource sites can instigate, sustain and prolong conflict. The emergent political economy and complexes of natural resource control (autocratic rule, illicit mining, bunkering, militancy, kidnapping, warlordism, political violence, embezzlement, money laundering and financing of terrorist groups) are also highlighted. The chapter also examines the need for equity and transparency in resource allocation, and recommends a comprehensive and coordinated approach to effectively integrate all the aspects of natural resource governance and harmonise national, regional and global dimensions.

Chapter 4 – Roles and responsibilities of parliament and other state institutions

This chapter gives an overview of the role of parliament and other state institutions in security issues in line with principles of democratic governance of the security sector. It identifies distinct roles for parliament vis-à-vis the executive and the judiciary in their shared responsibility of maintaining an effective security sector. The chapter emphasises the importance of dialogue and consultation in the relationship of the parliament with other state institutions. It further spells out the role of the armed forces and security services in a democracy, and emphasises political accountability of security services to the main branches of the state. The chapter concludes with suggestions on how to enhance parliamentary oversight of the security sector.

Chapter 5 – Parliamentary ethics

Parliamentary ethics refers to accepted constraints and rules—both internal and external—that indicate to parliamentarians what is expected of them and what constitutes a breach of public trust. This chapter gives an account of the issues involved and the challenges related to parliamentary ethics in West Africa. The chapter also examines the importance of parliamentary codes of ethics in establishing a good reputation, image and credibility for members of parliament and their institutions. Further, it identifies eight primary rules of good conduct for members of parliament. Mechanisms for promoting parliamentary ethics, for instance by applying codes of conduct, serve to improve the accountability of parliamentarians to their institution and to the general public. In particular, the chapter identifies corruption as a bane to development, examines the causes of corruption, and identifies some national and regional instruments for combating corruption. It concludes with suggestions on what parliamentarians can do to curb corruption and other violations of parliamentary ethics and calls for the promotion of inter-parliamentary cooperation in the fight against corruption and money laundering.

Chapter 6 – The ECOWAS Parliament

This chapter describes the role of the ECOWAS Parliament in the definition and scrutiny of regional security issues. It traces the establishment and development of the ECOWAS Parliament and the scope of its authority with respect to security decision making. The chapter also examines the composition and structure of the ECOWAS Parliament (particularly the committee system and the political and administrative components), the role of the parliament and its powers within ECOWAS at large. Further, the chapter recalls some activities of the ECOWAS Parliament in relation to regional security sector governance, explores its relationship with the national parliaments of ECOWAS member states and considers challenges facing the ECOWAS Parliament. It concludes with suggestions on what parliamentarians can do to enhance the powers of the ECOWAS Parliament.

Section II

Challenges to security

Chapter 7 – States of exception

"States of exception" refer to exceptional circumstances during which a state's coercive apparatuses have to apply wider measures of legitimate use of force and special powers in order to maintain or restore order. Such circumstances include a state of war, states of emergency or martial law, severe crises or natural disasters. This chapter traces the bases for states of exception in West Africa

to breakdown in key institutions such as the military and police, political parties, or the mismanagement of large segments of the national economy, particularly extractive industries. It deals with specific challenges posed to security by states of exception and the role of parliament in these different situations. It also seeks to determine the purposes and limits of states of exception, the regulatory framework at the national level, limitations on the human rights of citizens and the limits of emergency powers. The chapter gives instances of de facto and formal states of emergency in West Africa and further explores how parliaments can contribute to preserving some balance between states of emergency and the maintenance of internal security and respect for human rights.

Chapter 8 – Transborder crime

This chapter defines transborder crimes as crimes whose commission involve persons and activities extending across the territorial borders of two or more states. It explores the nature and pattern of transborder crime in West Africa and considers threats posed by human trafficking, drug trafficking, smuggling of goods and other cross-border related crimes. The chapter further examines national and regional frameworks, initiatives and mechanisms to prevent and combat transborder crime (e.g., border protection and cooperation), including the ECOWAS Regional Action Plan against Illicit Trafficking, Organized Crime and Drug Abuse in West Africa 2008–2011. It concludes with an examination of the role of national parliaments and the ECOWAS Parliament in preventing and combating transborder crime and suggests how the role of the parliament can be strengthened in this regard.

Chapter 9 – Small arms and light weapons transfers

The proliferation of small arms and light weapons (SALW) continues to be a major threat to peace and security in West Africa. This chapter provides a systematic analysis of existing policies, laws and regulations, and procedures and practices for arms transfers in West Africa. It considers the nature and pattern of SALW trafficking in West Africa and the role that ECOWAS can play in preventing and combating SALW trafficking. It also provides an account of national policies, regional and international conventions on SALW and urges respect for international arms embargoes and the use of smart and effective sanctions. It equally suggests ways to strengthen the role of parliament in overseeing the arms trade and arms transfers.

Chapter 10 – Maritime piracy

This chapter gives an overview of the threats posed by maritime piracy in West Africa, as well as the mechanisms in place at the regional and national levels to address this problem. The introductory section distinguishes piracy (criminal acts undertaken for purely personal gains) from terrorism (criminal acts undertaken for a political purpose). The chapter explores the nature and pattern of maritime piracy in West Africa and identifies the applicable legal standards for combating it at the global and regional levels. It further recommends a role for ECOWAS in preventing and combating piracy and suggests how parliamentarians can support the war against piracy.

Section III

Security policy

Chapter 11 – Forging a national security policy

A national security policy sets out the government's approach to security and how such security is expected to be achieved. This chapter describes the stages of the national security policy cycle, with particular emphasis on the role played by parliament. It examines how national security policy is related to regional and international security. The chapter also identifies opportunities for West African states to further develop their national security policies with the expansion of democratisation processes and identifies a role for national parliaments in developing a national security policy. It also considers specific challenges and issues in forging national security policy in a post-conflict country.

Chapter 12 – National security policy and international regulations

As an extension of the preceding chapter, this chapter describes the regional and international policies and regulations relevant to national security policy. It identifies a need for friendly relations and cooperation between states in the sphere of security (including treaties and bilateral agreements) as state security is inextricably tied to the security of the international order. The chapter further considers how international law or regional legislative instruments limit or enhance opportunities for national security policy. It concludes with suggestions for an increased role for parliaments in negotiating, analysing, ratifying and reviewing security treaties.

Section IV

The main operational components of the security sector

Chapter 13 – The military

This chapter examines the functions of the military, taking into account the specificities of the West African context and the influence of the repressive colonial military legacy on civil-military relations. It gives a broad view of the functions of the military to include not only defence but also socio-economic functions, civil protection and disaster relief. The chapter also gives an account of internal and political accountability mechanisms with a specific focus on the role of parliament. Additionally, it identifies three main post-Cold War military reform processes and their objectives—democratisation, adaptation and internationalisation—and suggests ways in which parliament may enhance its oversight of the military.

Chapter 14 – The police and the gendarmerie

This chapter examines the functions of the police and gendarmerie and how they exercise their powers, tracing their structure to the English, Portuguese and French colonial past. It explains the differences between English-, French- and Portuguese-speaking states as to the organisation and function of these forces. It also gives an account of how the legacy of the colonial past, dictatorship and civil war affect the public image, political control and functioning of these state security providers. The chapter gives an account of internal and regional political accountability mechanisms, with a specific focus on the role of parliament, and recognises the need for regional cooperation between the security services of different states. This chapter also identifies and clarifies the functions of other state security providers such as the customs and immigration services. It concludes by suggesting a role for parliament in improving the efficiency of the police and gendarmerie, as well as other state security providers.

Chapter 15 – Secret and intelligence services

With increasing threats to national and regional security, there is the need to reinforce the intelligence capabilities of West African states. This chapter examines the functions of the secret and intelligence services, the sensitive nature of their work and the particular need for democratic oversight. It also gives an account of how the colonial legacy, dictatorship and civil war affect the public image, political control and functioning of secret and intelligence services. It highlights practices of parliamentary committees in dealing with classified documents and identifies parameters for intelligence services in a democracy.

Chapter 16 – Private military and security companies

This chapter provides an account of the phenomenon known as privatised security in West Africa, taking into consideration both profit- and non-profit and internally or externally located non-state security actors (mercenaries, private military companies and private security companies). It also considers the challenges posed by these actors to the state's monopoly on the use of force and explores what role parliaments can play in their oversight of private military and security companies.

Chapter 17 – Regional and international peacekeeping forces

Peacekeeping, peace enforcement and peacebuilding operations depend on the participation of states that agree to send their national contingents to contribute to these operations. This chapter outlines the implications of participating in international and regional peace support missions, with particular emphasis on regional dynamics, i.e., the ECOWAS Standby Force and its predecessor, the ECOWAS Ceasefire Monitoring Group (ECOMOG). It traces the history and development of peacekeeping in West Africa since the deployment of ECOMOG in Liberia. It further considers the place of West African states as both contributors to and recipients of United Nations/European Union/African Union integrated peacekeeping missions, the rules of engagement of the missions and the need for special training for the soldiers. Additionally, it advocates in favour of strengthening parliaments' involvement in the decision-making processes to send troops abroad.

Section V

Security under parliamentary scrutiny: conditions and mechanisms

Chapter 18 – Conditions for effective parliamentary oversight

This chapter examines the conditions for effective parliamentary oversight of the security sector. These conditions are identified to include clearly defined constitutional and legal powers, sound customary practices, resources and expertise, and political will. The chapter also gives account of specific West African challenges to effective parliamentary oversight and recommends proactive strategies for effective parliamentary oversight of the security sector.

Chapter 19 – Parliamentary mechanisms applied to the security sector

All legal systems provide parliaments with a variety of means to retrieve information for controlling policy, supervising the administration, protecting the individual and bringing to light and eliminating abuses and injustices. This chapter considers the tools used by parliaments to secure oversight of the security sector (parliamentary

debates, questions and interpellations, special inquiries), giving examples of practices in several West African states. It questions how frequently these tools are used and how effective they are in West Africa. The chapter concludes by examining parliamentary privileges and immunities, which usually provide a layer of protection to parliamentarians in the exercise of their functions.

Chapter 20 – Parliamentary defence or security committees

Parliamentary oversight of the security sector involves not just one committee but several committees dealing primarily or peripherally with defence and security issues. This chapter assesses how defence and security committees in parliament can work effectively. It identifies specific challenges faced by these committees in West Africa and suggests ways to build more effectiveness. The chapter seeks to match ideals with the reality by juxtaposing the skills of parliamentarians (education, specialisation, etc.) with the actual situation in the local context. The chapter concludes by suggesting ways to build up effective parliamentary defence and security committees.

Chapter 21 – Security and the power of the purse

This chapter focuses on the defence budgetary process and its control by parliament, highlighting how the defence budget can be a key element for security. It identifies basic components of the defence budget, controllable and uncontrollable defence and security-related expenditures, and key obstacles to transparent security budgeting. To promote accountability and transparency, the chapter also examines principles of effective budgeting, elements of budget discipline and conditions for proper security budgeting. It equally highlights the main problems constraining effective budget control of the security sector in West Africa and examines defence budget practices in selected West African states. It concludes by suggesting effective parliamentary action to secure transparent security budgeting.

Chapter 22 – Arms and defence equipment procurement

Lack of transparency and secrecy in defence-related spending and the technical nature of the procurement process may overwhelm the ability of any existing oversight body. This chapter considers the role of parliament in the procurement process, with a specific focus on the West African context. It provides a general background on issues/challenges linked to defence procurement in West Africa, the possible consequences of secrecy such as encouragement of corruption, as well as special circumstances that may justify secrecy. It concludes by suggesting ways to improve transparency and accountability in defence equipment procurement.

Chapter 23 – Personnel management in the security sector

The democratic education and attitude of the armed forces needs to be promoted, especially in post-conflict situations, so that members of the armed forces can be properly integrated in society and do not threaten democracy. This chapter focuses on the personnel of the security sector and on the role of parliament in oversight of the recruitment, selection and training of servicemen in West Africa. It also gives an overview of the human rights of armed forces personnel as well as of the mechanisms for inculcating democratic values in the personnel of the security sector. The example of national and regional and UN codes of conduct regulating the behaviour of servicemen is provided.

Chapter 24 – Gender and parliamentary oversight

Taking gender issues into account strengthens parliament's ability to oversee the security sector comprehensively and ensures that it meets the security needs of different groups. This chapter highlights the importance of gender in parliamentary oversight of the security sector and how the integration of gender can improve parliamentary oversight, with specific reference to the West African context. It addresses the creation of equitable and representative security sector institutions, equal access to security decision making, and the development of gender-sensitive security policies and legislation. The chapter also highlights international and regional laws, instruments and security policies relating to gender and the security sector, and recommends how these can be operationalised in West African states. Data on the percentage of females in the security sector and parliaments of West African states are presented. The chapter concludes by recommending measures to create equitable access to decision making.

Section VI

Other oversight institutions

Chapter 25 – The audit of security-related national budgetary expenses

This chapter focuses on the defence budget and its control by auditing bodies, with a specific focus on the West African context. It identifies the types of independent institutions that exist in West Africa to assist parliaments in oversight of the security sector (e.g., national audit offices, anticorruption commissions) and how these institutions work (independence, effectiveness, powers of investigation, access to classified information, and degree of implementation of their recommendations). The roles of legislative budget research offices as independent support structures to parliament, and civil society as an independent source of information, are also highlighted.

Chapter 26 – The role of civil society and the media

This chapter considers why civil society should play a role in ensuring accountability of the security sector, what this role includes and how civil society contributes to parliamentary oversight. It gives a background on civil society in West Africa and illustrates its role, importance and the challenges it faces. The chapter also explores how security issues should be communicated to the public, the role of non-governmental organisations in national security decision making, and how parliament can use civil society and the media in oversight of the security sector. The chapter concludes by suggesting ways to facilitate public involvement in parliamentary work.

List of boxes

List of abbreviations

ACGF	Accountant General of the Federation (Nigeria)
AGF	Auditor General of the Federation (Nigeria)
ASSN	African Security Sector Network
AU	African Union
BBC	British Broadcasting Corporation
C&AG	Comptroller and Auditor General (UK)
CCSS	Committee of Chiefs of Security Services
CPA	Comprehensive Peace Agreement (Liberia)
CSCAP	Council for Security Cooperation in the Asia-Pacific
CSDG	Conflict, Security and Development Group (UK)
CSO	Civil society organisation
DC	Deputy Commissioner
DCAF	Geneva Centre for the Democratic Control of Armed Forces
DDR	Disarmament, demobilisation and reintegration
DIG	Deputy Inspector General
DPKO	United Nations Department of Peacekeeping Operations
ECCAS	Economic Community of Central African States
ECOMOG	ECOWAS Ceasefire Monitoring Group
ECOSAP	ECOWAS Small Arms Control Programme
ECOWARN	ECOWAS Early Warning Network
ECOWAS	Economic Community of West African States
ECPF	ECOWAS Conflict Prevention Framework
EFCC	Economic and Financial Crimes Commission (Nigeria)
EITI	Extractive Industries Transparency Initiative
ESF	ECOWAS Standby Force

EU	European Union
GAS	Ghana Audit Service
GIABA	Intergovernmental Action Group against Money Laundering in West Africa
HoS	Head of state
HIV/AIDS	Human immunodeficiency virus/acquired immune deficiency syndrome
IANSA	International Action Network on Small Arms
ICJ	International Court of Justice
ICPC	Independent Corrupt Practices Commission (Nigeria)
ICRC	International Committee of the Red Cross
IfS	EU Instrument for Stability
IHL	International humanitarian law
INTERPOL	International Criminal Police Organisation
INTOSAI	International Organisation of Supreme Audit Institutions
IOM	International Organization for Migration
IPU	Inter-Parliamentary Union
LURD	Liberians United for Reconciliation and Democracy
MEND	Movement for the Emancipation of the Niger Delta
MNCs	Multinational corporations
MoD	Ministry of Defence
MPRI	Military Professional Resources Incorporated (United States)
MSC	ECOWAS Mediation and Security Council
NAO	National Audit Office (United Kingdom)
NASS	National Assembly (Nigeria)
NATO	North Atlantic Treaty Organization
NEPAD	New Partnership for African Development
NGO	Non-governmental organisation
OAU	Organization of African Unity
OHCHR	Office of the UN High Commissioner for Human Rights
PAC	Public Accounts Committee (Nigeria)
PMAD	Protocol Relating to Mutual Assistance on Defence
PMSCs	Private military and security companies
PNA	Protocol Relating to Non-Aggression
PPBS	Planning, Programming and Budgeting System
ROE	Rules of engagement
RSLAF	Republic of Sierra Leone Armed Forces
RUF	Revolutionary United Front (Sierra Leone)

SALW	Small arms and light weapons
SSG	Security sector governance
SSR	Security sector reform
UEMOA	West African Economic and Monetary Union
UK	United Kingdom (of Great Britain)
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
UNOWA	United Nations Office for West Africa
US	United States (of America)
WAANSA	West Africa Action Network on Small Arms
WANEP	West Africa Network for Peacebuilding
WANSED	West Africa Network on Security and Democratic Governance
WAPCCO	West African Police Chiefs Committee
WCO	World Customs Organisation
WHO	World Health Organization

Evolving security concepts and actors: A challenge faced by parliaments

Changing security in a changing world[1]

During the last decade, the global security situation has changed dramatically. While old threats have faded away, new and daunting challenges have taken their places. This has spurred new thinking about the very ideas underlying security, conflict and peace.

Peace and security in democracies

Not all conflicts pose a threat to peace and security. In every society, competing and often opposing views exist on a wide range of issues. In a democracy, freedom of expression allows people to relay these views to their elected representatives. They, in turn, have the task of discussing and weighing the issues at stake through a public debate. This procedure enables democracies to defuse conflict and seek viable compromises that have the support of society at large. Not surprisingly, it is often in the absence of well-functioning democratic institutions that tensions escalate out of control and turn into violent conflict. Given its built-in mechanism for channelling conflict, democracy has come to be seen as intrinsically linked to peace and security.

This link stands out for a further reason: it is now widely recognised that security is not a goal in itself but should ultimately serve the well-being of the people. Democracy, rooted in an effective parliament, is most likely to give this idea practical meaning:

---

1   This chapter was adapted from the IPU-DCAF Handbook for Parliamentarians by Ms. Anike Doherty.

The sovereignty of the community, the region, the nation, the state,
makes sense only if it is derived from the one genuine sovereignty
– that is, from the sovereignty of the human being. – Vaclav Havel

National security, with its focus on the protection of the state, "becomes" human security, which puts the individual and community first. In practice, this has led states to widen their responses to threats against security by including:

✓ **Preventive action:** initiatives to prevent conflicts, such as people-centred conflict resolution and peacebuilding actions;

✓ **Intervention:** in extreme cases, when other efforts fail, intervening in internal conflicts in order to protect populations at great risk; and

✓ **Reactive action:** relief action, which is necessary during or after a civil war in order to provide support to civilians who suffer through the war. This includes building camps for displaced people, granting asylum to refugees and providing relief.

From military security to comprehensive security

The shift in focus to "human security" goes hand-in-hand with a broadening of the security concept beyond strictly military considerations. There is a growing consensus that the issue of security should be approached in a comprehensive manner by also taking non-military factors into account (see Box 1).

Box 1

Other security threats today

► Political threats, such as internal political instability, failed states, terrorism and human rights abuses.

► Economic threats, such as poverty, the growing gap between rich and poor countries, international financial recession, the impact of an economically powerful or unstable neighbouring state and piracy (e.g., Somalia).

► Environmental or man-made threats, such as nuclear disaster, global ecological changes, degradation of land or water and lack of food or other resources.

► Social threats, such as minority/majority conflicts, overpopulation, organised crime, transnational drug trafficking, trafficking in small arms and light weapons, human trafficking, illegal trade, uncontrolled mass immigration and disease.

Source: Fluri, Philipp, Johnsson, Anders and Born, Hans, eds. (2003), *Parliamentary oversight of the security sector: principles, mechanisms and practices.* Handbook for parliamentarians No. 5. Geneva: IPU and DCAF.

The advantage of a broader security concept is that it provides a more comprehensive understanding of the threats to peace and the responses needed. The disadvantage is that security services, which include all organisations that have the legitimate authority to use force, to order force or to threaten the use of force in order to protect the state and citizens, can become too powerful if they become active in non-military areas of society. Moreover, the security sector may not have the necessary expertise to respond to these new challenges.

From individual state security to security cooperation among states

The idea that national security cannot be achieved through national "self-help" alone but that security cooperation among states is needed is very old. In the nineteenth century, the "balance of power" approach was prominent. In the twentieth century, collective security organisations flourished, such as the League of Nations and its successor the United Nations, as did collective defence organisations such as the North Atlantic Treaty Organization (NATO).

Since the end of the Cold War, there has been a global upsurge in internal conflicts, particularly in Africa. West Africa has been affected by civil wars, coups and instability. Recently, terrorism has also become a growing concern. Globalisation has heightened interdependence between states, including in the area of security, and threats to the security of one country can easily spill over and destabilise a region or even world peace. This new reality, together with a broadening of the security agenda, has given further impetus to international security cooperation.

Box 2

Different kinds of security arrangements

► Collective defence

Collective defence is defined as an arrangement, usually by way of a treaty, wherein two or more states promise to assist each other in case of an outside attack. Examples of this type of security arrangement are NATO and the Organization of American States.

In West Africa, member states of the Economic Community of West African States (ECOWAS) adopted the Protocol Relating to Mutual Assistance on Defence (PMAD) on 29 May 1981, which became effective five years later. This protocol committed the signatories to a collective defence treaty by considering an armed threat or aggression against one as a threat or aggression against the community, and provided for the provision of mutual aid and assistance for defence. It provided for a collective response where a member state is a victim of internal armed conflict that is engineered and supported actively from outside, and which is likely to endanger the peace and security of other member states. This

protocol has now been incorporated into the new ECOWAS Mechanism for Conflict Prevention, Management, Resolution and Security of 1999.

► Collective security

With this system, a group of states agree to renounce the use of force and to assist any member of the community in the event that another resorts to force. It is a system providing for a forceful reaction by the international community to a breach of international peace. Unlike collective defence, collective security is directed against an attack from within the community. The United Nations (UN) is a typical example of a collective security system. Under Articles 41 and 42 of the UN Charter, the international community is supposed to exert pressure on the peace-breaker, be it non-military coercion or the use of military force.

In Africa, countries belonging to the African Union (AU) (formerly the Organization of African Unity) may, since the Cairo Declaration of 1993, be regarded as a "regional" collective security arrangement under Chapter VIII of the UN Charter.

In West Africa, the Protocol Relating to Non-Aggression (PNA) was adopted by ECOWAS member states on 22 April 1978 and stipulated that member states were to "refrain from the threat and use of force or aggression" against one another. Article 5(2) stated that "Any dispute which cannot be settled peacefully among Member states shall be referred to a Committee of the Authority. In the event of failure of settlement by the aforementioned Committee the dispute shall finally go to the Authority [i.e., heads of state]." This protocol has equally been incorporated into the ECOWAS Mechanism for Conflict Prevention, Management, Resolution and Security of 1999.

► Cooperative security

Cooperative security links collective security to the comprehensive approach towards security. It can be defined as "a broad approach to security which is multidimensional in scope; emphasises reassurance rather than deterrence; is inclusive rather than exclusive; is not restrictive in membership; favours multilateralism over bilateralism; does not privilege military solutions over non-military ones; assumes that states are the principal actors in the security system, but accepts that non-state actors may have an important role to play; does not require the creation of formal security institutions, but does not reject them either; and which, above all, stresses the value of creating habits of dialogue on a multilateral basis."

Based on: Gareth Evans (1993), Co-Operating for Peace: *The Global Agenda for the 1990s and Beyond.* St Leonards, NSW: Allen and Unwin, 16; Bruno Simma (1995), The Charter of the United Nations: A Commentary. Oxford: Oxford University Press.

A "collective defence arrangement" is one of the most far-reaching forms of cooperation. In addition, less cohesive security cooperation exists through networks of bilateral or multilateral agreements without a formal or overriding military organisation.

The decision to join a security cooperation organisation, and in particular a collective defence organisation, will have a strong impact on a country's security situation. In principle, such cooperation enhances national security as it ensures a collective "fist" against threats. Membership, however, comes at a price: a country will be obliged to adapt itself to the alliance's objectives and requirements, thereby limiting its options for defining a national security policy. Moreover, it will affect parliamentary oversight, as the decision-making process shifts partly from the national to the international arena.

Changing security in West Africa[1]

For much of the 1990s and beyond, West Africa was affected by internal armed conflicts that had unanticipated regional dimensions. The region witnessed an outbreak of violent conflicts starting with Liberia (1989), Sierra Leone (1997), Guinea-Bissau (1998) and Côte d'Ivoire (2002). Although the political landscape had previously been dotted by civil wars, the fierce character of these conflicts and their debilitating humanitarian consequences overwhelmed the ill-formed security apparatuses and decimated the coping capacity at the individual and national levels. As the effects of these internal armed conflicts spilled over to neighbouring states, it took the active participation of security forces from other states in the region and the international community to contain the situation. This state of affairs also triggered the development of a security portfolio and capacity at the regional level by the Economic Community of West African States (ECOWAS) in order to grapple with formerly unanticipated threats to regional integration and economic development.

The drivers of these internal armed conflicts and political instability may be connected with the end of the Cold War. Regimes that had enjoyed military, economic and diplomatic patronage as proxies of the Cold War superpowers and political allies of Western states prior to the 1990s were weakened by the abrupt withdrawal of such patronage. With the opening up of democratic space, the weakened regimes were subsequently confronted by the citizenry, some of whom had endured state oppression, corruption of the ruling elite, human rights abuses and economic deprivation. Calls for more representative governments led to friction between diverse groups within states (those benefitting from the status

---

1   This chapter was written by Dr. Kossi Agokla and Mr. Okey Uzoechina.

quo and those calling for change), and between groups and the state. Feeding into discontent, challenge to state authority often assumed radical and violent dimensions resulting in civil disobedience, political instability, civil wars and coups d'état in many West African states.

The wave of democratisation since the 1990s brought to the fore the huge democratic deficit facing most West African states. Military and police personnel had been indoctrinated to ensure regime security even at the cost of human lives and in violation of the human rights of citizens. The armed forces and security services of some states were undisciplined, poorly trained, poorly remunerated and, ironically, contributed in no small measure to the security problems within these states. The inability of states' authorities to effectively perform the primary security function of protecting the lives and property of their peoples led to the proliferation and expansion of non-state and informal security actors, eroding state monopoly on the legitimate use of force. Military misadventures into the sphere of governance in some states further created a lack of trust among the security forces, the ruling elite and the citizens. Today, the activities of both undisciplined state security services and unregulated non-state and informal security actors in parts of West Africa continue to undermine peace, security and development efforts.

Sources of insecurity and the changing nature of security

The pursuit of security in every society is usually based on perceptions of insecurity. In West Africa today, insecurity is felt at different levels—at the individual, national and regional levels—and is the result of a complex mix of real and potential threats/risks that are increasingly non-military in nature. Significantly, the security environment in the region is now marked less by conflict between states (international threats) and more by conflict within states (sub-national threats) and insecurities whose effects defy state borders (transnational threats).

From the turn of the century, there has also been a marked decline in the incidence of regular warfare between forces fighting for the government or fighting to overthrow the government and a surge in internal conflict and political instability. The latter has often resulted from discontent with inefficient governance processes and outcomes, and struggle for the control of natural resources. Cases in point include intractable conflict in the Casamance, the long-drawn Tuareg rebellion in northern Mali, chieftaincy dispute in Northern Ghana, coups d'état and political assassinations in Guinea-Bissau, illegal mining and export of conflict diamonds in Côte d'Ivoire, civil unrest as a result of alleged electoral fraud in Togo, ethnic and religious conflict in northern Nigeria, and the faceoff between (and often among) militant groups and security forces in Nigeria's Niger Delta region.

Some of these conflicts have created acute humanitarian crises, manifested in the loss of civilian lives, destruction of property and infrastructure, disruption of livelihoods and social support networks, internal displacement of persons and widespread poverty and disease. Other sources of insecurity, which fuel and are in

turn fuelled by armed conflict and instability in West Africa include the proliferation of small arms and light weapons, the growth of non-state and informal security actors, trafficking in drugs and narcotics, natural resource predation, maritime piracy and the rise of transborder criminal networks. The changing nature and perceptions of insecurity called for a change in the way security is conceived and pursued in West Africa. As a reflection of this change, the emerging regional security paradigm is marked less by matters of state security and defence and more by concerns with human security, internal security and transborder security.

The humanitarian dimension of internal armed conflict has emerged slowly but places the well-being of the individual at the centre of security concerns. Human security has now become a buzzword in emerging regional and global security paradigms. The United Nations Development Programme's (UNDP) Human Development Report 1994, entitled New Dimensions of Human Security, identifies seven dimensions of security:

✓   economic security

✓   food security

✓   health security

✓   environmental security

✓   personal security

✓   community security

✓   political security

Taken together, these re-echo the predominant perceptions of security threats across West Africa today. Also, the vulnerability of the individual to disaster risks and hazards—which often impinge on food security, the environment and health conditions—has led to the quest to develop a robust capacity for crisis prevention and disaster risk reduction. Another significant shift in the way security is addressed is seen in the development and prioritisation of anticipatory and preventive capacity by ECOWAS. Realisation of the huge human and financial costs of conflict resolution, peacekeeping operations and peace enforcement has now led to a shift in focus to conflict prevention, early warning and early response, and preventive diplomacy.

To address internal security and stability, democracy and good governance are promoted and supported as structural bases for redressing discontent and creating conditions favourable to peace, security and sustainable development. Recent conflicts in West Africa demonstrate that pockets of insecurity within states are often interconnected with regional dynamics and interests, and internal conflict poses a threat not only to the state concerned but also to its neighbours. Notably, while previous regional instruments endorse state sovereignty and the principle of non-interference in the internal affairs of states, the Revised Treaty of ECOWAS of 1993

shrewdly avoids any mention of state sovereignty in its Fundamental Principles (Article 4) and emphasises interdependence and good neighbourliness.

Democratic governance of the security sector now features strongly in regional policy frameworks as a measure targeted at addressing the skewed civil-military relations in some states. Given the continuous and hard-earned lessons of ECOWAS in the sphere of security since its creation, the emphasis on democratic security sector governance (SSG) is not surprising. Logically, after long years of conflict and military or authoritarian rule, the priority must be to make security actors more governable by subjecting them to democratic civilian control. This step would then create the space, and hopefully, the political will to drive sector-wide reform.

Security sector reform (SSR) is understood as a programmatic strategy for building the technical and operational capacity of the armed forces and security services, reorienting them to observe human rights and international humanitarian law. It offers a methodology for optimising the use of available security resources. In much of West Africa, SSR as presently conceived and delivered is essentially a time-bound and donor-driven process targeted mainly at post-conflict states. It is limited in that it does not engage non-state security actors, which today pose a clear threat to internal security in West African states. It may be that ECOWAS lacks the technical capacity and financial muscle to carry out traditional SSR in its member states. However, the appeal and added value of the ECOWAS SSG approach is the emphasis on building and strengthening local capacity for oversight and democratic control of the security sector. This approach, which applies to both post-conflict and non-conflict states, does not overlook the professionalisation of armed forces and security services or the integration of human rights and democratic principles into their operations. In other words, SSG sets the stage for SSR and continues when SSR has ended.

Transborder crime has become more widespread in West Africa since the 1990s. Internal armed conflict in Liberia and Sierra Leone brought mercenary activities, looting, weapons trafficking and unregulated trade in natural resources, especially timber and diamonds, onto the regional scene. During this period, state security forces, non-state armed groups and ECOWAS Ceasefire Monitoring Group (ECOMOG) troops, often operating in concert, were allegedly involved in trafficking in diamonds in Sierra Leone. Transborder criminal activity continues unabated today due to large swathes of unpatrolled and porous inter-state borders. Worse still, this organised form of criminal activity continues to evolve tactics that are beyond the crime detection and fighting capacity of state security services.

Lapses in maritime security in the Gulf of Guinea and border security along the Sahel-Sahara divide delimiting the northern frontiers of West Africa have led to a rise in oil bunkering, piracy, banditry, trafficking in persons, transshipment of drugs and narcotics, and smuggling of cigarettes and contraband goods. The proximity of the northern frontiers to the Arab Maghreb region further exposes the region to terrorist groups from Northern Africa and the Middle East, which expand to seek refuge or recruit followers in new ungoverned spaces. It has become clear that no

one state acting alone can effectively combat transborder crime. The situation calls for security cooperation among different states and among the security services of individual states, harmonisation of operating procedures and enormous financial resources (see Chapter 8).

Box 3

Threats to security in some West African states

► Unconstitutional change of government in Niger

The Republic of Niger has been embroiled in political crises as a result of ex-President Mamadou Tandja's attempts to extend his mandate beyond December 2009, the end of his second term in office. Tandja dissolved the National Assembly in May 2009 and conducted a constitutional referendum that extended his mandate for another three years and conferred wide presidential powers on him. On 17 October 2009, the ECOWAS Authority of Heads of State and Government suspended the country from all activities of the organisation for acting in contravention of the letter and spirit of provisions of the Supplementary Protocol on Democracy and Good Governance of 2001. In December 2009, the Tandja regime initiated spurious legal charges against key opposition leaders, forcing them to live in exile. Negotiated talks between President Tandja and the opposition, which were mediated by ECOWAS, broke down in February 2010.

On 18 February 2010, a group of soldiers opened fire on the presidential palace with armoured vehicles and captured President Tandja and some of his ministers while he was chairing his weekly cabinet meeting. The military junta, the Supreme Council for the Restoration of Democracy headed by Colonel Salou Djibo, in a patriotic bid to "save Niger and its population from poverty, deception and corruption," suspended the constitution and dissolved the National Assembly. On 21 April 2010, Colonel Djibo appointed a committee to draw up a draft constitution. A timetable for return of the country to democratic rule was also announced. The political events in Niger make it clear that bad governance by the political class may constitute an invitation to the military to intervene in governance. Niger remains one of the poorest countries in the world, beleaguered by famine and hunger, and continues to spew economic refugees into neighbouring states.

► Political assassinations and drug trafficking in Guinea-Bissau

Guinea-Bissau is rated as a top narco-state; it has become a hub for the transshipment of hard drugs and narcotics from Latin American countries to parts of Europe and the United States. Although military intervention in the political life of the country dates back to 1975, it is now believed that deep-rooted drug trafficking networks provide the political elite and the military resources to manipulate the political process and to fuel instability.

Guinea-Bissau's post-conflict reconstruction process was rocked by the assassination of the chief of army staff, General Batista Tagme Na Waie, and six other persons in March 2009 by a group of soldiers. In a purported act of revenge, the country's president, João Bernado "Nino" Vieira, was killed by officers loyal to the army chief.

Again, the country's democratisation process was rocked by the killing of presidential aspirant Baciro Dabo and former Defence Minister Helder Proenca in June 2009. In April 2010, Prime Minister Carlos Gomes Junior was seized by soldiers purportedly on the orders of the deputy chief of the armed forces, who also threatened to kill civilians protesting for the release of the prime minister. Although the government subsequently downplayed the incident, the cycle of military involvement in politics coupled with the drug trade and a crippled economy are signals that the post-conflict reconstruction and democratisation processes in Guinea-Bissau are still on trial.

► Non-state armed groups in Nigeria

Non-state armed groups have proliferated in Nigeria with the opening up of democratic space in 1999. They include ethnic militias (Bakassi Boys, Movement for the Actualization of the Sovereign State of Biafra, O'odua People's Congress), militant groups and splinter groups in the Niger Delta (Movement for the Emancipation of the Niger Delta, Niger Delta Volunteer Force, Federated Niger Delta Ijaw Communities), vigilante groups (Niger Delta Vigilante, Onitsha Traders Association) and radical religious sects in parts of northern Nigeria (Boko Haram). This negative trend has been attributed to bad governance over time and non-existent or inefficient grievance/remedial channels for the deprived. This has resulted in widespread social and economic inequalities, pollution and underdevelopment, poverty and high unemployment, and ready access to small arms and light weapons supplied by politicians and by instigators of communal clashes.

The activities of these groups are largely unregulated as most are either outlawed or operate outside the confines of the law. Some militant groups in the Niger Delta have transformed from genuine grievance-motivated causes to greed-motivated movements perpetrating violent crime, arson, sabotage of oil installations, oil bunkering and piracy, and kidnapping for ransom. Although these groups do not challenge the sovereign existence of the state, they pose a threat to internal security, political stability and maritime security in the Gulf of Guinea.

> The interception of several cargoes carrying small arms and light weapons at the Kano International Airport in northern Nigeria and seaports in the Niger Delta in 2009 indicates that some of these groups may be linked to global illicit arms trade networks. Although the government has embarked on a well-publicised disarmament and rehabilitation programme and offered amnesty to renounced militants, a lot still needs to be done to address the root causes of insecurity in the Niger Delta and other areas.
>
> *Based on:* BBC News, *Military coup ousts Niger president Mamadou Tandja*, 19 February 2010, @ http://news.bbc.co.uk/2/hi/africa/8523196.stm; International Crisis Group (2010), CrisisWatch No. 79, 4; CrisisWatch No. 80, 5; UNODC (2009), *Transnational Trafficking and the Rule of Law in West Africa*: A Threat Assessment, Vienna: UNOCD, 15 & 72; Stephen Ellis (2009), "West Africa's International Drug Trade", African Affairs 108/431, 171-196; Kingsley Omonobi (2009), "JTF links seized plane with arms to militants", Vanguard, 21 June 2009.

Regional approach to security and responses to insecurity

West Africa is faced by not one but multiple sources of insecurity. A robust security strategy would therefore require multiple layers of engagement feeding off a wide range of policy options. These options would simultaneously fill in security gaps where they exist while also preventing collapse of security in fragile situations. Progress in this respect is already evident. Although ECOWAS lacked a clear security mandate at its formation, there are indications of a more robust and proactive approach to regional security emerging. This approach sees security as a complement to the original raison d'être of ECOWAS, regional integration and development. This new approach is reflected in organisational and policy repositioning since the adoption of the Revised Treaty of ECOWAS in 1993—particularly the enabling provisions of Article 58 on Regional Security—and the pivotal Protocol relating to the Mechanism for Conflict Prevention, Management and Resolution, Peacekeeping and Security (the mechanism) in 1999.

Since the ECOWAS policy lens zoomed in on peace and security issues, there has been a substantial increase in the security vote vis-à-vis other budgetary areas and a shift in focus to developing capacity for conflict prevention, early warning and preventive diplomacy. There has also been a sustained drive towards establishing enduring operational structures such as the ECOWAS Standby Force (ESF) and a multidimensional ECOWAS Emergency Response Team in the place of the ad hoc and militaristic ECOMOG. Today, ECOWAS' programmes and activities include human security and human development dimensions, including agriculture and food security, youth and gender issues, health and social affairs, the environment, education, energy and infrastructure.

The mechanism has served as the pivot for the evolution of a body of normative instruments that now form the core of regional security cooperation in West Africa. It establishes inextricable links between economic development and regional integration, and the security of peoples and states. In December 2001, ECOWAS adopted the Protocol on Democracy and Good Governance supplementary to the mechanism (supplementary protocol). The supplementary protocol sets out constitutional convergence principles commonly applicable to ECOWAS member states based on the principles of good governance: respect for the rule of law and human rights, separation of powers, independence of the judiciary, and the promotion of non-partisan and responsible press. Further, Section IV (Articles 19 to 23) of the supplementary protocol emphasise democratic control of the armed forces; prescribes that the police and other security agencies are to be under the control of legally constituted civilian authorities; and that armed forces are citizens in uniform entitled to the rights set out in their national constitutions, except as otherwise stated in their service regulations.

To stop the illicit transfer and manufacture of small arms and light weapons (SALW)—the main instruments of conflict and political instability—in the region, the Authority of Heads of State and Government of ECOWAS (the authority) adopted the Convention on Small Arms and Light Weapons, their Ammunition and other Related Materials in June 2006. The convention came into force in November 2009 and a 5-year plan of action for its implementation was adopted in March 2010 by ECOWAS ministers responsible for defence and security. Regional structures such as the Mali-based ECOWAS Small Arms Control Programme (ECOSAP) and the Abuja-based Small Arms Unit today support policy and contribute to the development of capacity for national commissions on the control of small arms. Although the convention and its implementation plan have gathered considerable political momentum, a lot still needs to be done to prevent the recycling of SALW from one conflict zone to another and to curtail transborder criminal activities. Favouring a comprehensive and concerted approach to combating transborder crime, ECOWAS, with the support of development partners, has also adopted a regional action plan against illicit drug trafficking, organised crime and drug abuse in West Africa for the years 2008–2011.

The latest add-on to the ECOWAS regional security architecture, the ECOWAS Conflict Prevention Framework (ECPF), was adopted by the Mediation and Security Council (MSC) in January 2008. The ECPF is intended as "a comprehensive operational conflict prevention and peace-building strategy" (Paragraph 7[a] ECPF). Paragraphs 72 to 76 on security governance seek to bridge the gap between policy and operations by promoting human security, accountability, transparency and professionalism of security forces. ECOWAS has embarked on the elaboration of a logical framework for the components of the ECPF pursuant to paragraph 74, and a complementary regional SSG plan of action that takes into account the peculiarities of member states. Notably, the ECPF also envisages adoption of a regulatory framework with a sanctions regime on non-statutory armed groups, including militias, vigilantes and private security outfits.

To address the skewed civil-military relations in West African states and promote democratic control of armed forces, the ECOWAS Committee of Experts on Peace and Security, with the support of the Geneva Centre for the Democratic Control of Armed Forces (DCAF), adopted a Code of Conduct for Armed Forces and Security Services in West Africa in November 2006. The preamble of the code of conduct declares that it is intended as an agreement on "common principles and standards defining politico-security relations." Subsequently, the chiefs of defence staff, the Committee of Chiefs of Security Services and the ministers responsible for defence and security have all approved the code of conduct. The code of conduct is now embedded in a Draft Supplementary Act to be adopted by the ECOWAS Council of Ministers and the Authority of Heads of State and Government. As an operational tool, it is hoped that, when adopted by the authority, it will facilitate the infusion of democratic norms and standards into the operations of armed and security forces and change the attitudes and conduct of security operatives.

Beyond developing regional security policy frameworks, ECOWAS has condemned and sanctioned acts that pose a threat to internal security and challenge democracy and good governance in its member states. In October 2009, the authority imposed an arms embargo on the Republic of Guinea in disapproval of the killing of about 200 unarmed protesting civilians and the rape of women by members of the state security forces. Sanctions were also imposed on the Niger Republic in October 2009 in reaction to the attempt by former President Mamadou Tandja to seek an extended term in office. ECOWAS has also deployed special mediators and peace ambassadors (Council of the Wise) to states experiencing internal strife and instability.

Opportunities and challenges in the emerging regional security paradigm

States have the primary responsibility to ensure security within their borders. However, many states in West Africa are either unwilling or unable to exclusively discharge this responsibility. The upside of this gap, however, is that it presents an enormous opportunity to collectively define and create common security standards across states whilst still taking into consideration the peculiar social and political context and needs of individual states. ECOWAS, being an intergovernmental body with a degree of pooled sovereignty based on shared fears and expectations, is strategically positioned to help bridge this gap. Today, ECOWAS has a membership of fifteen geographically contiguous but diverse states. These states are diverse in terms of their colonial history, territorial size, political structure, economic strength, ethnic composition, internal cohesion and external linkages, and therefore have different needs. The ultimate test therefore lies in applying the regional security strategy in a way that is flexible, case sensitive and reflective of the needs of each state. This would involve a delicate process of synchronising top-down regional priorities with the need for bottom-up local ownership of initiatives.

A big challenge confronting regional security in West Africa is the development of local capacity and funding for SSR/SSG. For some time, West Africa has been more

or less a toll-free theatre for external security actors such as the United Nations, Western intergovernmental organisations and donor countries. Due to the strategic place of security, the subject has attracted massive donor funding. Internally, the practice of the ECOWAS Commission has been to present its development partners with a ready-made annual security programme and budget, and solicit their support on those terms. However, direct donor engagement in weak member states is often devoid of such leverage. Capacity and funding are essential to sustainability. Unless this gap is filled, external actors will continue to dictate the content and pace of security delivery in West African states. Some post-conflict states and security institutions in West Africa have yet to recover from the drying up of donor funding for security caused by the global economic recession in 2008. Furthermore, unilateral outsourcing of SSR support by the United States to private military and security companies in the past—for instance, DynCorp in Liberia and Military Professional Resources Incorporated (MPRI) in Nigeria—often creates a significant local ownership and accountability deficit. Such a deficit will only be cured with the development of local capacity and expanded funding options for SSG.

Furthermore, the yawning gap between security norm setting and its implementation needs to be bridged if ECOWAS security and development objectives are to be achieved. The regional security architecture in West Africa is no doubt impressive and inspiring. However, there is the risk that norm setting—heralding a milestone such as the development and adoption of the ECPF—may be seen as an end in itself. But there are still challenges in translating norms into common practice.

✓ **Conceptual challenge.** The human security dimension is a valuable tool for focusing attention on non-military aspects of security. In practice, however, its value is yet to be widely felt at the level of a coherent and workable implementation strategy. The all-inclusive and diffuse nature of human security makes the concept difficult to analyse, and even more difficult to be translated into a concrete strategy.

✓ **Operational challenge.** To ensure coherence, there is the need to develop an acceptable vehicle for policy transmission and dissemination to national security forces and non-statutory security actors. Such a vehicle should not only ensure that the regional security objectives are commonly shared and accepted across member states, but should also be flexible and sensitive to national security objectives and programmes.

✓ **Supervisory challenge.** Monitoring states' compliance, objective evaluation and periodic review of the regional security architecture in order to address emerging threats is essential. Given the often flagrant disregard of the Constitutional Convergence Principles agreed by ECOWAS member states by the same regimes that agreed to them, and the weak sanctions regime inaugurated under Chapter II of the Supplementary Protocol, a fundamental question becomes how to generate the political will necessary to breathe life into the law.

What you can do as a parliamentarian

► Recommend and adopt measures to strengthen cooperation among the various state security services in order to combat internal crime.

► Strengthen the professionalism of defence and security forces by ratifying and domesticating the Supplementary Act relating to a Code of Conduct for Armed Forces and Security Services of ECOWAS.

► Ratify and domesticate relevant regional security instruments already signed by the executive branch in order to provide state security forces and authorities the legal backing to act.

► Work towards the harmonisation of laws and procedures with neighbouring states in order to promote security cooperation, especially in conducting joint border patrols and combating transborder crime.

► Recommend and support wide-ranging dissemination and sensitisation within states of the ECOWAS Conflict Prevention Framework.

► Recommend seminars and workshops for parliamentarians (especially defence and security committee members) to learn about and discuss emerging threats to internal and regional security in order to better prepare them to develop policies to address it.

► Recommend and support continuous awareness campaigns to promote trust between civilian populations and the military, both as a stand-alone programme and as part of the plan of action to reform the security sector.

Chapter 3
The resource-conflict linkage[1]

Common sense suggests that natural resource abundance is a blessing that should lift a country out of poverty and drive its economic development. However, countries richly endowed with non-renewable natural resources such as oil and gemstones have experienced lower economic growth rates on average and a greater likelihood of war or civil strife than countries without such resources. Other ills often associated with resource dependence include authoritarian or unrepresentative government, increased corruption and financial mismanagement, exposure to economic shock, wide income disparity, relative deprivation and rising poverty levels. This phenomenon has come to be referred to as the "resource curse" or "paradox of plenty". In West Africa, resource abundance rather than resource scarcity is directly correlated with conflict and insecurity.

In fact, the mere presence or abundance of natural resources in a country does not lead to conflict; it is the quest for the control of resources by different actors with divergent and often conflicting interests that drives conflict and insecurity. Revenue from illicit mining and trade in natural resources such as diamonds in Sierra Leone, timber in Liberia and oil in Nigeria have provided rebel groups, militants and government forces alike with the means and the motive to fight, thus instigating, sustaining and prolonging conflict. Resource wealth creates conditions conducive to conflict and leads to economic stagnation or even decline. However, robust resource governance policies targeted at economic diversification and strengthening of state institutions for better resource regulation, allocation and distribution would make natural resource abundance a blessing. Revenue from natural resources, if well managed, can facilitate positive change by facilitating political and economic reform processes.

---

1   This chapter was written by Mr. Okey Uzoechina.

Contextualising the resource-conflict linkage

In order to develop policy to address the correlation of resource abundance with conflict, there is a need to place the phenomenon in the context of each country's location and distribution of resources, political history, regime type, macroeconomic policy, external influences and leadership ideology. Let us take geophysics for instance. The likelihood of the quest for the control of a particular natural resource leading to conflict would depend, among other things, on whether or not the resource falls under any of the following categories:

✓ Resources that are proximate to a national capital and hence easier for governments to capture, and those that are distant and hence easier for rebels to control;

✓ "Point-source" resources, which are concentrated in a small area and therefore more easily controlled by a single group, and diffuse resources, which are scattered over a larger area and hence harder for any single group to capture;

✓ Resources that are not easily extractable and therefore more likely to benefit the government or lead to separatist conflict, and those that are easily extractable ("lootable") or obstructable and therefore more likely to be seen as a source of finance and extortion by non-state armed groups.

A combination of these factors and other local peculiarities point to the fact that there is no direct causal link between abundance of natural resources and conflict. South Africa, Chile and Malaysia represent cases where a country's resource endowment has been harnessed to drive economic development, although much had to give way in terms of political liberty. Also, resource-rich countries such as Botswana, Gabon, Norway and Qatar have enjoyed long conflict-free periods.

Undermining democracy and state institutions

Experience shows that resource-rich countries are more likely to innovate at a slower pace, less disposed to economic diversification and more prone to financial indiscipline and mismanagement. This trend is evident in Nigeria where income from oil resources account for eighty to ninety percent of annual revenue. The price of oil increased nearly six-fold between December 1998 and March 2005. However, Nigeria did a lot better in terms of economic development and political stability when agriculture was the mainstay of its economy.

The massive rents (excess profits over all costs) that now accrue to the state since the oil boom of the 1970s have fuelled corruption and negatively affected the functioning of state institutions. It is to be noted that Nigeria, which produces over 2.5 million barrels of crude per day at full capacity, still relies heavily on imports of refined petroleum to satisfy local energy needs. Weak state institutions inadvertently engender the proliferation of illegitimate and parallel structures for resource regulation, allocation and distribution. "Warlordism" and other forms of

pillage as well as conflicts over resource control thus become veritable channels for partaking in the looting.

Resource predation tends to be particularly suited to autocracies more than the pressures of governance (transparency and accountability) in a democracy. Natural resource abundance increases competition for control of the state, which is also linked to high levels of political violence and the use of resource rents by ruling parties or regimes to maintain their hold on political power. In the case of a formative democracy in the process of regime transition, natural resource dependence increases the likelihood of instability and conflict. For instance, the exacerbation of the Niger Delta crisis has been linked to Nigeria's return to democracy. As evidenced in the Niger Delta, political power seekers who saw the enterprise of government as an entry point to vast oil wealth could derail the political process.

Box 4

The role of diamonds in the Sierra Leonean conflict

► Corruption and economic decline

When President Siaka Stevens and the All People's Congress party came to power in 1968, it marked the beginning of a long decline for the diamond industry and the country as a whole. As Stevens appointed many of his cronies to positions of power, the wealth from diamonds was used to reward his supporters and the diamond industry was reduced to a parastatal rife with corruption and smuggling. Official diamond exports fell from 1.7 million carats in the 1960s to a mere 50,000 carats by 1985. Many believed that Stevens' highly centralised regime, fuelled by corruption and rent-seeking behaviour associated with diamonds, led to the creation of a socially excluded underclass, which fomented the pre-conditions for war in the 1990s.

► The conflict continuum

While some observers suggest that the raison d'être for the war may not have been to actually win it, but rather "to engage in profitable crime under the cover of warfare," others believe there is little evidence to suggest that diamonds were the fundamental cause of the conflict. There is, however, some consensus that diamonds played a key role in fuelling and prolonging the war, as various parties undoubtedly funded their war efforts through mining activities.

► External linkages

International aspects of Sierra Leone's diamond-conflict nexus are interesting, and there has been increasing recognition that the implications of the country's illicit diamond activities may not be as localised as they were once believed to be. Reno (1995) has argued that the country's illicit "shadow state" economy, and the local networks that sustain it, are inextricably linked to global networks. Sierra Leonean diamonds have

---

been implicated in regional instability in Liberia, Guinea and Côte d'Ivoire, and also linked to international criminal networks. Since September 11, 2001, it has become evident that the illicit diamond trade provides an effective vehicle for international money laundering and is a potential source of resources for diverse "terrorist" groups.

Source: Roy Maconachie and Tony Binns (2007), "Beyond the resource curse? Diamond mining, development and post-conflict reconstruction in Sierra Leone," Resource Policy 32, 105.

The environmental question

The devastating consequences of unregulated natural resource exploitation pose a strain on the environment, which undermines stability. Logging of timber, mining of gemstones, gas flaring, oil spillages and indiscriminate waste disposal adversely affect the environment leading to air pollution, soil erosion and flooding, loss of wildlife and aquatic species, degradation of arable land, food poisoning, contamination of water sources and other hazards. This translates to loss of livelihood for individuals and families in affected communities.

Also, poor town planning and mining regulations, lack of disaster risk management capacity and weak enforcement of environmental impact assessment standards often compound the social problems. The ecological catastrophe witnessed in the gold mining towns of Obuasi, Prestia and Tarkwa in Ghana, the oil-producing villages of Otuegwe and Ibeno in the vast Niger Delta, and the diamond-rich town of Koidu in Sierra Leone make these richly endowed locales almost uninhabitable.

More oil is spilled from the Niger Delta's vast network of terminals, pipes, pumping stations and oil platforms every year than was lost in the Gulf of Mexico between April and July 2010 after an explosion on a British Petroleum Deepwater Horizon rig. Yet the Nigerian government lacks the political will to hold multinational oil companies accountable for rapid cleanup of oil spills, or to enforce adequate preventive measures. Conflict brews when companies that engage in resource exploration and exploitation or government agencies responsible for such degradation do nothing to control the damage, or refuse to pay adequate compensation to affected communities. It is believed that a deep sense of relative deprivation and high poverty levels in the midst of plenty galvanised popular resistance and militancy against the federal government and oil companies.

Regional and global interests and the resource-conflict linkage

Regional interests tend to complicate the link between natural resources and conflict as experienced in the complementary war economies of Sierra Leone, Liberia, Guinea, Burkina Faso and Côte d'Ivoire. Such dynamics worsen when a country's resource endowment constitutes a "honey pot" to its neighbours. The invasion of Sierra Leone by the rebel Revolutionary United Front (RUF) in the first half of 1991 would not have happened without the support of the architect of the Liberian war, Charles Taylor.

Conversely, natural resources can prolong conflict even when the country at war does not have the resources. This happens when a foreign country intervening in the conflict uses proceeds from its own resources to sustain its involvement in the country at war. Individuals and groups that profit from this involvement, including the military hierarchy, could therefore have an economic incentive to prolong the war or do little to bring about its quick resolution.

With rising tensions and volatility in the Middle East disrupting global oil flows, the Gulf of Guinea appears to be increasing in strategic importance to the United States, Europe and emerging economies such China and India. This situation poses a challenge to security in West Africa as diverse interests scramble for control of natural resources and resource revenue, even as huge deposits of oil have been confirmed in Ghana and other parts of West Africa.

More so, expansion of trade networks to feed and sustain the conflict economy inescapably integrates both state and non-state actors through global and regional channels. The collapse of state boundaries and the relative ease of transport, communication and flow of capital have increased access to global resource markets, money laundering apparatuses and sophisticated tools of warfare and crime. This has made participation in war economies more attractive and has prolonged conflicts as opportunities for profit are increased.

Box 5

Dimensions of the resource-conflict linkage

► Corruption and opportunism

In Sierra Leone, mismanagement and control of diamond revenues by a few created a socially excluded underclass. A significant part of the underclass that joined the main rebel group, the RUF, consisted of artisan diamond miners and other marginalised rural youths from eastern parts of the country. In Nigeria, due to inordinate economic benefits from oil bunkering, some oil merchants—often acting in collusion with government officials and political office holders—have been reported to take advantage of the instability caused by conflict situations to perpetuate an environment conducive to their trade. Also, acts of corruption by the political elite and

government officials indirectly fuel conflict by impoverishing the masses. Groups have often resorted to kidnapping oil workers and seizing oil installations as a form of enterprise as its perpetrators benefit from different forms of settlement, incorporation and pacification strategies.

► Greed versus grievance

Some conflicts over resources are caused by grievance as a result of relative deprivation; other conflicts are fuelled by greed. This aspect is reflected in the struggle for control of oil resources by rival armed factions or splinter groups. The prospect of financial benefit might appear more attractive to some newly-armed recruits than any ideological conviction or political cause. This undermines the internal coherence leading to fragmentation and splinters. In a bid to give legitimacy to their activities, such actions are often masked in grievance mantras, thereby tapping into and fuelling genuine grievance-motivated conflict. In 2006, the Movement for the Emancipation of the Niger Delta (MEND) split into two rival groups. Following the April 2007 elections, disputes broke out over the granting of bunkering permission to rival groups by some politicians. It was reported that at least 400 to 500 people had likely been killed in the ensuing carnage over an 11 day period, including militants, civilians and soldiers. .

► Oil-for-arms barter

The amount of financing available to combatants can prolong the duration and shape the evolving character and intensity of armed conflict in significant ways. Increased access to oil resources enable quicker rates of recruitment by government forces and rebels alike, and finance the purchase of sophisticated weapons in a bid to sustain the war. Availability of weapons in turn exacerbates conflict and leads to upsurge in criminal violence. From a poorly organised gang fighting with little more than sticks and machetes, MEND grew to become a disciplined military machine using speedboats, machine guns and rocket-propelled grenades to carry out precise attacks on oil targets. In Sudan, the government got delivery of twenty Russian T-55 tanks the same day the first shipment of 600,000 barrels of crude left Port Sudan in September 1999.

► Multinational corporations' complicity

In order to ensure local security of its staff and installations, multinational corporations (MNCs) often establish or encourage direct relationships with different groups in their region of operation. Perceptions of oil company favouritism and broken promises fuelled the clashes involving the Ijaw, Itsekiri and Urhobo ethnic groups in Nigeria in 2003. The struggle among these groups for illegal bunkering rights resulted in the death of thousands of people and the displacement of several thousand from their homes. Also, MNCs have often been accused of adopting policies that create tension and violence in the host communities. The use of private security companies by MNCs creates tension, which can evoke hostile

reactions from local populations as happened in the case of Chevron in the Niger Delta region.

Based on: Roy Maconachie and Tony Binns (2007), "Beyond the resource curse? Diamond mining, development and post-conflict reconstruction in Sierra Leone," Resource Policy 32, 105; Augustine Ikelegbe (2005), "The Economy of Conflict in the Oil Rich Niger Delta Region of Nigeria", Nordic Journal of African Studies, Vol. 14, No. 2, 216; Karen Ballentine (2003), "Beyond Greed and Grievance: Reconsidering the Economic Dynamics of Armed Conflict", in The Political Economy of Armed Conflict—Beyond Greed and Grievance (London: Lynne Rienner), 259-280; Sudan Vision (2007), Misery Stalks a Niger Delta City, 26 August 2007, @ http://www.sudanvisiondaily.com/modules.php?name=News&file=print&sid=24809; BBC News (2007), The Shadowy Militants in Nigeria's Delta, 30 November 2007 @ http://news.bbc.co.uk/1/hi/world/africa/6644097.stm; Abiodun Alao (2007), Natural Resources and Conflict in Africa: The Tragedy of Endowment (New York: University of Rochester Press), 182; International Crisis Group (2006) "The Swamps of Insurgency: Nigeria's Delta Unrest", Africa Report, No. 115, 14-15.

The resource governance paradigm

There is growing recognition that there is no innate quality in natural resources that predispose resource-rich countries to conflict. Rather, it is the absence of an effective natural resource governance structure that engenders conflict. The natural resource sector operates as an enclave sector with little potential for benefitting the agricultural, trade and industrial sectors of the economy. Due to the fact that resource exploitation, allocation and distribution often tend to ignore or disempower certain segments or communities, armed conflicts often pervade the political landscape of Angola, Sierra Leone, Liberia, Sudan, the Democratic Republic of the Congo, Nigeria and other resource-rich countries. Since governance is central to the effective management of natural resources, the challenge then becomes how best to employ effective governance mechanisms to turn the resource curse into a blessing. States faced with friction arising from resource mismanagement usually adopt interim measures to remedy the situation.

In Sierra Leone, unable to sustain its limited military victories and faced with countrywide chaos in 1999, the government adopted the negotiating strategy of accommodating rebel groups. Under the terms of the Lomé Peace Agreement, the RUF rebel leader, Foday Sankoh, received the dual post of vice-president and chairman of the Commission on the Management of Strategic Resources. During the year that the coalition government held, this strategy proved to be a failure. While banning all mining activities, Sankoh allowed mining to continue in RUF-controlled areas. Granting belligerents access and control over resource-rich areas, revenues, businesses or key government positions as incentives for peace in the short-term appears to reward violence and possibly incites new rounds of violence by those who feel insufficiently accommodated.

In Nigeria, remedial measures have included negotiations with and payment of ransom to militants who abduct oil workers, military clampdown on militant cult groups often leading to imposition of curfews, offers of amnesty to ex-militants, payment of compensation to communities and victims of oil spillage, political settlement of the derivation principle in the federation's revenue allocation formula, and inclusion of a few indigenes of the oil-producing communities into the government as a means of placating the whole region. Such measures serve their purpose but the danger of a relapse or exacerbation of conflict still remains. More ambitious resource governance initiatives have included promulgation of the Environmental Impact Assessment Act in 1992, establishment of the Niger Delta Development Commission in 2000 and establishment of the Nigeria Extractive Industries Transparency Initiative in 2004.

Ghana has not fully explored or significantly benefitted from its rich mineral resources but it has avoided mineral-related conflicts since its independence in 1957. The country's inability to improve the lives of its citizens given its vast gold, bauxite, diamond and other natural resources has left many in doubt that the oil discovery would improve the lives of citizens. The International Monetary Fund has estimated that Ghana could generate US$20billion from its oil and gas resources between 2012 and 2030. Notably, the decision by Ghana's government to publicise oil contracts is a step in the right direction. There is therefore optimism that Ghana's oil resources would be a different case if properly managed.

Natural resource governance at the regional level

At the regional level, the Economic Community of West African States (ECOWAS) is also preoccupied with natural resources as drivers of conflict and instability. Article 3(i) of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security of 1999 focuses on equitable management of resources shared by neighbouring states that may cause inter-state conflict. Article 31 of the Revised Treaty of ECOWAS of 1993 goes further to mandate member states to harmonise and coordinate their policies and programmes in the field of natural resources.

Beyond promoting harmonisation and cooperation between member states, Paragraph 64 of the ECOWAS Conflict Prevention Framework of 2008 (ECPF) seeks to ensure that resource management, including the identification (exploration), contract award, exploitation, and the disbursement and use of benefits from such resources are transparent, equitable and environmentally-friendly. This is meant to ensure balanced and sustainable development, social cohesion and stability. Furthermore, the ECPF foresees the establishment of transparent mechanisms such as arbitration panels for the peaceful resolution of tensions and clashes between local claims, national interests and regional concerns. Capacity requirements under the natural resource governance component of the ECPF include training in oversight functions and budgetary processes for national and regional parliaments.

With the help of consultants of West African origin, the Department of Political Affairs, Peace and Security of ECOWAS has developed and is at the stage of adopting a logical framework and five-year plan of action for implementing the activities enumerated under Paragraph 65 of the ECPF. However, a challenge will be enforcing the obligations on member states under the ECPF where departments or ministries in charge of natural resources in those states were not part of drawing up the plan.

For efforts at the regional level to succeed, institutions of governance at the national level, both statutory and non-statutory, need to be strengthened. While favouring a participatory approach that would bring together various stakeholders in the resource sector in finding solutions, lessons can be drawn from what has worked in similar contexts in developing policies and mechanisms. The Extractive Industries Transparency Initiative (EITI)—a coalition of governments, companies, investors, civil society groups and international organisations—has adopted standards and guidelines that help to improve transparency and accountability in the extractive industry. Nigeria, for instance, now has a nationalised structure built on the EITI model. Also, the Kimberley Process Certification Regime for Conflict Diamonds—an initiative that also brings together governments, industry and civil society—adopts restrictions and processes that have the potential to cut off a source of funding for rebel movements. Even where appropriate resource management policies and mechanisms are in place, parastatal agencies and other regulatory structures need to evince a clear political will to translate those policies into beneficial outcomes.

Greater success could be achieved with a more comprehensive and coordinated approach that would effectively integrate all the contents of natural resource governance and harmonise the national, regional and global dimensions. This would involve, first and foremost, harmonising the constitutional provisions, domestic laws and international instruments that govern the ownership, exploration, allocation and distribution of resource wealth.

What you can do as a parliamentarian

► Support a policy of economic diversification and the opening up of avenues for production and employment in agriculture and industry. This would have a cushioning effect on the gross domestic product of resource-dependent states.

► Clarify and strengthen the economic rights and entitlements of oil-producing communities, local miners and artisan producers in relation to external investors and the state in order to address local grievances.

► Adopt a fair and equitable scheme (revenue-sharing formula) for distribution of natural resource wealth accruing to a state so as to accelerate even development and redress neglect, inequality and environmental degradation in resource-bearing communities.

► Recommend the setting aside of a proportion of revenues from resource windfalls in a trust fund for the people. Such a fund would provide safeguards during fluctuations in resource prices to stabilise the economy.

► Recommend and promulgate strict regulation of international trade in resources that tend to be the source of illegal exports and military funding in conflict economies. The Kimberley Certification Regime for Conflict Diamonds is a step in the right direction.

► Advocate for a "code of conduct" for multinational companies operating in or negotiating with countries at war, especially in relation to their use of private security companies and contracts undertaken, which provide war financing in exchange for concessions.

► Institutionalise amicable and non-curial conflict prevention, management, arbitration and dispute resolution mechanisms to deal with conflict between and among stakeholders in the natural resource sector.

Roles and responsibilities of parliament and other state institutions[1]

Shared responsibility

While parliament and the executive have different roles in security matters, they share the responsibility for maintaining a well-functioning security sector. A third branch, the judiciary, and other non-constitutional institutions such as civil society organisations and the media, also share this responsibility. This idea of shared responsibility also applies to relations between political and military leaders. These parties should not be regarded as adversaries with opposing goals. On the contrary, they need each other in order to achieve an effective, comprehensive, people-centred and democratically governed security sector.

Democratic oversight must therefore include dialogue and consultation between the different branches of government, political leaders and high-ranking military officials. This interface must be based on trust, constantly open lines of communication and inclusiveness. Such regular exchanges have the additional advantage of preventing politicians and military leaders from becoming alienated from each other, therefore helping towards consolidating stability.

A well-functioning security sector also depends on each party playing its role according to the constitution and relevant laws, and respecting the role of other institutions and partners.

---

1   This chapter was adapted from the IPU-DCAF Handbook for Parliamentarians by Dr. Boubacar N'Diaye.

Division of roles

The three branches of government—the executive, legislature and judiciary—play a major role in a nation's security policy and practice. Box 6 highlights the specific functions of each of the three major actors within the executive branch—the head of state, government and general staff—in addition to the roles typically played by the parliament and the judiciary. The table aims to provide an overview of possible functions as political systems may differ from country to country.

In addition to parliament, the judiciary and the executive, civil society has an important albeit informal role in security sector governance (SSG) and its oversight. It contributes to the formulation and implementation of security policy while the media help to inform the public on the intentions and actions of state actors, existing challenges and instances of misconduct (see Chapter 26). Additionally, citizens have an interest and civic responsibility to remain engaged and informed on security issues, and to make their voices heard.

Finally, two institutional actors that also play a crucial role in overseeing the implementation of national security policy and the corresponding budget are the ombudsman and the auditor general (see Chapter 25).

Box 6

Possible functions of the main branches of the state concerning the security sector

	Parliament	Judiciary	Executive		
			Head of State (HoS)	Cabinet	Chief of general staff
Supreme military command	In some countries, parliament debates and/ or appoints the supreme commander	The Constitutional Court evaluates the constitution- ality of the president or cabinet as commander-in- chief	In some countries, the HoS has a merely ceremonial function, while in others he or she has real authority, e.g., supreme command in wartime	The government is supreme commander in times of war	In some countries, the post of supreme military commander exists only in times of war, while in others it is permanent

Security policy	Parliament debates and provides input on security concepts and policy, and enacts laws	–	Provides initial impetus for and signs laws related to security policy	Debates, proposes broad orientation for and implements security policy	Advises the government and plans, helps and implements the security policy
Budget	Debates, approves budget	–	–	Proposes budget	Advises the government on security needs
Defence laws	Debates, adopts laws	Constitutional Court interprets the constitutionality of laws	Signs promulgation of laws	Proposes laws and adopts by-laws	Advises the government; implements/ complies with laws
Personnel	In some countries, the parliament has the power to approve/ reject major appointments	Judges lawfulness of their behaviour	Appoints main commanders and approves personnel plans	Nominates main commanders for appointment	Advises on personnel plans; implements personnel plans; appoints lower commanders
Procurement	Reviews and/ or approves major arms procurement projects	Judges trial violations of laws on corruption and fraud	In some countries, the HoS approves procurement decisions	Proposes arms procurement	Initiates and implements arms procurement process
Sending troops abroad/ hosting foreign troops	*A priori* approval, a posteriori approval or no approval at all	Judges lawfulness of their behaviour	In most cases, approves any deployment of troops	Negotiates international participation; decides on rules of engagement	Operational command; advises decision-makers
International treaties, joining alliances	Approval, ratification	–	Concludes and signs international treaties	Responsible for international negotiations, implementation	Advises government

Source: Fluri, Philipp, Johnsson, Anders and Born, Hans, eds. (2003), *Parliamentary oversight of the security sector: principles, mechanisms and practices.* Handbook for parliamentarians No. 5. Geneva: IPU and DCAF.

Political accountability

The security services should be accountable to each of the main branches of the state.

✓ **The executive** exercises direct control from the central, regional or local levels of government and determines the budget, the general guidelines and the priorities of the activities of the security services. It ensures oversight of the armed and security forces in the execution of their daily tasks. Through this oversight, the executive ensures, inter alia, that members of the armed and security forces comply with the requirements of the constitution and laws in exercising their responsibilities.

✓ **The legislature** exercises legislative powers and parliamentary oversight by passing laws that define and regulate the armed forces and security services and their powers, and by adopting the corresponding budgetary appropriations. Such oversight may also include establishing a parliamentary ombudsman, or permanent/ad hoc committees that may launch investigations into complaints made by the public. The legislature also has the constitutional right and duty to call members of the executive before its committees and to question them, including high-ranking officers whose testimony may be necessary in order for the parliament to carry out oversight

✓ **The judiciary** prosecutes the wrongdoings of servicemen through civil and criminal proceedings whenever necessary. In some states, it also ensures that the laws passed by parliament conform with the constitution. If requested, it equally monitors the actions of the executive branch to ensure that they conform to the constitution and the laws of the country. The role of the judiciary is crucial in ensuring that the individual rights of citizens, as stipulated by the constitution, are upheld by all. This justifies the proposition that a well-functioning and capable judiciary is critical to a well-functioning security sector.

Box 7

Constitutional mandate of the National Assembly of Nigeria over the security sector and the president

Section 5 – Executive powers

4.
   a. the President shall not declare a state of war between the Federation and another country except with the sanction of a resolution of both houses of the National Assembly, sitting in a joint session; and

   b. except with the prior approval of the Senate, no member of the armed forces of the Federation shall be deployed on combat duty outside Nigeria.

Section 11 – Public order and public security

1. The National Assembly may make laws for the Federation or any part thereof with respect to the maintenance and securing of public safety and public order and providing, maintaining and securing of such supplies and services as may be designated by the National Assembly as essential supplies and services.

Section 217 – Armed Forces of the Federation

2. The Federation shall, subject to an act of the National Assembly made in that behalf, equip and maintain the armed forces as may be considered adequate and effective for the purpose of:

   c. suppressing insurrection and acting in aid of civil authorities to restore order when called upon to do so by the President, but subject to such conditions as may be prescribed by an Act of the National Assembly.

Section 218 – Command and operational use

4. The National Assembly shall have power to make laws for the regulation of:

   a. the powers exercisable by the President as Commander-in-Chief of the Armed Forces of the Federation; and

   b. the appointment, promotion and disciplinary control of members of the armed forces of the Federation.

Section 305 – Procedure for proclamation of state of emergency

6. A Proclamation issued by the President under this section shall cease to have effect:

   b. if it affects the Federation or any part thereof and within two days when the National Assembly is in session, or within ten days when the National Assembly is not in session; after its publication, there is no resolution supported by a two-thirds majority of all the members of each House of the National Assembly approving the Proclamation.

Source: Constitution of the Federal Republic of Nigeria (1999).

Civil society organisations (CSOs), including the media and individual citizens, although typically not given a constitutional or statutory role, have the responsibility and duty to remain concerned, engaged and vigilant. In this way, CSOs can contribute to a well-functioning security sector that is attentive to the needs and rights of all.

As stated above, the roles of the three constitutional branches of state government may differ according to the country. It is, however, paramount that a system of power-sharing and division of labour is in place at all times to provide checks and

balances against political abuse of the security sector. Bearing in mind that in many countries the executive tends to play a dominant role in security matters, it is crucial that parliament be vested with effective oversight powers and resources. This is all the more important because new security challenges (see section II) may prompt public institutions to redefine and update their roles.

Box 8

Parliamentary diplomacy and mediation

Parliamentary diplomacy is one of the most remarkable developments in international relations over the last twenty years. However, the intervention of parliaments in international politics is not new. The Inter-Parliamentary Union (IPU), established in 1889 by English and French parliamentarians, is by far the oldest organisation of an international nature in the world. Until the last quarter of the 20th century, this intervention appeared to be only marginal. However, the role of parliament today is no longer limited to the traditional functions of making laws, authorising the levying of taxes and overseeing executive actions. It is possibly in Africa that there has been the greatest development in this field.

► The nature of parliamentary diplomacy

The conduct of parliamentary diplomacy is usually flexible, ad hoc and inclusive. There are usually no standing committees of parliament charged with conducting diplomacy as the function is primarily an executive one. The foreign policy of any country is defined by the head of state and foreign relations are executed primarily by the Ministry of Foreign Affairs. However, parliamentary mediation teams owe their credibility to the fact that they are always constituted of members from both the majority party and the opposition. By intervening in "internal affairs" of other states, parliaments significantly alter the scope of foreign relations. Rather than interfering with or competing with state diplomacy, parliamentary action complements and supports it. The state gains a great deal from this by reaching out to international actors that would otherwise have been difficult to reach. Parliamentary action ranges from bilateral relations between heads of national parliaments to multilateral (international) assemblies and relations with non-legislative bodies and groups and non-state actors. A specific dimension of parliamentary diplomacy relates to intervention in crisis management through mediation.

► Crisis management

The tension between Angola and Burkina Faso was significantly calmed in the early 2000s following the official visits of the presidents of the two parliaments in Ouagadougou and in Luanda. When the Touareg crisis in Mali became particularly acute in the late 1980s, the National Assembly of Mali played a reconciliatory role that was welcomed by all parties. The

National Assembly took big risks in going to the north to meet the rebels. But it is mainly at the level of integrated bodies that parliamentary action is more visible. The parliamentary organ of the West African Economic and Monetary Union (UEMOA), the Inter-parliamentary Committee, established a Parliamentary Council for Peace following the Ivorian crisis that began in September 2002. Composed of eight parliamentarians, the mission of the Parliamentary Council for Peace is conflict prevention and management. In recent years it has intervened several times in Côte d'Ivoire, Togo, Guinea-Bissau and Niger. The Parliament of the Economic Community of West African States (ECOWAS), for its part, played a leading role in the crisis of the Mano River Union (Guinea, Liberia and Sierra Leone) between 2003 and 2005. It also played a significant role in the Ivorian and Nigerian crises. Special missions composed of members of the ECOWAS Parliament have covered various states affected by crises.

► Promoting parliamentary diplomacy

In order to play an effective role in diplomacy and crisis prevention and management, the capacity of parliamentarians needs to be reinforced. This would include activities targeted at creating awareness on the unique role of parliaments in mediating conflict, cultivating preventive diplomacy and mediation skills, and sharing and building on success stories. In recent years, the IPU has multiplied its training workshops and has often coupled these with sessions on techniques for protecting human rights. More can be done in national and regional parliaments in West Africa in order to embolden and equip parliamentarians with skills for diplomacy.

Source: Mélégué Traoré, member of the National Assembly of Burkina Faso, Burkina Faso, 2010.

Principles of democratic and parliamentary oversight

Aside from internationally agreed standards in the field of democratic and parliamentary oversight, there are some regional standards, for example the ECOWAS Supplementary Protocol on Democracy and Good Governance (2001). There are also certain general principles relating to parliamentary oversight and SSG.

✓ The parliament adopts the laws that constitute the legal framework for how the state's security policies are executed by the government.

✓ The state security apparatus is subordinated to and under the control of democratically elected civilians.

✓ The state is the only actor in society that has the legitimate monopoly of force; the security services are accountable to the legitimate democratic authorities.

✓ The parliament is sovereign and holds the executive accountable for the development, implementation and review of the security and defence policy.

✓ The parliament has a unique constitutional role in authorising and scrutinising defence and security expenditures (Chapter 21).

✓ The parliament plays a crucial role with regard to declaring and lifting a state of emergency or a state of war (Chapter 7).

✓ Principles of good governance and the rule of law apply to all branches of government, and therefore also to the security sector.

✓ Security sector personnel are individually accountable to judicial courts for violations of national and international laws (regarding civil or criminal misconduct).

✓ Security sector organisations are politically neutral.

Box 9

The ECOWAS 2001 Protocol on Democracy and Good Governance Supplementary to the 1999 Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security

Section IV, "The Role of the Armed Forces, the Police and the Security Forces in Democracy," focuses on good governance and the democratic oversight of the security sector.

Article 19

1. The armed forces and police shall be non-partisan and shall remain loyal to the nation. The role of the armed forces shall be to defend the independence and the territorial integrity of the State and its democratic institutions.

2. The police and other security agencies shall be responsible for the maintenance of law and order and the protection of persons and their properties.

3. The armed forces, the police and other security agencies shall participate in ECOMOG missions as provided for in Article 28 of the Protocol.

4. They may also, on the decision of the constitutionally constituted authorities, participate in peacekeeping missions under the auspices of the African Union or the United Nations.

5. Members of the armed forces may be drafted to participate in national development projects.

Article 20

1. The armed forces, the police and other security agencies shall be under the authority of legally constituted civilian authorities.

2. The civilian authorities shall respect the apolitical nature of the armed forces and police. All political or trade union activities and propaganda shall be forbidden in the barracks and within the armed forces.

Article 21

The armed and security forces personnel, as citizens, shall be entitled to all the rights set out in the constitution, except as may be stated otherwise in their special regulations.

Article 22

1. The use of arms to disperse non-violent meetings or demonstrations shall be forbidden. Whenever a demonstration becomes violent, only the use of minimal and/or proportionate force shall be authorised.

2. All cruel, inhuman and degrading treatment shall be forbidden.

3. The security forces, while carrying out investigations, shall not disturb or arrest family members or relations of the person presumed guilty or suspected of having committed an offence.

Article 23

1. The armed forces, the police and other security agencies shall during their training receive instructions on the Constitution of their country, ECOWAS principles and regulations, human rights, humanitarian law and democratic principles. In this regard, seminars and meetings bringing together members of the armed forces, police and other security agencies and other sectors of society shall be organised from time to time.

2. Joint training sessions shall also be arranged for members of the armed forces from different ECOWAS countries, the police, other security forces, university dons and members of the civil society.

Article 24

1. The Member States undertake to strengthen their national agencies responsible for preventing and combating terrorism.

2. In accordance with Articles 3(d) and 16(1) of the Protocol, the Department of Political Affairs, Defence and Security of the Executive Secretariat shall initiate joint activities for the national agencies of Member States in charge of preventing and combating terrorism.

These pertinent provisions are complementary to prescriptions for political parties and other democratic institutions in a democratic setting. Good governance of the security sector is only possible in a democratic context in which all actors fully and effectively carry out their roles.

Source: Protocol A/SP1/12/01 on Democracy and Good Governance Supplementary to the Protocol relating to the Mechanism For Conflict Prevention, Management, Resolution, Peacekeeping and Security, Dakar, Senegal (2001).

What you can do as a parliamentarian

► Develop awareness of your constitutional and legal duties and oversight responsibilities as a member of parliament.

► Educate yourself on the constitutional duties and responsibilities of the other branches of government, particularly in the area of defence and security.

► Develop an expertise on armed and security forces, and a professional and personal relationship with top-ranking officers and troops alike, based on trust and goodwill.

► Be willing to encourage, validate and showcase the behaviour of members of the armed forces that uphold the constitution, laws and high ethical standards.

► Be willing to faithfully carry out your legislative and oversight responsibilities of the security sector, including investigation of wrongdoing.

► Develop professional relationships with civil society organisations, think tanks, media and individual experts specialising in defence and security issues.

► Educate your constituency in defence and security issues and remain in tune with their concerns and receptive towards their input in these areas.

► Participate in capacity-development workshops and seminars in order to learn about security sector governance in other countries, including other ECOWAS countries.

► Remain aware of potential tensions and conflicts in the areas of defence and security in order to be able to anticipate and remedy these on time.

<div align="right">

Chapter 5

Parliamentary ethics[1]

</div>

Exercising a parliamentary mandate implies that members of parliament must accept a series of constraints and rules both inside and outside the parliamentary institution.

Parliament expects its members to observe ethical and deontological rules in their contacts with the outside world. Certain types of conduct may constitute offences, hence the importance of a parliamentary code of ethics and good conduct. This is an instrument of prevention against the loss of trust that affects not just parliaments but also other political institutions in West African countries.

Parliamentary ethics lay down the principles, rules and criteria for judging whether an act carried out by a parliamentarian is in conformity with standard rules of conduct, and for assessing the motives and consequences of the act.

The expectations of the population

The issues and challenges relating to the population's expectations are multiple and extremely important. In each case, it must be determined how best to act in order to:

✓ Improve the population's image of its elected representatives

✓ Strengthen citizens' trust in parliaments

✓ Improve the credibility of parliamentary institutions

✓ Demonstrate the usefulness of elections and elected members

---

1   This chapter was written by Honorable Ibra Diouf.

✓ Make sense of politics

✓ Effectively combat all types of corruption

✓ Strengthen participatory democracy

Although members of parliament sometimes act in pursuit of personal goals, they lead an essentially public life. Their acts, as well as their behaviour, must therefore observe standards and rules of conduct that are respectable and acceptable in the environment in which they work. Members of parliament must consequently set an example while strictly observing the highest standards of good conduct. Parliamentary codes of ethics in West Africa would contribute to decreasing the unpopularity of members of parliament and their institutions.

It is therefore necessary to adopt clear, exhaustive and pertinent rules to guide members of parliament and to stir up and strengthen citizens' trust in those elected and parliamentary institutions in West Africa. One consequence of a parliamentary code of ethics is that it restores a good reputation to parliamentarians and reinforces the credibility of parliaments. Rules of good conduct are needed to promote a political culture with a main focus on honesty, integrity, transparency, loyalty, impartiality, objectivity, frankness and responsibility.

Eight main rules for every member of parliament

✓ **Honesty:** members of parliament must avoid any conflict of interest and they must take all necessary measures (if this should arise), to protect the public interest.

✓ **Integrity:** in the context of their activities, members of parliament must not commit themselves vis-à-vis third parties or outside organisations if that might interfere with the exercise of their parliamentary duties.

✓ **Transparency:** members of parliament must ensure that their actions, from the moment of conception to their implementation, respect clear rules.

✓ **Loyalty:** members of parliament must be loyal to parliamentary institutions and their statutory documents, in addition to their responsibilities to their electorate.

✓ **Impartiality:** in the exercise of their functions, members of parliament must only take decisions and actions that are in the public interest.

✓ **Objectivity:** in their relations with administrative officers and public, para-state or private companies, members of parliament must give priority to the general interest of the electorate,

✓ **Frankness:** members of parliament must be frank and open when exercising their functions, making decisions or taking action.

✓ **Responsibility:** members of parliament are fully responsible for their decisions and actions. They must be accountable to the public and abide by the internal rules of parliament and the laws in force.

Citizens expect members of parliament to identify with these principles and rules in the exercise of their functions, based on convictions and commitment to the public interest rather than aspirations to a position of power or personal gain. By complying, members of parliament break down the wall of mistrust towards them and strengthen the credibility and confidence afforded to parliamentary institutions.

Objective limitations of parliamentary work in West Africa

In most cases, political culture is strongly influenced by an environment where individuals identify themselves on the basis of ethnic origin or religious conviction rather than membership to a political party. In these instances, the individual adopts positions not on behalf of all citizens but rather for his/her ethnic group or religious community. In most West African states, ethnic or religious votes are still a problem that challenges many politicians as they have a direct or indirect influence on behaviour, conduct, parliamentary ethics and the deontological rules to be observed.

To counter this, it is necessary to develop a consensus-based code of conduct and to apply it after widely consulting all those concerned. The focus should be on training and raising the awareness of elected members so they know the parliamentary mandate is both general and representative. It is general because members of parliament represent the nation as a whole and not only a group of voters. It is representative because parliamentarians cannot be bound by the demands of a particular voter or ethnic/religious group.

Combating corruption and the role of parliaments

Corruption is a universal problem that exists in every country, whether developed or developing.

The occurrence and consequences of corruption vary from one country to another, depending on its level of development. Corruption in West Africa is the main obstacle to effective management of resources (financial, human and material) and it jeopardises development efforts. For this reason, the fight against corruption in West Africa requires everyone's commitment and participation, particularly from members of parliament. Combating corruption will, effectively, enable the sound management of resources and improved governance but will also promote respect for others through the restoration of the rights of every citizen.

Corruption can arise in several circumstances, such as:

✓ During encounters between the public and private sectors when awarding procurement contracts;

✓ Within the tax authorities when collecting taxes or taxing certain financial or commercial transactions;

✓ Within the police, gendarmerie or customs services; and

✓ Within the justice system.

Corruption at a lower level, from which the public suffers significantly, involves a large number of public service employees who are often poorly remunerated or simply greedy. These persons make beneficiaries pay for services that they would normally be entitled to receive free of charge. Examples include asking for money when issuing driving licences, passports or when granting authorisations to set up a business, etc.

The main causes of corruption include poor governance, lack of transparency and weakness of the institutions responsible for controlling the implementation of state policies. Additionally, the lack of autonomy of bodies created for the implementation of state policies, no freedom of the press, low wages and a limited sense of citizenship and public spiritedness contribute to the problem.

Aside from these cases, parliamentarians must reflect upon and find adequate solutions for the financing of political parties and the use of funds for their activities. This is especially so during electoral campaigns, a favoured time for buying people's votes. This problem is becoming increasingly serious in West Africa. In order to avoid damaging democracy, it is important to put an urgent stop to this practice and to the problem of "political nomadism or migration". The term "political nomadism/migration" describes a change of political affiliation of parliamentarians after their election under the flag of one party or a coalition of parties. In most West African countries, there are no measures in place to suppress this kind of act. This is the case, for example, in Mali, Guinea, Guinea-Bissau and in Benin. By contrast, according to the constitution of Senegal, Article 60, paragraph 4, "Any Member of Parliament who resigns from his/her party during a term of office is automatically relieved of his/her mandate. He/she shall be replaced in the conditions laid down by an organic law."

Diverse national and regional instruments exist for combating corruption. Their effective application or enforcement is not so easy, however. Some of the general instruments are:

✓ Audit offices;

✓ General budgetary inspections, general state inspections;

✓ Parliaments;

✓ National anti-corruption commissions. In Senegal, the National Commission to Fight Non-transparency, Corruption and Government Fraud was created by Law No. 2003-35 of 24 November 2003). In Nigeria, the Corrupt Practices and Other Related Offences Act, Cap. C31 Laws of the Federation of Nigeria 2004, established the Independent Corrupt Practices Commission; and

✓ The Economic Community of West African States (ECOWAS) Protocol on the Fight against Corruption, signed in Dakar in 2001 by ECOWAS member states.

In carrying out the parliamentary mandate as stipulated by the constitution—which is to legislate, control the deeds of the executive and represent the people— parliaments have a key role to play in the fight to eradicate corruption.

Codes of conduct for members of parliament must therefore be adopted where they do not exist, with standards of behaviour extending beyond principles. A law is needed to improve the control of members of parliament and stipulate sanctions for non-compliance. To achieve this, an ethics committee must be created within parliaments and its membership must respect political diversity. In this context, the media play a vital role. Their freedom and access to information by the public must therefore be assured.

Members of parliament are also citizens who must answer for their deeds before the competent tribunals in accordance with existing legislation, if they violate human rights. However, in a spirit of transcendence for the peace and stability of a country, truth and reconciliation commissions can be set up as, for example, in Liberia.

Parliaments and their members

The parliaments of West Africa and their members, for the most part, have the authority to set up the legal framework for the organisation and management of public and societal affairs. In general terms, they should work to ensure the inclusion of important principles into national laws and constitutions. These include gender equality, the transparency of public services and the credibility of institutions.

In view of their prerogatives and tasks, members of parliament should make the most of constitutional and legal mechanisms to check the deeds of the executive and ensure transparent and responsible public management. As representatives of the people, they must always seek to improve their image by adopting good rules of conduct. They also have a duty to ensure that the people have a say in the management of public affairs.

Parliaments are also called upon to play a key role on the international stage. They have a moral duty to ensure that the management of international affairs meets the highest standards of ethics and integrity. This international dimension in the activities of parliaments at the national, regional and continental levels requires more effective inter-parliamentary cooperation in the fight against corruption and money laundering.

What you can do as a parliamentarian

► Establish standards of integrity for members of parliament and other public figures, including ministers and other state agencies, and supervise their implementation. Such standards would consist essentially of codes of ethics/conduct and a declaration of assets, and would control conflicts of interest.

► Persuade the executive to sign and/or ratify relevant international anti-corruption instruments, particularly the United Nations Convention against Corruption, and ensure that national legislation is aligned with these provisions, and that they are implemented effectively.

► Ensure the adoption of legislation concerning the disclosure of sources for financing of political parties and electoral campaigns to strengthen transparency in the electoral process. This will afford more legitimacy to elected members of parliament. Strengthen laws and regulations in order to guarantee fairness in procedures for procurement contracts, taxation systems and the administration of justice, etc.

► Within parliaments, create or strengthen mechanisms to make the executive accountable for its actions, including questions to the government and systematic recourse to committees examining and monitoring public affairs.

► Ensure that the process for establishing and executing national budgets is transparent and provides guarantees against any misappropriation in the administration of public funds and resources. To this end, assign more powers and resources to parliamentary committees such as the public accounts audit committees.

► Ensure the creation of supervisory institutions such as an audit office or accounts inspector/controller general, in addition to a parliamentary ethics committee. Ensure that the necessary resources are assigned to them and that their reports receive the required level of attention on the part of parliament.

► Ensure that the opposition is adequately represented within the parliamentary structure, and that it has the necessary resources and the ability to express itself in conditions of equality concerning the management of public affairs. This includes the ability to denounce acts of corruption and to investigate or launch investigations into allegations of corruption.

► Persuade the government to create a transparent and rigorous selection process into public offices.

► Encourage the public to denounce and condemn corruption. To that effect, ensure, by legislative and other means, effective support and protection against intimidation for all persons who play an active role in the fight against corruption.

► Promote or help to promote a sense of uprightness and moral integrity through awareness campaigns, include civic instruction in school curricula, etc.

► Promote international cooperation among parliaments and members of parliament in support of the fight against corruption, through exchanges of experience and good practices. Such measures should also be coordinated at the regional level by the ECOWAS Parliament and at a continental level by the Pan-African Parliament.

► Adapt and harmonise legislation so that any resident of an ECOWAS member state who corrupts foreign authorities or public service employees may be punished or at least extradited to the country concerned. Turn money laundering stemming from corruption into an autonomous offence, including in a third state.

The ECOWAS Parliament[1]

The Economic Community of West African States (ECOWAS) established a Community Parliament for the region in Articles 6 and 13 of the 1993 Revised Treaty. The Protocol Relating to the Community Parliament, which defines the structure, composition, mandate and competence of the parliament, was signed by the Authority of Heads of State and Government of ECOWAS (the Authority) in August 1994 and came into force in March 2000. In the preamble to the protocol, the parliament is conceived as "a forum for dialogue, consultation and consensus for representatives of the peoples of the Community" with the aim of effectively promoting integration. The first parliament was inaugurated in November 2000 and held its first session in January 2001. A supplementary protocol of June 2006 re-designated the community parliament as the "ECOWAS Parliament".

As presently constituted, the ECOWAS Parliament has little authority and scope in defining regional security issues as it is merely an advisory body. Reflective of executive dominance in security issues in some member states, security decision making and implementation of regional security policy are shared by the Authority and the ECOWAS Commission, respectively. However, the ECOWAS Parliament holds enormous potential for the promotion of democratic governance in West Africa beyond the limits of state borders. Presently, efforts are geared toward enhancement of its powers from being merely an advisory to a co-decision making and ultimately a law-making body.

---

1   This chapter was written by Mr. Okey Uzoechina with the assistance of Dr. Kabeer Garba.

Structure of the ECOWAS Parliament

The 1994 Protocol Relating to the Community Parliament created 120 seats in the parliament. Each member state is allocated a guaranteed minimum of five seats, with the remaining 40 seats shared on the basis of population. Currently, the ECOWAS Parliament consists of 115 seats (the original five seats reserved for Mauritania remain unoccupied as Mauritania withdrew from ECOWAS at the end of 2000). Consequently, the Federal Republic of Nigeria, with about 48 percent of the population of the community, has 35 seats, followed by Ghana with eight seats, Côte d'Ivoire with seven and Burkina Faso, Guinea, Mali, Niger and Senegal with six seats each. Benin, Cape Verde, the Gambia, Guinea-Bissau, Liberia, Sierra Leone and Togo have five seats each. Pending the election of members of the ECOWAS Parliament by direct universal suffrage, the members are selected from their respective national parliaments and serve a four-year term.

Functional (deliberative) division of labour in the ECOWAS Parliament is reflected in a committee system. For better synergy between the parliament and other institutions of ECOWAS, the standing committees reflect the areas of competence covered by the specialised technical commissions established under Articles 6 and 22 of the Revised Treaty of 1993 (and expanded as deemed necessary by the Authority). Rule 29(2) of the ECOWAS Parliament Rules of Procedure 2008 inaugurates the following 13 standing committees:

✓ Administration and Finance

✓ Agriculture, Environment, Water Resources and Rural Development

✓ Communications and Information Technology

✓ Economic Policies and Budget Control

✓ Education, Science and Technology, Youth, Sports and Culture

✓ Gender, Employment, Labour and Social Welfare

✓ Health and Social Services

✓ Human Rights and Child Protection

✓ Infrastructure and Industrial Development

✓ Legal and Judicial Affairs

✓ New Partnership for African Development (NEPAD) and the African Peer Review Mechanism

✓ Political Affairs, Peace and Security

✓ Trade, Customs and Free Movement of Persons

Structurally, the parliament is divided into a political wing and an administrative wing. The political wing consists of three clearly delimited but interlinked components:

✓ the Plenary;

✓   the Bureau of Parliament; and

✓   the Conference of Committees' Bureaux.

The Plenary, which comprises all ECOWAS members of parliament, is the apex body of the parliament. It is headed by the speaker. Its decisions are binding on all other structures of the parliament. The Plenary advises other ECOWAS institutions through its resolutions upon request or at its own initiative. It holds ordinary sessions twice a year, in May and September. An extraordinary session may be summoned either at the initiative of the chairman of the Authority, on the initiative of the speaker, or at the request of an absolute majority of its component representatives addressed to the speaker.

The Bureau of Parliament is one of the governing bodies of the parliament. It is composed of the speaker and four deputy speakers. Together with the Conference of Committees' Bureaux, the Bureau of Parliament determines the draft agenda and all programmes or business of the session. It also:

✓   Authorises meetings, hearings, fact-finding and study tours of the committees away from the headquarters;

✓   Appoints the secretary-general of the parliament and its directors, and approves the appointment of other professional staff;

✓   Determines the composition of the standing committees with the assistance of the Selection Committee;

✓   Maintains a structure that will enhance synergy between the political and administrative wings of parliament;

✓   Issues general guidelines and policy direction for the management and administration of the affairs and facilities of parliament;

✓   Prescribes guidelines for the annual budget of the parliament within the limits set out by the president of the Commission; and

✓   Considers the draft budget before presenting it to the appropriate committee.

The Conference of Committees' Bureaux is composed of the speaker, chairs or deputy chairs and the rapporteurs of each of the standing committees. The conference represents all of the parliamentary committees collectively. It collaborates with the Bureau of Parliament to organise the work plan of the standing committees in accordance with the rules of procedure and the terms of reference of the committees. The conference is also mandated to work in close collaboration with national and other regional parliaments.

The administrative wing of parliament, referred to as the General Secretariat, is headed by the secretary-general, who is answerable to the speaker and the bureau. The secretary-general also acts as chief adviser to the speaker on all matters relating to administration and procedure. Among other functions, the secretary-general oversees the preparation and publication of minutes and reports

of all proceedings of parliament, the bureau and the Conference of Committees' Bureaux. The secretary-general also deploys staff from the General Secretariat to service the plenary, the Bureau of Parliament, standing committees and ad hoc committees. The position of secretary-general is professional rather than political, and s/he is assisted by directors. To ensure a smooth transition at the turnover of each legislature, the secretary-general is required to continue to carry out the day-to-day administration of parliament prior to the inauguration of a new legislature and consequent election of a speaker.

Role of the Parliament within ECOWAS

Essentially, the ECOWAS Parliament has a deliberative, consultative and advisory role. Of the three branches of ECOWAS—the executive (represented by the Authority and assisted by the Council of Ministers and the ECOWAS Commission), the legislature (represented by the ECOWAS Parliament) and the judiciary (represented by the independent ECOWAS Court of Justice)—the legislature is the least evolved. Whereas the Revised Treaty of ECOWAS 1993 makes the decisions of the Authority and the judgments of the Court of Justice binding on member states and institutions of the Community (Articles 9[4] and 15[4] respectively), it remains unduly laconic on the functions and extent of powers of the ECOWAS Parliament. Article 6 of the 1994 Protocol Relating to the Community Parliament reinforces the image of the ECOWAS Parliament as the dormant volcano among the three branches. This article limits its competence to making non-binding recommendations and presenting its opinion on matters concerning the community to institutions and organs of the community.

During its first ordinary session in 2007, the ECOWAS Commission sought the opinion of the parliament on:

✓ A draft convention on regional transborder cooperation;

✓ A draft Supplementary Act adopting the community regulations on competition and modalities for their implementation within ECOWAS;

✓ A draft Supplementary Act establishing local jurisdiction on competition with its functions and procedures;

✓ A draft Supplementary Act adopting the community regulations on investment and modalities for their implementation within ECOWAS; and

✓ A draft Supplementary Act relating to the creation of a regional organ for regulating the electricity sector within ECOWAS.

A joint session of the relevant parliamentary committees deliberated on the issues and presented draft opinions to the Plenary, which, in turn, adopted and sent the opinion to the ECOWAS Commission. Beyond its advisory role, the ECOWAS Parliament has also engaged in activities of parliamentary diplomacy (see Box 8).

Everywhere, the role of parliaments has always been strengthened only gradually and through conflicts with the executive. In light of this, the very existence of the

ECOWAS Parliament is only a first step in a presumably long march towards attaining democratic accountability and parliamentary oversight in ECOWAS. In the overall context of ECOWAS, the work of its parliament is also defined by its participation in the activities of other institutions of ECOWAS, especially the executive branch. The parliament participates regularly in the meetings of the Council of Ministers and those of the Authority. Such participation—which is not always without ambivalence—presents veritable avenues for increasing the visibility of the parliament. It also allows for renegotiating the role of the parliament and for advocating fuller participation by the parliament in the affairs of ECOWAS.

Scope of powers of the ECOWAS Parliament in relation to regional security sector governance and oversight

There are three areas of competence of the ECOWAS Parliament under Article 6 of the 1994 Protocol Relating to the Community Parliament:

✓ Matters which the parliament may consider on its own initiative and make recommendations to the institutions and organs of the community. In effect, this concerns any matter concerning the community, particularly issues relating to human rights and fundamental freedoms.

✓ Matters on which the parliament may be consulted for its opinion concerning the community.

✓ Matters on which the opinion of the parliament shall be sought. This includes but is not limited to the interconnections of transport links, telecommunications systems and energy networks, treaty review, social integration and respect for human rights and fundamental freedoms.

The ECOWAS Parliament neither assumes full legitimacy nor asserts any role in the basic parliamentary functions of representation, law-making, budgeting and oversight. In fact, the budgeting and policymaking powers of the community lie firmly within the exclusive competence of the executive (the Authority, the Mediation and Security Council and the Commission) contrary to the democratic principle of separation of powers. The fact that the opinion of the parliament is seldom sought in relation to peace and security issues is further proof of its weakness. Because the parliament as presently constituted lacks law-making powers, it lacks the ability to expand upon its own competence as thinly prescribed in the 1994 protocol. Due to its strictly proscribed legal authority to perform, and consequent weakness vis-à-vis other institutions of ECOWAS, the ECOWAS Parliament is relatively weak in delivering effective oversight of the security sector within the broader ECOWAS institutional framework.

Notwithstanding its limited authority, a grossly underutilised parliamentary oversight tool is the committee system in the ECOWAS Parliament. In addition to the Standing Committee on Political Affairs, Peace and Security, other committees that may deal peripherally with peace and security issues include the Committee on Human Rights and Child Protection and the Committee on Legal and Judicial Affairs. Rule

30(2) of the ECOWAS Parliament Rules of Procedure (2008) spells out the generic function of standing committees, which is to examine and report on all matters within their competence or relating to the community that have been referred to them. Standing committees may also, on their own initiative and with the approval of the parliament, carry out activities aimed at enhancing the purposes for which they were set up. To instigate this proactive provision, the committees are empowered to call upon the president of the ECOWAS Commission to make available any staff of the community to make presentations before it. This is an opportunity for the committees to keep abreast of regional security issues and ECOWAS initiatives to address them. The power to request and receive presentations does not bestow any special investigative powers on the committees and is different from the procedure for putting oral or written questions to the president or chair of the Council of Ministers under Rule 94, another underutilised oversight tool. Moreover, the parliament may set up special committees on specific matters and ad hoc committees of enquiry to investigate the facts of a pertinent issue.

Encouragingly, the attitude of members of the ECOWAS Parliament reflects a desire for proactive efforts aimed at expanding the claustrophobic provisions that define its mandate and competence. For instance, in September 2002 the parliament adopted a resolution relating to enhancement of the powers of the Community Parliament. This resolution recommends, inter alia, the extension of the areas on which the parliament must be consulted, particularly adoption of the community budget; the enhancement of the parliament's enforcement powers; the enlargement of its competence to cover issues of peace as well as the promotion of democracy and good governance; and the determination of a terminal date for the transitional period to usher in direct elections to parliament. The parliament's demand for increased participation in the affairs of ECOWAS finally paid off in the form of a compromise regulation made by the Council of Ministers in 2005. This regulation gives directives for the restructuring of the ECOWAS Parliament to permit its effective participation in the ECOWAS decision-making process and to create synergy and cooperation between it, the parliaments of member states and the other institutions of the community. The intent of this regulation was codified in Article 4 of the 2006 Supplementary Protocol Relating to the Community Parliament, which seeks to significantly expand the competence of the parliament as spelt out in Article 6 of the 1994 Protocol.

Thus, Article 4(2) of the Supplementary Protocol adds that, "The powers of the ECOWAS Parliament shall be progressively enhanced from advisory to co-decision making and subsequently to a law making role in areas to be defined by the Authority." Furthermore, Article 4(3), which is best described as a transitional provision, now envisages the assumption of full legislative powers by the parliament—beyond being consulted for its opinion—upon the direct election of parliamentarians. Judging from this trend, two scenarios are possible:

✓ Despite its present limitations, the ECOWAS Parliament has enormous potential to be a leading regional parliament in the new era of direct universal suffrage; and

✓ The powers of the parliament may still be enhanced even before direct elections become feasible by amending relevant ECOWAS instruments to put the parliament as presently constituted on par with the Commission and the Court of Justice.

Box 10

Some activities of the ECOWAS Parliament in relation to regional security sector governance

► Missions in the Mano River Union

Since July 2003, the ECOWAS Parliament has undertaken several peace and fact-finding missions. It played a role in the resolution of the Liberian conflict by initiating an effort in reaching out to the various factions. It facilitated dialogue between the three states directly affected by the Liberian war, and between the LURD (Liberians United for Reconciliation and Democracy) rebels and leaders of the Mano River Union over a negotiated settlement. The parliament also adopted recommendations and produced a report which was transmitted to the heads of state involved.

► Missions in Côte d'Ivoire, Guinea-Bissau and Togo

The ECOWAS Parliament carried out a fact-finding mission in January 2003 on the Ivorian crisis and its impact on Ghana and Burkina Faso. In June 2003, the ECOWAS parliamentary delegation made several suggestions to the president of Guinea-Bissau to resolve the political crisis. These suggestions included respecting the deadlines for the elections, ensuring transparency and the rule of law and guaranteeing the independence of the Supreme Court, which would have to declare the election results. Similar effort was made during the succession crisis in Togo following the death of President Gnassingbe Eyadema.

► Election observer missions

The ECOWAS Parliament has been involved in election observation in Nigeria (April 2003), Togo (June 2003) and Guinea-Bissau (March 2004). In accordance with the 2001 Supplementary Protocol on Democracy and Good Governance, the electoral missions took place under the auspices of the ECOWAS Commission. The parliament therefore expressed the hope that the supplementary protocol would be revised in order to grant the ECOWAS Parliament a more central role in election monitoring missions.

Source: Adedeji Ebo and Boubacar N'Diaye, eds. (2008), *Parliamentary Oversight of the Security Sector in West Africa.* Geneva: DCAF, 73–74.

Challenges facing the ECOWAS Parliament

The parliamentary oversight deficit and executive dominance in the ECOWAS institutional structure are apparent. The primary challenge that faces the ECOWAS Parliament in its evolving role in democratic governance and security sector oversight is how to expand its authority beyond being a merely advisory body to make it a co-decision making and ultimately a law-making body. Although the Supplementary Protocol Relating to the Community Parliament already contains the enabling provision to facilitate this transition, this provision amounts to only a futuristic aspiration. There might be a lack of political will by the executive arm of ECOWAS to cede some of its traditional and exclusive spheres of competence. Expansion of the mandate of the parliament will entail a review of the framework that details its authority, especially the Revised Treaty of ECOWAS, to bring the parliament on par with the executive and judicial arms of ECOWAS. This would occur by making its laws binding on the other institutions and ECOWAS member states. Although the parliament has adopted several resolutions recommending the review of the Revised Treaty, such recommendations have yet to be taken on board by the Authority of Heads of State and Government of ECOWAS.

A related challenge is the conduct of direct elections to the ECOWAS Parliament. Direct elections would enhance the ability of members of parliament to carry out their legislative functions, as membership would then be a full-time commitment. Moreover, direct elections would establish the legitimate mandate of the parliament bestowed by the peoples of West Africa and provide it with full parliamentary powers, including law-making, oversight, budgeting and representation. With respect to the proposed timetable for elections, a 2009 report on "Direct Elections to the ECOWAS Parliament" projects three options: late 2010, early 2011 or late 2011. The report then sets out a timeline for tasks that should be done leading up to the conduct of elections, including consultations between the ECOWAS Parliament and the ECOWAS Commission, adoption of the texts (of proposed amendments) by the Authority, ratification of the amendments to the protocol, and the establishment of an ECOWAS Electoral Commission and an outreach programme to promote awareness in member states. However, the conduct of direct elections has been de-emphasised as it is now seen to be a less realistic political target and given huge and recurrent financial and logistic requirements.

Another grey area, which may result in friction, exists between the supranational ECOWAS Parliament and the national parliaments of sovereign ECOWAS member states. Transitioning from an ECOWAS of states to an ECOWAS of peoples does not suppose that the ECOWAS political space will become stateless. States still form the building blocks of regional cooperation. The progressive assertion of supranational status should be embarked upon cautiously, as states in West Africa are not wont to sharing sovereignty, especially in internal security and defence matters. It appears that, for now, intrusive measures beyond the harmonisation, coordination and facilitation of regional, cross-border and common security policies as envisaged by Article 4 of the Revised Treaty will likely be rejected.

While considering enhancement of powers of the ECOWAS Parliament, it is also necessary to agree on and delimit spheres of legislative competence between the ECOWAS Parliament and national parliaments.

What you can do as a parliamentarian

► Initiate and facilitate consultations with the ECOWAS Council of Ministers and the Authority of Heads of State and Government on the positive implications of a strengthened parliament for ECOWAS institutions.

► Propose the amendment and review of relevant ECOWAS legal instruments and ensure their coherence in order to facilitate enhancement of powers of the parliament.

► Create awareness in national parliaments of the need to harmonise regional electoral policy and structures, and contribute to creating synergy between national parliaments and the ECOWAS Parliament.

► Insist that representatives to the ECOWAS Parliament are elected on the floor of national parliaments and not merely selected by presiding officers. Indirect election by national parliaments is also an effective way of legitimising representation at the regional parliament.

► Appreciate that members of the ECOWAS Parliament are representatives of the peoples of ECOWAS in issues relating to the region and not representatives of national interests, ethnic/linguistic sentiments or party loyalties.

► Advocate a gradual approach to strengthening parliamentary powers and competencies rather than risk the consequences of flawed direct elections.

► Initiate and support measures to gain additional co-decision-making authority in specific areas pursuant to Article 4(2) of the Supplementary Protocol Relating to the Community Parliament.

► Take proactive measures to obtain executive deference to the ECOWAS Parliament in matters on which the opinion of the parliament shall (as a matter of legal compulsion) be sought.

► Utilise existing tools of parliamentary oversight and opportunities for cooperation to enhance parliamentary involvement in "any matter concerning the Community".

Challenges to security

States of exception[1]

There are exceptional circumstances, such as war, internal conflict or other types of emergencies, in which a state has to apply special powers and procedures for solving a crisis. Such responses ought to be applied without affecting the democratic system of government.

In exceptional situations, the state declares a "state of war" or a "formal state of emergency". Such a declaration, typically in accordance with specific constitutional stipulations, usually brings tension between order and justice, law and politics, and right and wrong. States that find themselves in these peculiar circumstances are said to be in a "state of exception". Recent developments have shown that some West African states have been so plagued by serious conflict, crises and disasters that they are at best regarded as being in a constant "state of exception".

States of exception

Although the concept of a state of exception is increasingly being used in practice, there is no common definition in political theory of the term that enjoys the allegiance of all scholars.

All too often, the state of exception is characterised by suspension of the law by a "military order" issued by the executive arm of a government, bypassing the legislature. Its English equivalent is what is generally known as emergency powers, a state of emergency or martial law. On rare occasions, a state of exception equates with the notion of a state of war.

---

1   This chapter was adapted from the IPU-DCAF Handbook for Parliamentarians by Dr. Istifanus Zabadi.

States of exception, while necessary, raise questions of legal and institutional design— the constitution as well as the architecture of legislature, executive branch and judiciary— because of the risk that temporary suspensions of democratic procedures and rights may facilitate the permanent usurpation of political power and curtailment of human rights by the country's leaders (see http://www.idea.int/publications/dchs/upload/dchs_vol2_sec4_1.pdf).

State of war

War and several types of emergencies call for a military response or even the declaration of martial law. In these instances, the military and the security sector at large remain subject to a series of international principles and guarantees, such as the rules of international humanitarian law. They must also remain under democratic control. Non-derogable human rights can never be curtailed, as clearly underlined by the United Nations (UN) Committee on Human Rights in its August 2001 General Comment No. 29 on Article 4 of the International Covenant on Civil and Political Rights.

This link stands out for a further reason: it is now widely recognised that security is not a goal in itself but should ultimately serve the well-being of the people. Democracy, rooted in an effective parliament, is most likely to give this idea practical meaning:

Article 2.4 of the UN Charter states: "The members of the Organisation shall abstain, in their international relations, from resorting to the threat or use of force (...)."

The use of force against another state is thus severely restricted. One role of parliament is to monitor whether the executive branch is respecting these international restrictions on the use and threat of war and not exceeding its powers in times of conflict. Neutral countries such as Switzerland openly renounce the use of war as a means of settling disputes in their external relations. Other countries, such as Hungary, present their renunciation of war as a means of solving disputes between nations.

In times of war, depending on the constitutional provisions, parliaments can be involved in the decision-making process in at least three different ways:

✓ The constitution may provide for parliament to declare war and peace. In practice, this requirement may prove rather hypothetical as war often starts without warning and events may pre-empt the ability of parliament to come to a decision.

✓ The constitution may require the executive branch to receive express authorisation from parliament before engaging in any act of war or making peace. Such a provision will allow parliament to debate the question prior to engaging in any concrete act of war and, more broadly, in any military intervention abroad.

✓ The constitution may provide for parliament to be notified of the decision of the executive to engage in acts of war without requiring the executive to obtain prior consent from parliament. Most constitutions require parliament be notified a priori.

State of emergency

A state of emergency could be defined as a governmental declaration that may suspend certain normal functions of government, alert citizens to alter their normal behaviour or order government agencies to implement emergency preparedness or response plans. It can also include the temporary curtailment of specific human rights for the sake of restoring law and order.

National constitutional and legal orders foresee a number of situations where a state of emergency can be proclaimed. These range from an armed action to a natural disaster or an epidemic threatening the constitutional or public order.

Situations like these have made defining the limits of the concept of "state of emergency" nothing less than urgent. This is because of the way states have exploited the provision to use force, and how such declarations tip the delicate balance between the preservation of internal security and respect for human rights and the rule of law.

Article 4 of the ICCPR includes a number of substantive and procedural requirements regarding states of emergency that should be observed by all State Parties. These requirements are the following:

a. States of emergency can only be declared if the life of the nation is threatened (principle of necessity);

b. A state of emergency needs to be officially proclaimed and notified; (principle of proclamation and notification);

c. Measures are limited to the extent strictly required by the exigencies of the situation (principle of proportionality);

d. The state of emergency needs to be in accordance with the international obligations of the state (principle of consistency);

e. The state of emergency cannot lead to the derogation of non-derogable rights (e.g. right to life, prohibition of torture etc.);

f. No measures can be taken that would justify discrimination solely on the grounds of race, colour, sex, language, religion or social origin (principle of non-discrimination).

Although not fashionable in countries that practise genuine democracy, the idea of a state of emergency has been used as legitimate constitutional or juridical provision to contain an impending or overt breakdown in law and order. While some countries call it a state of emergency, others refer to it as martial law. The declaration of a

state of emergency can only be made in exceptional circumstances and should follow certain key precepts so that democratic principles are not jeopardised. This is because, in some countries, the state of emergency and its effects on civil liberties and governmental procedures are regulated by the constitution or the law to limit the powers that may be invoked or rights that may be suspended during an emergency.

Constitutions typically put drastic limits (duration, renewal) on the use of emergency powers by the executive. The parliament is usually consulted at the initial stages for approving the renewal of the emergency period. It is expected that the constitution and laws should prevent the executive from declaring a state of emergency for a party's political motives. In addition, the constitution and relevant laws should declare military coups unconstitutional. In Africa, the constitution of every state outlaws military coups, although military regimes usually suspend the operative sections of the constitution by decree.

The Economic Community of West African States (ECOWAS) and the African Union (AU) have also adopted zero tolerance for unconstitutional change in government. The two bodies do not recognise any government that comes to power through unconstitutional means.

Box 11

Constitutional provisions of some West African States on conditions for the declaration of a state of emergency

Country	Constitutional provision	Legislative consent	Comparative analysis
Liberia	Constitution of the Republic of Liberia, Articles 85–88	Mandatory	Liberia was at war (1989–1992; 2001–2003). The constitutional provisions were not followed. They were de facto an exception.
Benin	Loi no. 90–32 du 11 Décembre 1990, Articles 65–68	Mandatory	Emergency was never declared.
Nigeria	Constitution of the Federal Republic of Nigeria 1999, Section 305, subsections 1–6	Mandatory	Emergency rule was declared in two Plateau and Ekiti states between 1999 and 2007. Existing rules were violated in declaring the emergency. End of emergency further exacerbated rather than resolved the issues leading to the declaration of emergency.

Country	Constitutional provision	Legislative consent	Comparative analysis
Mali	Constitution de la République du Mali 1992, Articles 49, 71, 72 and 121	Mandatory	Emergency has never been declared, despite the Touareg rebellion.

Source: Constitution of the People's Republic of Benin (1990); Constitution of the Republic of Liberia (1986); Constitution of the Republic of Mali (1992); and Constitution of the Federal Republic of Nigeria (1999).

Long lasting and de facto states of exception

Long lasting states of exception, periodically renewed by parliament over years or even decades, can also lead to a situation where the principle of civilian supremacy over security sector organisations is at risk and where these organisations may even acquire a sense of impunity endangering democracy. This places parliament in a very weak and vulnerable position. De facto and rampant states of exception, as existing in a number of countries, clearly represent a direct threat to parliamentary oversight of the security sector, which, de facto, enjoys great latitude in all its activities.

States of exception in West Africa

States of exception in West Africa are often justified by threats such as extreme instability in the political system, armed insurrection and widespread criminality. The causes of these problems can be located in the breakdown of key formal institutions such as the military and the police, the judiciary, political parties and the parliament, or the mismanagement of large segments of the national economy, particularly extractive industries. The inability of these institutions to play their roles is caused by their structural weaknesses and the overbearing power of certain non-state interests in subverting these institutions. This has also resulted in the breakdown of law and order and contributed to the imposition of de facto states of exception in the West African region. In many states in the region, the breakdown of law and order has been exacerbated by:

✓ Restriction of the political space by dominant/ruling elites, who have also prevented the practice of democratic governance;

✓ Perceived economic injustice and marginalisation of minorities; and

✓ Corruption and criminalisation in the allocation of scarce resources by ruling elites.

The three states that have experienced a seemingly unending state of exception in the ECOWAS region are Côte d'Ivoire, Guinea and Guinea-Bissau. Low-intensity conflicts are also ongoing in the Casamance region of Senegal, in northern Mali, in the Agadez region in Niger and the Niger Delta region of Nigeria.

In Guinea-Bissau, protracted factional strife among the political elite, made up mostly of army officers, has continued a sort of emergency rule since the end of the 1998–1999 civil war. Major features of exceptions in the country are, among others, intra- and inter-ethnic antagonisms among the main ethnic groups, which resulted in the implication of some neighbouring countries such as the Gambia and Senegal in fuelling disunity.

The weakness and marginalisation of legislatures and civil society in governance have also blocked opportunities for institutional reforms, while the factionalisation and ethnicisation of a military, which owes allegiance more to individuals than to the state, added to the constant tension. There is also disjointedness between strategic-level political authority and strategic-level military high command. This results in the emergence of parallel security structures and a lack of sustainable regional strategy for tackling the challenges of governance and development, as occurred in Guinea-Bissau. This has turned the country into an experimental theatre for security sector reform in the region.

One of the root causes of states of exception is that those who hold political power do not have the coercive power to govern effectively. The coercive power is often commanded by a factionalised army. The political leaders therefore spend their time managing the use of power in such a way that all the factions in the military end up controlling them, rather than vice versa. This leads to anarchy and a sort of "negative" exception whereby factions of the military, rather than the political leadership, drive the state of exception when it is declared.

Between the preservation of internal security and the respect for human rights

The main purpose of emergency rule is to restore law and order, and to prevent the disintegration of the state. However, when a state resorts to the declaration of a state of emergency or martial law, there is always a concern among citizens, other states and international organisations over how the state can achieve a balance between maintaining internal security and respect for human rights.

Below are some suggestions on how this can be done in the West African region.

- ✓ The existence of clear and carefully tailored constitutional provisions guiding the invocation, use and limits of emergency powers.
- ✓ The issuance of clear rules of engagement and a code of conduct for the personnel of the armed forces during the state of emergency.
- ✓ Ensuring effective legislative oversight of the security sector through laws authorising parliament to declare, monitor and end the state of exception.
- ✓ Ensuring effective civil society oversight of the security sector.
- ✓ Ensuring judicial oversight and review of the proper application of emergency powers.

✓ Ensuring the widest consultation by the government in decision making, with the broadest group of stakeholders, and parliament in particular.

✓ Regional and international organisations should pay close attention to the conduct of military operations in the ECOWAS region.

✓ The Network of African National Human Rights Institutions in ECOWAS member states, established in 2006, can play a role in pressuring states to adhere to human rights standards.

The limit of emergency powers is that international human rights law and international humanitarian law must be upheld and civilians cannot be targeted or used as a shield. In addition, all security-related activities must follow or conform to the constitution and applicable laws and codes.

Box 12

States of exception: case studies

De facto state of exception: the case of southern Nigeria

In Section 217(2), the Nigerian constitution of 1999 provides for the use of the armed forces in local conflict, subject to such conditions as may be prescribed by an Act of the National Assembly. The Nigerian National Assembly has not enacted any law to guide internal military operation since the inception of democratic governance. The recent military action by the Joint Task Force in the Niger Delta was not conducted with the consent of the legislature. The lack of both legislative and citizens' accountability has therefore prevented the effective control of the military during such action.

In an emergency situation, many ECOWAS member state constitutions provide for the outright suspension of some parts of the constitution and the entering into force of martial law. They provide for the declaration of war by the president, who also has the power to declare an end to the war. While it is assumed that this will be done in close consultation with the legislature, the most likely scenario is the marginalisation of the legislature in the process.

In Nigeria, the legislature has not taken advantage of the power bestowed on it to provide effective oversight on the use of the military. The lingering crisis in the oil-rich Niger Delta of southern Nigeria is an example of a de facto state of exception.

Source: Constitution of the Federal Republic of Nigeria (1999).

State of exception: the case of Guinea-Bissau

A more troubling example of a protracted de facto state of emergency in the region is Guinea-Bissau. Some aspects feature below.

Features	Effects
Undisciplined security sector	Assassination of chief of staff and president, arson, arrests and killing of civilians by army officials implicated in the illicit narcotics trade, unwillingness of generals to retire, breakdown in esprit de corps and pursuit of self-interests rather than national interests
Weakness of institutions	Breakdown of law and order, institutional manipulation by elites and inability of institutions to produce, extract, distribute and regulate
Weak political class	Lack of political will to translate exception into sustainable peace and development
Weakness of civil society	Coordination dilemma by community-based groups, organised labour and other segments of civil society to demand good governance

Source: Bolaji, Kehinde (2009) "The Guinea Bissau Debacle: Implications for Regional Security and Nigeria's Leadership Role in West Africa", *Africa Strategic Review* 2(1), 123-139.

The challenge of preventing threats to regional stability, including states of exception, informed the establishment of the ECOWAS Mediation and Security Council (MSC). The role of the MSC is enshrined in the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (Articles 8–11). It empowers members to:

✓ Decide on all matters relating to peace and security;

✓ Decide and implement all policies for conflict prevention, management and resolution, peacekeeping and security;

✓ Authorise all forms of intervention, in particular decide on the deployment of political and military missions;

✓ Approve mandates and terms of reference for such missions;

✓ Review the mandates and terms of reference periodically, on the basis of evolving situations; and

✓ Act on the recommendation of the president, and appoint the special representative of the president and the force commander.

The ECOWAS Commission has envisaged situations where the military and other security forces may be deployed to guarantee internal security and stability during a state of emergency or martial law. The ECOWAS Protocol on Democracy and Good Governance, in Article 22, states the following:

i.   The use of arms to disperse non-violent meetings or demonstrations shall be forbidden. Whenever a demonstration becomes violent, only the use of minimal and/or proportionate force shall be authorised.

ii. All cruel, inhuman and degrading treatment shall be forbidden.

iii. The security forces, while carrying out investigations, shall not disturb or arrest family members or relations of the person presumed guilty or suspected of having committed an offence.

For over two decades the West African region has been characterised by many forms of security threats. These threats include violent armed conflicts, transborder crime, arms proliferation, human trafficking, militancy and money laundering. In addition, failures of governance and democratic regression have contributed to the poor security situation affecting some states in the region. In exceptional cases, where these security deficits have undermined internal stability, states have resorted to the declaration of a state of emergency or martial law. Such declarations, however, have generated tensions between the preservation of internal security and the respect for human rights and the rule of law.

It is crucial for the legislature and the judiciary to ensure that the declaration of a state of emergency in a troubled society by the executive is exercised in accordance with legal or constitutional provisions. This must be performed to preserve internal security and sustain democracy in the region.

What you can do as a parliamentarian

► Enact laws that authorise the Parliament to declare, monitor and end the state of exception and engage in other conflict prevention activities to prevent the occurrence of a state of exception or the need to declare one.

► Familiarise yourself with the laws and "politics" of the declaration of emergency, in order to know when a state of emergency is in the national interest or otherwise.

► Ascertain that the legislation and practice of states of emergencies in your country are in accordance with article 4 of the ICCPR. In particular, verify whether your national legal standards and practices of states of emergency are in accordance with the principles of necessity, proclamation and notification, proportionality, consistency and non-discrimination as well as that states of emergency measures do not affect non-derogable rights.

► Request that the government respect the right to fair trial in times of emergency; at the very least, guarantees of fair trial may never be made subject to measures of derogation that would circumvent the protection of non-derogable rights.

► Be fully aware that emergency rule by the executive should not lead to the dissolution of the parliament and its ineffectiveness.

► Demand that parliament be consulted by the executive before a declaration of emergency, even if the constitution does not expressly provide for this.

► Demand to know the details, and be allowed to make inputs relating to the use of emergency powers, human rights and humanitarian issues, rules of engagement for troops, duration of emergency rule and eventual post-emergency activities.

► Ensure that existing laws are not violated in the course of the state of exception.

► Mobilise critical stakeholders behind the objectives of emergency rule, once assured that it is in the national interest.

► Demand a periodic report on implementation and seek to cross-check the veracity of information provided, especially if disputed by other respected stakeholders.

► Facilitate dialogue and other measures aimed at ending emergency or exception as soon as possible.

Transborder crime[1]

Transborder crimes are crimes that involve persons and activities straddling the territorial borders of two or more states. They usually involve criminal networks that initiate the transfer, transportation and delivery of (often contraband) goods, services or money from one state to another through illegitimate channels. Transborder crimes include but are not limited to illicit drug trafficking, human trafficking, illicit trade in arms and ammunition, smuggling of vehicles and cigarettes, banditry, armed robbery, piracy, commercial and customs fraud, money laundering and internet and financial scams.

This form of criminal activity may be described as "organised" in the context of the United Nations (UN) Convention against Transnational Organized Crime of 2000, which defines an organised criminal group as "a structured group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention in order to obtain, directly or indirectly, a financial or other material benefit."

Nature and pattern of transborder crime in West Africa

The primary form of activity was the smuggling of goods in order to evade taxes. This trend was contemporaneous with several unrelated but contributory events, such as the oil price rises of that decade, the delinking of the dollar from gold, high inflation and the rapid spread of debt in the developing world, and the increased movement of populations across states after the creation of the Economic Community of West African States (ECOWAS) in 1975.

---

1   This chapter was written by Mr. Okey Uzoechina and Colonel Moctar Ndoye.

With the growth of informal networks, these activities increasingly assumed worrying criminal forms such as narcotics trafficking, human trafficking and vehicle and cigarette smuggling. The first cases of heroin trafficking were recorded in Nigeria in the early 1980s. Since the 1990s, however, transborder criminal activities have become more complex and widespread in West Africa. Intra-state conflict in Liberia spewed mercenary activities, looting, weapons trafficking and unregulated trade in natural resources, especially timber and diamonds, on to the regional scene. Soldiers, rebel groups and members of the ECOWAS Ceasefire Monitoring Group (ECOMOG) were allegedly involved in trafficking in drugs and diamonds in Sierra Leone.

Today, West Africa suffers from a combination of factors that make it vulnerable to transborder crime. These include weak governance structures (crime prevention and law enforcement) in many states; porous borders across states; widespread poverty and corruption; and the geographic reality of serving as a transit route for illicit drug trafficking. Furthermore, technological advancements in communication and the ease of the flow of capital have encouraged criminals to operate with fluidity across territorial boundaries, while security and law enforcement agencies that normally act within the confines of the law of a given territory are usually one step behind. Criminal networks take advantage of the weak links in trade regulations and law enforcement, and the opportunities to corrupt officials. These networks have become somewhat like complex adaptive systems, continually aligning their strategies and operations to the dictates of the "market" and other incentives. Usually the networks are made up of demand and supply syndicates, and often middlemen who form close associations with border officials and other government agents. Potential interrelations between transborder criminal networks and terrorists who plunder the Sahelian corridor and the Saharan strip present further security threats to the region.

In a July 2009 publication titled Transnational Trafficking and the Rule of Law in West Africa: A Threat Assessment, the United Nations Office on Drugs and Crime (UNODC) identified various flows of transnational trafficking from, to and through West Africa: drugs, cigarettes, arms and ammunition, people, counterfeit medicines, toxic wastes, oil and natural resources. This situation undermines security, stability, good governance and the rule of law, free movement of goods and persons, and economic integration of the region. It has become clear that no one country can effectively combat transborder crime. Breaking this cycle of crime will entail complementary efforts at the national, regional and international levels.

Regional framework and initiatives to prevent and combat transborder crime

Prior to 1999, the regional legal framework dealt only peripherally with transborder crime, focusing on mutual legal assistance by ECOWAS member states to combat serious crimes. It also focused on vesting national courts with effective instruments for the arrest and enforcement of penalties against offenders fleeing the territory of one member state to seek refuge in the territory of another. These issues are

encapsulated in two conventions, respectively: the 1992 Convention on Mutual Assistance in Criminal Matters, which entered into force on 28 October 1998, and the 1994 Convention on Extradition, which entered into force on 8 December 2005.

Recognising transborder crime as a challenge to regional security, ECOWAS made a bold statement on the subject in the 1999 Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (the mechanism). Article 46 of the mechanism encourages and mandates, among other things:

✓ Close cooperation among the security services of member states;

✓ The harmonisation of domestic laws in accordance with the relevant ECOWAS Conventions on Mutual Assistance in Criminal Matters and Extradition;

✓ The development by member states of simplified restitution procedures for vehicles and other stolen objects seized by the requested state;

✓ The establishment by member states of a special fund for detected proceeds of crime which can be used for preventive and criminal justice responses; and

✓ The establishment by ECOWAS of a crime prevention and criminal justice centre to serve as a focal point for mutual legal assistance.

This provision has been the fulcrum for subsequent policy, technical and operational developments by ECOWAS to combat transborder crime at both regional and national levels.

To address the associated ills of money laundering—a derivative crime driven by proceeds from other crimes such as drug trafficking, oil bunkering, advance fee fraud and cybercrime—the Authority of Heads of State and Government of ECOWAS established the Intergovernmental Action Group against Money Laundering in West Africa (GIABA) as a specialised institution of ECOWAS in 2000. Through the establishment of financial intelligence units and collaboration with stakeholders, such as the central banks of signatory states, GIABA aims to protect the economies of ECOWAS member states so as to attract direct foreign investment to West Africa.

The statute of GIABA was amended in 2006 to include anti-terrorist financing, as a response to the 11 September 2001 terrorist attacks in the United States, with its mandate now extending to:

✓ Ensuring the adoption of standards against money laundering and the financing of terrorism in accordance with acceptable international standards, including the Financial Action Task Force 40+9 Recommendations;

✓ Facilitating the adoption and implementation by member states of measures against money laundering and the financing of terrorism, taking into account specific regional peculiarities and conditions;

✓ Functioning as a forum where member states can discuss matters of regional interest and share experiences; and

✓ Coordinating and providing support to member states to establish and implement anti-money-laundering and counter-terrorist financing regimes, including the implementation of laws against handling the proceeds of crime, through mutual legal assistance.

GIABA's 2008 report shows that whereas all ECOWAS member states have enacted anti-money-laundering legislation, only the Gambia has enacted an anti-terrorism law, which still requires amendment to meet international standards. Only Nigeria has ratified the UN Convention for the Suppression of the Financing of Terrorism of 1999.

At the operational level, several efforts have been taken by ECOWAS to promote cooperation and coordination among the security agencies (including the immigration service, the police, customs and border patrols and the armed forces) of its member states. The establishment of the West African Police Chiefs Committee (WAPCCO) as a specialised institution of ECOWAS in 2003 and the convening of the Committee of Chiefs of Security Services were targeted at combating transborder crime. Article 2(2)(a) of the WAPCCO constitution mandates the committee to define a regional strategy for combating crime. Pursuant to this mandate, in January 2009 WAPCCO sought the technical assistance of the regional bureau of the International Criminal Police Organisation (INTERPOL) in developing a robust regional strategy with gender perspectives in the fight against transborder crime.

Nigeria took the initiative to share experiences with WAPCCO, and recommended measures that could serve as a basis for adopting a common strategy to combat transborder crime in West Africa. These measures include:

✓ The creation of a joint border patrol task force with the police forces of the Republics of Benin, Niger and Chad;

✓ The creation of cybercrime centres with expertise in and the capacity to handle growing numbers of internet crime cases;

✓ Exchange of information on criminal activities with all countries in West Africa;

✓ Financial contribution to WAPCCO; and

✓ Donation of vehicles to the police forces of neighbouring states.

The Nigeria-Benin Joint Anti-Crime Border Patrol, which has been operational since 2002, has provided security and an enabling environment for commercial activities along the territorial borders.

ECOWAS regional response action plan against illicit drug trafficking, organised crime and drug abuse in West Africa 2008–2011

At its Thirty-fifth Ordinary Summit in Abuja on 19 December 2008, the Authority of Heads of State and Government endorsed a political declaration and a regional response action plan for 2008–2011 aimed at addressing the growing problem of illicit drug trafficking, organised crime and drug abuse. The political declaration established the basis for strong political commitment and a detailed cooperation framework. Significantly, the declaration further directs the ECOWAS Commission to take appropriate action for the elaboration of a regional convention against illicit drug trafficking and abuse. The regional action plan (see Box 13) contains five thematic areas, each comprising several objectives. Each objective is further broken down into strategies to be reached through specific national and regional activities. Lead institutions (primarily the ECOWAS Commission and member states) and potential partners are identified to carry out each activity.

The ECOWAS Commission is charged with coordinating the implementation of the political declaration and regional response action plan through the use of the ECODRUG Fund, with the support and cooperation of development partners. An interdisciplinary committee has been set up at the commission to ensure a coherent and coordinated approach. The Commissioner for Human Development and Gender is to ensure coordination of all drug abuse and related crime prevention activities, having large interactions with civil society, while the Commissioner for Political Affairs, Peace and Security focuses on law enforcement and drug-related security issues to ensure coherence with existing structures dealing with security. The Department for Legal Affairs is to address topics related to the proper legal environment and adherence to the rule of law.

Furthermore, ECOWAS has elaborated an operational plan for 2009–2012, with attached timelines and budgeted cost for specific activities enumerated in the regional action plan. A monitoring and evaluation mechanism has also been annexed to it pursuant to the directive by the authority that annual progress reports should be submitted to it by the ECOWAS Commission. The commission has also embarked on training for member states' experts on intelligence gathering methods and analysis, as well as the establishment and management of intelligence databases.

The ECOWAS Commission has maintained cooperation with and benefited from technical assistance from the European Union (EU), the UNODC, the UN Department of Peacekeeping Operations (DPKO), the UN Office for West Africa (UNOWA) and INTERPOL on drug issues. Various initiatives are currently at different stages of development at the regional and national levels. To support the implementation of the ECOWAS regional action plan, on 23 April 2009 the UNODC, the DPKO, UNOWA (Department of Political Affairs) and INTERPOL launched an ambitious programme that aims to build national and regional capacities in the

areas of law enforcement, forensics, intelligence, border management and money laundering, and to strengthen criminal justice systems. A key element is the proposed establishment of specialised transnational crime units, initially in Côte d'Ivoire, Guinea-Bissau, Liberia and Sierra Leone.

Also, the EU—under the Tenth European Development Fund (2008–2013)—and the Instrument for Stability (IfS) are formulating a support programme to the regional response action plan. Under the IfS, organised crime on the cocaine route is identified as a trans-regional threat that requires supportive action. There are also plans to enhance capacities for international cooperation among law enforcement and judicial institutions in the beneficiary countries to combat international criminal networks. At the same time, the UNODC and the EU are working through the IfS on an initiative aimed at establishing a real-time operational communications network across selected international airports in West Africa (Airport Communication Project).

Box 13

Thematic areas and objectives of the ECOWAS regional response action plan

► **Thematic area 1** Mobilisation of ECOWAS political leadership and the need for allocation of adequate national budgets by ECOWAS member states for preventing and combating illicit drug trafficking, related organised crime and drug abuse.

Objectives

✓ Improve the level of political support and commitment to tackling the illicit drug trafficking and related organised crime problem facing the region by the political leaders of member states.

✓ Take into account the specificity of all the areas in the ECOWAS space with high risk of arms and drug trafficking, terrorism and the existence of extremist groups.

✓ Redefine the drug problem and all related organised crime facing the region as threats to regional and national security and public health.

✓ Strengthen the operational capacity of the ECOWAS Commission to ensure coordination in the implementation of the political declaration, the regional action plan and other mandates given to it by the Authority of Heads of State and Government.

► Thematic area 2 Effective law enforcement and national/regional cooperation against the high-level increase in illicit drug trafficking and organised crime.

Objectives

✓ Significantly reduce the shipment of cocaine and the trafficking of other illicit drugs into the region.

✓ Strengthen the existing law enforcement framework and forensic services for countering illicit drug trafficking and related organised crime in member states.

✓ Strengthen institutional and personnel integrity to minimise the incidences of corruption and compromise.

► Thematic area 3 An appropriate and adequate legal framework for effective criminal justice administration.

Objectives

✓ Strengthen the existing legal instruments in order to provide sufficient deterrence against illicit drug trafficking.

✓ Harmonise legislation to ensure that existing loopholes being exploited by drug traffickers are closed, including through the provision of minimal sentencing against specified drug offences across the region.

✓ Improve coordinated regional and international efforts in dealing with the drug problem and all related organised crime in the region.

► Thematic area 4 Facing and dealing with the emerging threats of increased drug abuse and associated health and security problems.

Objectives

✓ Prevent people in the region from becoming major drug consumers as a result of increased availability of illicit substances.

✓ Harmonise drug abuse and HIV/AIDS control policies at the national and regional levels.

✓ Provide HIV/AIDS detection/drug dependence early identification and treatment services to drug users, in particular to hidden populations and marginalised groups.

✓ Establish/strengthen and/or equip social rehabilitation centres to rehabilitate drug users and provide a wide range of treatment and rehabilitation services to meet the treatment and rehabilitation needs of people with drug abuse problems.

✓ Integrate vocational training for drug users in rehabilitation services.

✓ Prevent acute and chronic social problems affecting drug users, their families and the society at large.

► Thematic area 5 Valid and reliable data to assess the magnitude of the drug trafficking and abuse problems affecting the region on a sustainable basis.

Objectives

✓ Develop sustainable capacity for research and evaluation of drug- and crime-related issues and conduct periodical situation analyses/ studies.

✓ Set up mechanisms and conduct basic surveys on specific issues to raise awareness and gain knowledge on trends and patterns of drug abuse.

✓ Evaluate intervention programmes and ascertain effectiveness.

✓ Support relevant networks and partnerships, as well as the development of national and regional information-sharing mechanisms.

Source: ECOWAS Regional Response Action Plan against illicit drug trafficking, organised crime and drug abuse in West Africa 2008–2011, Abuja (2008).

The role of parliament in preventing and combating transborder crime

Due to the nature of transborder crime, it is clear that stand-alone efforts at the national level are not adequate to address it. This is partly due to the fact that the West African region presents peculiar operational challenges and dilemmas. For instance, there are no uniform structures in the security services of ECOWAS member states; in addition to the regular security services in anglophone states, francophone states also have the gendarmerie. Different criminal law systems apply—common law in anglophone states and civil law in francophone states—with different burdens on the prosecution and the defence in each system. In addition, coastal states have coastguards, which are absent in landlocked states. There is as of yet no uniform operational code for security services in the region.

Since legal frameworks enable operational structures and mechanisms, national parliaments should play a lead role in strengthening the legal framework on transborder crime by harmonising national laws with regional and international treaties and protocols. All ECOWAS member states have ratified the 2000 UN Convention on Transnational Organized Crime. In the absence of an ECOWAS

convention on transborder crime, parliaments of West African states should ratify and domesticate relevant ECOWAS conventions and protocols that have a bearing on the fight against transborder crime.

At the regional level, the ECOWAS Parliament, through its Standing Committee on Political Affairs, Peace and Security and other committees, is well-placed to consider issues relating to collective security. Although the parliament is limited by its status as an advisory body, its present composition drawn from elected members of national parliaments is in itself a harmonising element. This forum should be utilised to share country experiences and information relating to good practices, which may inform regional response, and to set and transmit standards and common practices from the regional level to national parliaments.

Box 14

National practices, mechanisms and frameworks for combating transborder crime

► Benin

Money laundering is reported to be costing Benin about 3 percent of GDP annually. An obvious source of money laundering is the prevalence of drug trafficking and associated corruption. The UN Inter-Regional Crime and Justice Institute also reports that smuggling and human trafficking are ongoing in Benin.

The primary authority for dealing with anti-money-laundering and counter-terrorist financing issues is the Directorate of Monetary and Financial Affairs in the National Directorate for Treasury and Public Accounts, located in the Ministry of Finance. Decree No. 2006-752 of 31 December 2006 created the Financial Intelligence Unit, a body destined to be the principal repository and source of financial intelligence in Benin, empowered to investigate and generate intelligence in order to prosecute economic and financial crimes.

Benin is a member of the UEMOA. Money laundering is a crime in Benin as established in a uniform law of the UEMOA. This law was formally ratified by the National Assembly on 31 October 2006. Benin is a signatory to several international conventions, including the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988), the UN Convention against Transnational Organized Crime (2000) and the UN Convention against Corruption (2003).

► **The Gambia**

The porous borders, weak controls, prevailing poverty, dominance of cash transactions, poor "know your customer" compliance culture, massive inflows of tourists and anecdotal evidence of drug-related and other criminal activities are all factors contributing to an increase in the risk environment in the Gambia.

Within its limited resources and capacity, the Gambia has passed various laws and regulations relevant to combating transborder crime. These include the Economic Crimes (Specified Offences) Decree of 1994, the Anti-Terrorism Act of 2002, the Drug Control Act of 2003, the Money Laundering Act of 2003 and the Revised Regulations for the Operation of Foreign Exchange Bureaux of 2005. However, all these laws need to be updated and modernised. The Gambia is a signatory to several international conventions, including the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) and the UN Convention against Transnational Organized Crime (2000).

Although an inter-agency committee has been set up, it has remained an ad hoc, tentative body. In terms of implementing the provisions of relevant laws, the committee has not truly played an effective coordinating and enforcement role. However, it is pertinent to note other relevant agencies: the National Drug Enforcement Agency, the Department of State for the Interior and Justice, and the Department for Finance and Economic Affairs. As the supervisory ministry for the police, the immigration service and the National Drug Enforcement Agency, the Department of State for the Interior and Justice has statutory coordinating and oversight responsibilities in the implementation of the anti-money-laundering and counter-terrorist financing laws.

► **Nigeria**

Although Nigeria is not an offshore financial centre, its large economy is a hub for the trafficking of persons, narcotics and other goods. Nigeria is a major drug-transit country and is a centre of criminal financial activity since Nigerians are deeply involved in smuggling and trafficking rings worldwide. Individuals and criminal organisations take advantage of the country's location, weak laws, systemic corruption, lack of enforcement and poor economic conditions to strengthen their ability to perpetrate all manner of financial crimes. In addition to narcotics and corruption-related money laundering, advance fee fraud (popularly known as 419) remains a lucrative financial crime.

The establishment by law of the National Drug Law Enforcement Agency, the Economic and Financial Crimes Commission (EFCC), the Independent Corrupt Practices Commission, the Nigerian Financial Intelligence Unit, the Special Control Unit Against Money Laundering and the improvements in training of qualified prosecutors for Nigerian

courts have yielded some successes. Following the successes registered by the EFCC, closely supported by the Nigerian Financial Intelligence Unit, many national criminal elements moved to neighbouring countries to pursue their activities. The EFCC continues to have the potential to be a model law enforcement agency in West Africa.

Source: Annual Report of the Inter-Governmental Action Group Against Money Laundering in West Africa (GIABA), 2008.

What you can do as a parliamentarian

National parliaments

► Ensure the ratification and harmonisation of treaties and protocols relating to transborder crime.

► Take steps to domesticate relevant UN and ECOWAS conventions and protocols where necessary in order to enable enforcement.

► Further introduce bills to strengthen national structures to fight against transborder crime, especially in the area of human trafficking, and to complement existing regional mechanisms.

► Call the attention of the government to the provision of adequate technical and financial resources to secure national territorial borders.

► Have a right of inspection, questioning and inquiry (ideally through joint committees) into issues of human trafficking, drug trafficking and financial crimes.

► Pursuant to parliament's oversight powers, initiate accountability processes targeted at the professionalisation of the security services and law enforcement agencies, particularly promoting anti-corruption and respect for human rights.

► Contribute to the popularisation of best practices related to security governance in the region.

► Review tariffs and duties that create incentives for transborder smuggling, in the spirit of the ECOWAS Convention Relating to Inter-state Road Transit of Goods (1982).

The ECOWAS Parliament

► Advocate in support of a regional convention on transborder crime.

► Participate indirectly in decision making by presenting policy recommendations on transborder crime to the Authority of Heads of State and Government.

► Put in place an independent mechanism to follow up the ECOWAS regional action plan, with a view to making recommendations for improvement.

► Lobby decision makers and mobilise resources of technical and financial partners in fighting transborder crime and implementing security reforms within the entire ECOWAS region.

► Ensure the harmonisation of community treaties and protocols with national legislation.

► Share country experiences and consider complementary national strategies in combating transborder crime.

► In the spirit of the ECOWAS Strategic Vision 2020, advocate the adoption of a single currency for the region, which would curb the smuggling of goods by improving the purchasing power parity of community citizens.

Small arms and light weapons transfers[1]

The proliferation of small arms and light weapons (SALW) continues to be a major threat to the West African region. According to the United Nations (UN) Security Council Report on West Africa (March 2007), there is increasing illegal manufacture of firearms, trafficking in firearms and armed robbery in the region.

Parliaments have a very important role to play in overseeing both the arms trade and arms transfers. Rules and procedures guiding arms procurement must be consistent with those laid down through international and regional mechanisms, as well as national procurement law, the national budget and finance laws or contract and dispute settlement laws. Guiding features of arms trade and transfer policy and its legal framework should be based on principles of transparency and accountability.

This chapter provides a systematic analysis of existing policies, laws and regulations, procedures and practices for arms transfers in West Africa. It particularly examines key aspects of national policies on arms transfers, and ways in which parliaments in Economic Community of West African States (ECOWAS) member states as well as the ECOWAS Parliament can combat illicit and destabilising SALW transfers.

Legal and policy framework for arms transfers

Arms transfers are generally understood to cover all activities in which states and non-state actors are engaged in order to acquire or sell arms. Arms transfers include the sale or trade, purchase or procurement and donation of arms.

---

1   This chapter was adapted from the IPU-DCAF Handbook for the Parliamentarians by Mr. Jonathan Sandy.

There is wide international recognition of the inadequacy of policies, laws and oversight mechanisms for regulating flows and possession of SALW, particularly with regard to how to curb the risks of illegal transfers. In the West African region, all national governments have policies and legal frameworks on SALW control. Most firearms legislation in the region is outdated. For example, the Gambia's firearms law dates back to 1924. The current firearms laws of Liberia, Sierra Leone and Nigeria were passed in the 1950s. Multiple institutions are responsible for executing national legislation in different countries and this sometimes creates unnecessary overlap or duplication of responsibility, which weakens enforcement. For example, the number of institutions involved varies from two in Nigeria to about five or six in many francophone countries.

National policy on arms trade and transfer

The government should lay down a policy and legislation on arms sales, which should be submitted to parliament for its approval. The policy ought to define the guiding principles of conventional arms sales and should, especially, be developed with the following in mind:

✓ The import and export of conventional arms should be subject to oversight by the relevant parliamentary committee(s).

✓ Arms trade regulations should be consistent with the principles of the UN Charter, international law or UN arms embargoes, and should also take into account the economic, political, ethical and security concerns of the countries purchasing arms.

✓ The principle of transparency should be applied in the decision-making process to ensure probity and professional accountability.

✓ Mechanisms to prevent unethical sales practices should be set up by law, based on UN and other relevant recommendations and on best practices in other countries. Suppliers and recipients should develop a code of integrity.

✓ The parliament should be able to ascertain that the nature and types of arms sold relate to the recipient countries' genuine defence needs as approved by the parliaments of those recipient countries.

✓ The parliaments of arms-supplying countries should be able to ascertain that the recipient countries respect human rights and fundamental freedoms, and have put in place effective accountability processes for arms procurement decisions.

✓ The parliament should be able to ascertain that the arms sale is not likely to endanger peace, exacerbate regional tensions or armed conflicts, generate spiralling arms sales in the region, or contribute to regional instability through the introduction of a destabilising weapons system or quantities of small arms and light weapons. If parliamentary defence committees start a regional

dialogue on threats to regional stability, excessive procurement and related confidentiality leading to corruption become open to regional debate.

✓ Mechanisms should be put in place to prevent arms that are sold to a particular country being re-exported or diverted for purposes that are contrary to the conditions stated in the import certification.

Box 15

Estimated figures on the trade in small arms

"While the volume of small arms production is currently less than it was during the last years of the Cold War, millions of these weapons are still being produced every year (...). Based on estimations (...), the value of global arms production, including ammunition, for the year 2000 was worth at least US$4 billion. In terms of volume, it is estimated that roughly 4.3 million new small arms were produced in 2000, (...) a decline of 30 percent [compared with the average annual number during the Cold War]".

"While the demand for new small arms may be declining (...), the supply side of the market seems to be expanding (...). The number of companies producing these weapons more than tripled in less than two decades, from 196 in the 1980s to about 600 today.

(...) The presence of new and increasing numbers of companies and countries that produce small arms—and who are willing to sell to anyone, anywhere, at any price—means that it is now easier for authoritarian governments, non-state actors, terrorists and criminals to obtain weapons that are newer, more sophisticated and more lethal than ever before. The need for governmental control of small arms production has become an urgent international security issue."

Source: Small Arms Survey (2001), Small Arms Survey 2001: *Profiling the Problem.* Oxford: Oxford University Press.

Roles and possible options for international and regional mechanisms

The end of the Cold War led to a reduction in the size of armies all across the world. This has meant that millions of weapons were considered redundant and rendered surplus. The lack of consistent management of this surplus resulted in many weapons being transferred from government to government, but also from governments to non-state groups in such a manner that the weapons escaped public scrutiny. Clearly, many of these weapons were diverted into stolen arms pipelines, or directly stolen from insecure arsenals.

About two-fifths of all major conventional weapons traded in the 1990s came from surplus stocks. The main reason for the existence of surplus weapons, as a phenomenon of the international arms trade in the 1990s, is that the large arsenals

belonging to the former Soviet bloc were suddenly freed from any central control authority. Given the existing harsh economic conditions and the huge availability of surplus weapons, the excess arsenals became a source of hard currency that was used to meet immediate financial needs. It is also true that many sales were organised by criminal networks that were or were not linked to the political leadership in place. However, the former Soviet bloc was not alone in converting its arsenals into sales. Several developed and developing countries did likewise.

Box 16

Trading surplus weapons: a negative by-product of disarmament

"Despite the decline of trade in new weapons, statistics indicate record levels of surplus second-hand weapons trade. A combination of push and pull factors has influenced the transfer of this surplus. Disarmament treaties, ceasefires and reduced deployments have created inventories totalling as many as 165,000 major weapons worldwide, more than 18,000 of which were exported or given away between 1990 and 1995. For the first time in 1994, the trade in surplus weapons was greater than the trade in new weapons. Increasingly available surplus weapons trade at lower prices or come free within aid programmes. Such trade is a problematic result of disarmament, reaching conflict areas and fuelling regional arms races."

Source: Herbert Wulf (1998), Bonn International Centre for Conversion www.bicc.de

---

It is clear that the arms recipients were less prosperous countries, which generally possessed weaker parliamentary oversight structures. During the 1990s, at least 90 countries imported surplus major weapons. It is particularly important that small arms be placed under stricter controls and that legislation should oblige the government and the military to report annually their losses or thefts of small arms and ammunition to the parliament. Steps should be taken for conversion of small arms factories to manufacture non-military goods.

The five-year moving average level of global arms transfers fell in the period 1997–2001. This is explained mainly by a reduction in deliveries by the United States, which was the largest supplier in 1997–2001, despite a 65 percent reduction in its arms deliveries since 1998. Russia was the second largest supplier during this period. A 24 percent increase in arms transfers from 2000 to 2001 made Russia the largest supplier in 2001. China was by far the largest arms recipient in 2001, after an increase of 44 percent from 2000. Imports by India increased by 50 percent, making it the third largest recipient in 2001. The other major recipients in the period 1997–2001 were Saudi Arabia, Taiwan and Turkey.

Exacerbated by the aforementioned post-Cold War developments, the issue of transparency and accountability of arms export control procedures has become an area of significant debate in many countries about what parliaments could and should do.

Box 17 presents examples of measures taken in ECOWAS member states. The increased awareness of the importance of transparency and accountability has led to significant improvements in the parliamentary oversight of arms exports in those states but it is still far from perfect in many countries.

Box 17

Legal provisions regulating small arms transfers in some West African countries

Burkina Faso

The legislation regarding SALW dates from 1992 (Decree No. 92-387). As this legislation targeted only civilian use and possession of SALW, it was reviewed and revised in 2001 and now covers production, manufacturing possession and transit. A national commission was established in Burkina Faso in 2001 and is now functional. There is increased engagement with civil society. The current law places no obligation on the government or the national commission to report to parliament on arms transfers or procurement on an annual basis. The law does not provide for oversight of who gets a licence to export arms and to whom. This is a key factor, as export and import licensing should not contravene the ECOWAS SALW Convention (2006).

Côte d'Ivoire

Prior authorisation is required by Ivorian legislation for the acquisition, possession and carrying of weapons (Decree No. 99-183 dated 24 February 1999). The legislation contains no regulations concerning the export and re-export, transit, transhipment or import of weapons and war materiel. Hence, parliamentary debate on arms transfers consistent with the ECOWAS SALW Convention (2006) is lacking.

Ghana

The government of Ghana enacted a revised firearms law, the Arms and Ammunitions Act, in August 2003. There are provisions in the 2003 Act for the Arms and Ammunition Inventory Parliamentary Committee to conduct oversight of SALW issues, though its institutional capacity to play this role is in need of enhancement. It is expected that the committee will engage in domesticating the ECOWAS SALW Convention (2006), as well as being involved in regulating arms transfers.

Guinea

In Guinea Conakry, the primary source of regulation is the law of 22 July 1996. Article 9 makes provision for competent authorities to issue permits for the acquisition and possession of weapons and ammunition. The competent authority varies depending on the category of weapons. For example, weapons of war are regulated by authorisation and supervision by the Ministry of Defence. Hunting weapons are regulated jointly by the Ministry of Territory Administration (National Directorate of Public Freedoms and Regulations) and the Ministry of Security. The issuance of permits to carry hunting firearms by the Territory Administration, through the National Directorate of Public Freedoms, is not provided for by the 1996 act, which gives jurisdiction to the Ministry of Security. The parliament of the Republic of Guinea has no role in the regulation or oversight of arms transfers in existing legislation. There are no reporting mechanisms that provide parliament and the public with information concerning the authorisation of arms exports.

Guinea-Bissau

Guinea-Bissau has its own national laws for the control and regulation of firearms, ammunition, explosives and other related materials, enacted during the colonial period. Provision is made in Article 51 of Official Bulletin No. 37.3123 of 1960 for individuals to legally acquire firearms. It allows for a transfer of the arms and corresponding munitions to any person who can acquire a licence for them. The National Commission for Small Arms Control Decree was enacted in 2006. However, the role of the Guinea-Bissau National Assembly in regulating the transfer of arms and licensing is extremely weak or absent.

Niger

Two acts regulate SALW in Niger, both dating from the 1960s, and mainly cover the issue of civilian possession and use. A bill is currently being formulated to update the legislation and make it adequate for the current needs and requirements of the country. Niger was one of the first ECOWAS countries to set up a National Commission on small arms proliferation in 1998. There is civil society membership of the National Commission, though it remains dominated by the military.

Nigeria

The central law for the regulation of SALW in Nigeria is the Firearms Act of 1959, which makes provision for regulating the possession of and dealing in firearms and ammunition, including muzzle-loading firearms, and for matters ancillary thereto. Other laws are the Robbery and Firearms Act of 1984, the Explosive Act of 1960 and the Defence Industries Corporation of Nigeria Act of 1964. However, the 1959 law is currently considered central to regulating firearms in Nigeria. The president of the Federal Republic of Nigeria, the

inspector general of police and commissioners of police in each state are allocated different degrees of powers (which in most cases are delegable). Authorisation or a licence is required before a firearm is sold or transferred from one individual to another. No person shall sell or transfer any firearm or ammunition to any person (other than another registered firearms dealer) without the production of a licence or a permit by such person authorising the possession of such firearm or ammunition (section 11 of the Firearms Act). Parliament has no clear role in scrutinising arms export licensing decisions. There are no provisions for parliamentary debate either. Parliamentarians can ask questions retrospectively on arms export licences.

Sierra Leone

The Sierra Leone Arms and Ammunition Act of 1955 is the national law for the regulation of arms. The head of state of the Republic of Sierra Leone and the inspector general of police share considerable powers under the act with regard to the issuance and termination of different categories of licences. A new bill, the Arms and Ammunition Bill of 2006, has been drafted. Section 43(1) singularly makes rules for carrying out any of the provisions or purposes of this act. Furthermore, section 44 provides that the president may by order declare any weapon to be an arm of war for the purposes of the act. Research suggests that the 1955 act is too narrow in scope and most of the provisions are not consistent with the ECOWAS SALW Convention of 2006. The process of formulating the 1955 bill was less consultative, meaning fewer amendments. Parliamentary oversight provisions are absent, especially for arms transfer and accountability for arms procurement.

ECOWAS member states have committed themselves to tackling the threat of illegal arms transfers by signing the ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials, adopted on 14 June 2006. This resulted from the transformation of the ECOWAS Moratorium on the Importation, Exportation and Manufacture of Light Weapons (the moratorium was adopted in 1998 and renewed in 2001 as a legally binding convention). The convention has generally been described as proactive and the concept of prevention runs throughout the main text. It integrates the principle of the ban on SALW transfer in the ECOWAS region while allowing for possible exemptions, which operate through the broader concept of arms transfers and include equipment needed for their manufacture. Moreover, member states are required to develop strict systems to regulate transfers, while the ECOWAS Commission is obliged to justify any notified exemption refusals and publish a detailed annual report on authorisations granted.

Box 18

Provisions in the ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials

Pursuant to Article 21 of the convention, all signatories to the convention have obligations to revise and update their national firearms laws to ensure that the provisions of the convention are adopted as minimum standards, and thus incorporated into national laws, for controlling the proliferation of small arms and light weapons within their territories. In this regard, articles identified in the convention that should be incorporated into the national firearms laws are as follows:

Article 1 of the convention defines "Transfer" as follows:

"Includes import, export, transit, transhipment and the transport or any other movement whatsoever of small arms and light weapons, ammunition and other related material from or through the territory of a State."

Article 3 on the Prohibition of transfer of Small Arms and Light Weapons:

1. Member States shall ban the transfer of small arms and light weapons and their manufacturing materials into their national territory or from/through their national territory;

2. Member States shall ban, without exception, transfers of small arms and light weapons to Non-State Actors that are not explicitly authorised by the importing Member;

3. Small arms and light weapons as defined in the ECOWAS Convention shall not be deemed to be goods for the purpose of Article 45 of the ECOWAS Revised Treaty of 1993.

Article 4 on Conditions of Exemption:

1. A Member State can request exemption from the provisions of Article 3(b) in order to meet legitimate national defence security needs, or to participate in peace support or other operations in accordance with the decisions of the United Nations, African Union, ECOWAS, or other regional or sub-regional body of which it is a member.

Article 5 on Procedures for Exemption:

1. The request for exemption for an arms transfer is transmitted for examination to the ECOWAS Commission and must contain information on:

   a. Details of the arms to be transferred: the quantity, exact type and kind of arms using the ECOWAS classification system, including all serial numbers and other marks;

b.   Details of the supplier: full details (name of company and representative, address, and full contact details) of all companies and individuals involved, including brokers where relevant;

c.   Details of the supply process: the number and period of shipments, the routes (including transit locations), the type of transport to be used, all companies involved in importing, freight forwarding and handling, details of the storage and management of the weapons whilst being transferred, and the time period covered by the activity for which the exemption is requested;

d.   Details of the final end user: name of individual/company/institution and representative responsible, confirmation from the relevant national authority that the end user is authorised to import weapons;

e.   Details of the end use.

Source: ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials, Abuja, Nigeria (2006).

Respect for international arms embargoes

Sanctions are a tool of the international community to signal disapproval of the behaviour of a state if it is threatening international law or international peace and security. The legal basis is provided by Article 41 of the UN Charter, which enables the UN Security Council to call upon member states to take non-armed action in order to restore international peace and security. From 1945 to 1990, the UN Security Council imposed sanctions on only two countries. Since 1990, it has imposed sanctions twelve times.

In this regard, requesting an "end-use certificate" specifying where the weapons will eventually end up may be a useful tool for parliaments as part of the procedure for licensing arms transfers. However, there has been a lot of abuse involving false end-use certificates.

Need for "smart sanctions"

The UN secretary-general called comprehensive economic sanctions a "blunt instrument". They are not always effective, and often hurt neighbouring countries as well as the ordinary people of the targeted countries. Therefore, some believe that smarter, more narrowly focused sanctions are needed. Arms embargoes are a type of smart sanctions, next to financial and travel embargoes. Smart sanctions target the regime and the ruling elite of a country and spare the ordinary people and opposition forces in a country. However, smart sanctions have proved extremely difficult to implement and not completely successful. They also need to be refined and improved (see Box 19).

Box 19

Making arms sanctions smarter: what parliaments can do

Parliaments of arms-exporting countries should ensure that the following requirements are in place:

► Legislation, including required administrative guidelines and regulations, making violations of UN arms embargoes a criminal offence.

► Intra-governmental coordination, with a designated lead department for embargo implementation.

► Sharing of information and intelligence among government departments and between governments to identify suspect shipments, destinations, transit routes or brokers.

► Control lists, which identify the goods under embargo.

► Powers for the seizure of shipments that are in apparent contravention of an embargo, rather than returning the goods to their point of origin.

► Provisions to freeze or seize assets from proceeds of illegal arms deliveries.

► Tracing and verification of arms shipments that are at possible risk of being diverted.

Source: Based on the website of BICC (2002). See www.bicc.de.

Box 20

UN Programme of Action against illicit trade in small arms and light weapons: focal points for parliamentarians

To prevent, combat and eradicate the illicit trade in small arms and light weapons (SALW), the states participants in the UN Conference on the Illicit Trade in Small Arms and Lights Weapons in All Its Aspects (July 2001, New York) adopted a wide range of political undertakings at the national, regional and global levels. Among others, they undertook to:

At the national level

► Put in place, where they do not exist, adequate laws, regulations and administrative procedures to exercise effective control over the production of SALW within the area of jurisdiction, and over the export, import, transit or retransfer of such weapons.

► Identify groups and individuals engaged in the illegal manufacture, trade, stockpiling, transfer, possession and financing for acquisition of illicit SALW, and take action under appropriate national law against such groups and individuals.

► Ensure that licensed manufacturers apply appropriate and reliable marking on each SALW as an integral part of the production process.

► Ensure that comprehensive and accurate records are kept for as long as possible on the manufacture, holding and transfer of SALW under its jurisdiction.

► Ensure responsibility for all SALW held and issued by the state, and effective measures for tracing such weapons.

► Put in place and implement adequate laws, regulations and administrative procedures to ensure effective control over the export and transit of SALW, including the use of authenticated end-user certificates.

► Make every effort, without prejudice to the right of states to re-export SALW that they have previously imported, to notify the original exporting state in accordance with their bilateral agreements before the retransfer of those weapons.

► Develop adequate national legislation or administrative procedures regulating the activities of those who engage in SALW brokering.

► Take appropriate measures against any activity that violates a UN Security Council arms embargo.

► Ensure that confiscated, seized or collected SALW are destroyed.

► Ensure that armed forces, police and any other body authorised to hold SALW establish adequate and detailed standards and procedures relating to the management and security of their stocks of these weapons.

► Develop and implement, where possible, effective disarmament, demobilisation and reintegration programmes.

► Address the special needs of children affected by armed conflict.

Source: UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, New York (2001).

Parliamentary practice

Parliament has to establish an independent auditing procedure with statutory powers to ensure that national arms sales are subject to independent scrutiny and oversight. This must be conducted according to the principles and guidelines defined by the parliament.

As previously mentioned, parliamentary practice is key to ensuring that the parliament exercises adequate oversight of the arms trade and transfer process. Lack of professional skills is among the major reasons for decision making being shrouded in confidentiality. Training of members of parliament, especially those belonging to the competent parliamentary committee(s), is crucial. Similarly, training of parliamentary staff in specialisations such as the arms trade, procurement offsets, operational research, materials management, equipment costing and

inventory control helps to create a framework of experts who are competent to respond to questions by parliamentary defence committees. In addition, building up information data banks on various aspects of security sector decision making would enable the parliamentary defence committees to demand relevant information from the executive and the military for monitoring and reviewing decisions.

What you can do as a parliamentarian

Overseeing the arms trade

► Push for control of the international arms trade to be high on the parliamentary agenda.

► Promote the implementation of the UN recommendations listed in Box 20.

► Encourage your state to comply regularly with:

✓ UN standardised instruments for reporting on military expenditure;

✓ Relevant regional treaties concerning conventional arms.

National policy on the arms trade

► Ensure an up-to-date national policy on arms sales, and ascertain whether it was duly presented to parliament for approval.

► Make sure that a mechanism is in place to oblige the government to present reports to parliament concerning arms trade issues.

Arms embargoes

► Ensure that the issues relating to embargoes are debated in parliament with regard to their appropriateness, specific modalities and impact.

► Promote the discussion of "smart sanctions" in parliament, having in mind the points listed in Box 19.

► Press for your government to respect arms embargoes and secure redress and sanctions in cases of violation of arms embargoes.

Arms surpluses

► Push for parliament or its competent committee(s), including the committee addressing customs issues, to pay special attention to the issue of arms surpluses and take action with a view to preventing and controlling:

✓ Any transfer of arms surpluses from or through your country;

✓ Any procurement of arms surpluses.

► Press for your state to contribute to the inventory of such arms surpluses and to their destruction.

► Further demand that the state should take action to identify those companies involved in the transfer of such surpluses and control their activities.

Small arms

► Ensure that parliament, or its relevant committee, receives detailed information each year on the national production and sale of small arms. Demand that the annual report include detailed information on the activities of those companies involved.

► Advocate for the domestication of the ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials and ensure that the state fulfils its obligations under the convention.

► Make sure that the sale of small arms produced nationally is subject to strict criteria.

Chapter 10
Maritime piracy[1]

The 1982 United Nations (UN) Convention on the Law of the Sea defines maritime piracy as:

    a. Any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

        i. on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

        ii. against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

    b. Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

    c. Any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

In its meeting held in February 2002, the Council for Security Cooperation in the Asia-Pacific (CSCAP) Working Group on Maritime Cooperation defined maritime terrorism as the undertaking of terrorist acts and activities:

1. Within the marine environment;

2. Using or against vessels or fixed platforms at sea or in port, or against any one of their passengers or personnel; and

---

1   This chapter was written by Honorable Bashir Adamu.

3. Against coastal facilities or settlements, including tourist resorts, port areas, and port towns or cities.

Even though the CSCAP does not define what constitutes terrorist acts or activities, terrorism can be defined as criminal acts undertaken for a political purpose. This is distinct from piracy, which is a criminal act undertaken for purely personal gains.

The rise in maritime piracy

Several factors have contributed to the emergence of piracy in the contemporary era.

Massive increases in commercial maritime traffic, combined with an increase in the number of ports around the world, have provided pirates with a large range of easy targets for big ransom money or other pay-offs. The congestion in maritime chokepoints has significantly reduced the speed of ships that want safe passage, which has in turn increased the likelihood of attacks by pirates. Another problem has been the absence of effective governments and the rise in poverty in some states, such as in Somalia, which has provided ready recruits for piracy among unemployed youth who resort to it to make a living. An additional factor is poor maritime surveillance by governments, which devote more of their national security expenses to homeland security than to maritime security. Official complicity and the absence of effective legal instruments to punish those who aid or sponsor piracy are a further aggravating factor. Finally, the proliferation in small arms and light weapons trafficking (Chapter 9) has provided pirates with easier access to weapons with which to carry out their attacks.

Piracy constitutes a threat to the lives, safety and well-being of citizens who ply coastal waters to legitimate ends or those who live in coastal regions. It harms the economy of states by encouraging fraud, theft and delay in cargo delivery, and by engendering an atmosphere of insecurity that hampers the ability of states to trade with each other. Piracy also undermines governments by providing criminals with the means to wage wars against legitimate governments.

Applicable legal standards

Article 2 of the UN Convention on the Law of the Sea sets out the legal status of the territorial sea, air space over the territorial sea and its bed and subsoil belonging to a coastal state as follows:

1. The sovereignty of a coastal State extends beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea.

2. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.

3. The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law.

The nature and pattern of maritime piracy in West Africa

Maritime piracy has taken many forms in West Africa. One form is when ships are stripped or robbed of their valuables while still anchored at ports. This crime is carried out within territorial waters by armed robbers and ordinary criminals. Another form is when sailing ships are seized in an operation during which valuables and cargo are taken away and transferred to a pirate ship. A variation of this is when a sailing ship is taken to a different location from its intended destination to offload its cargo. Pirates in such instances usually demand a ransom before they release the crew of the ship. A more recent trend is when ships are hijacked, repainted and renamed by pirates and used for fraudulent cargo-handling shipping activities.

Available figures on piracy and sea robbery attacks, particularly in West Africa, are not precise because many incidents go unreported. The records of the International Maritime Bureau, however, indicate that Nigeria witnessed a total of 42 incidents in 2007. The high incidence of piracy in Nigerian waters has cost the country losses running into the billions of dollars. The Nigerian Fishing Trawlers Owners Association now intermittently withdraws its trawlers from the waters. This has affected farming and commerce and led to the loss of employment opportunities. Foreign fishing vessels have also threatened to cease operating in Nigerian waters. This would have great consequences for Nigerian maritime business. In addition, shipping and insurance costs have risen as a result of the insecurity in Nigerian waters. Orchestrated shutdowns by the militants of the Niger Delta have resulted in some oil companies losing as much as 60 percent of their productive capacity.

Box 21

Measures adopted in tackling maritime piracy: the case of Nigeria

The Nigerian Fishing Trawlers Owners Association is one of the worst hit groups. On a weekly basis it is attacked two to three times, resulting in the loss of lives and property. Piracy hotspots in Nigeria are in the south-south geopolitical zone of the country in parts of the states of Akwa Ibom, Delta and Bayelsa.

The Nigerian government set up responsive measures to curtail the illegal activities by first becoming a signatory to the International Ship and Port Facility Security and Safety Code at the International Maritime Organisation's diplomatic conference from 9–13 December 2002 in London. This led to the inauguration of the Presidential Implementation Committee on Maritime Safety and Security in 2004 by the Nigerian government. The committee sought and obtained approval from the Federal Executive Council to implement the Coastal Maritime Radar Surveillance System project. The project is a system of surveillance radars deployed along the Nigerian coast to enhance security in the Nigerian maritime domain. It was envisaged to serve as a primary

tool for coordinating commercial maritime security activities in Nigeria. The project faces the challenge that stakeholders have failed to meet their financial commitments to enable it to carry out its functions effectively. With adequate funding, it would greatly help in curtailing the incidence of piracy and crime in Nigerian waters.

A role for ECOWAS in combating piracy

The Economic Community of West African States (ECOWAS), by virtue of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security of 1999 (the mechanism), could help to provide effective instruments to prevent and combat maritime piracy more effectively. The endorsement and effective application of the ECOWAS Protocol on Democracy and Good Governance will help address shortcomings in accountability, transparency and participation (all essential elements of a good democracy), and will ensure that West African states are stable and prosperous enough to provide security for their citizens. As experience has shown, unstable governments create ready opportunities for the emergence of criminals who operate within and outside the borders of the state.

In addition, Articles 46, 50 and 51 of the ECOWAS mechanism outline instruments and conditions to be adopted by West African states to combat the incidence of transborder criminal activities. Although ECOWAS regional security architecture does not specifically address maritime security and piracy issues, growing insecurity and incidences of piracy in the Gulf of Guinea make it necessary that regional instruments be developed to combat the menace. As it stands, the mechanism calls for close cooperation among the security services of member states and mutual assistance and coordination among member states in the apprehension of criminals. It calls for the establishment of specialised departments in ministries of justice and defence and for security harmonisation of domestic laws concerned with crime prevention and criminal justice. It also calls for control of the proliferation of small arms and preventive measures to curtail illicit transfers. This instrument could be modified and adapted to address the urgency of fighting piracy in the coastal waters of West Africa.

What you can do as a parliamentarian

► In coastal states and in states with navigable inland waterways, enact laws and promote the ratification and domestication of international treaties that criminalise and punish maritime piracy.

► Parliaments can ensure that their governments honour the conditions of the international treaties they sign on the fight against maritime piracy by putting them constantly on the agenda of national discourse.

► Enact national laws to strengthen law enforcement agencies, coast guards, port authorities, the judiciary, the military and other bodies concerned with the fight against maritime piracy.

► Ensure that adequate funds are allocated to the relevant bodies and agencies involved in the fight against maritime piracy.

► Request regular and up-to-date reports from the government concerning piracy activity and other criminal activity.

► Take steps to increase awareness of the phenomenon of maritime piracy as a threat to national security and the well-being of citizens.

► Work together to ensure the codification, harmonisation and standardisation of national and regional norms on piracy.

► Work together for the enhancement of regional, continental, bilateral and multilateral cooperation in the fight against maritime piracy.

► Take steps to create an inter-parliamentary action network on maritime piracy in West Africa.

► Monitor and evaluate efforts undertaken to eradicate maritime piracy.

Security policy

Forging a national security policy[1]

A national security policy sets out the government's approach to security and how such security is expected to be achieved. It involves major decisions about the security sector that affect the external and internal security of the state and society. It is therefore important that a country develops a comprehensive national security strategy that involves all the relevant players and the different aspects of security. This approach provides the government with an opportunity for dealing with all security parameters in an integral and comprehensive way. New risks, such as terrorism, maritime piracy, and transborder and international crime, require a concerted effort and the involvement of various institutions such as the armed forces, ministry of finance, police, coast guard, border guard and intelligence services.

National security policy provides guidelines for a military doctrine and is developed within the framework of the international and regional regulations to which a state is party. It is therefore not only based on a perception of national security needs and priorities but is also affected by a variety of external factors, pressures and commitments. In all cases it should meet the values and principles enshrined in the national constitution.

The design and implementation of a national security policy should involve many institutions, state agencies and departments as well as policy documents. Most states in West Africa—both post-conflict and democratising—do not yet have a well-articulated and integral national security policy or strategy. Where they exist at all, the national security concept or idea is often considered confidential within the closed user group of the top brass in the security and defence sector. This

---

1   This chapter was adapted from the IPU-DCAF Handbook for Parliamentarians by Dr. Istifanus Zabadi.

makes it difficult for oversight structures or civil society to match the objectives of the activities and budget of the security sector to national security objectives, thus creating a huge transparency and accountability gap. Because parliaments represent the citizens of a given country, they have a unique role to play. This chapter explores the development of national security policy and the role of parliaments, with a particular focus on the West African region.

National security policy and regional security

A national security policy is an outline of the nation's security goals and a plan on how to realise them. It affects many facets of a country's national life and is in turn affected by various sectors in its design and implementation. The main components of a national security policy revolve around politics, the economy, justice, law and order, regional security, state security, citizens' security and foreign policy. Government agencies usually have complementary and overlapping responsibilities for these components while one agency may take the lead for a particular aspect.

A state's national security is closely related to regional security. The principal elements in the definition of regional security include power relations and a pattern of amity and enmity among states. Amity denotes the forging of relationships ranging from genuine friendship to expectations of support, whereas enmity means conducting relationships based on suspicion and fear. Consequently, regional security prevails when there is cooperation among states in geographically proximate and delimited areas for the pursuit of mutual gain in one or more areas. Furthermore, regional security evolves from the coming together of a group of states that are linked by primary security concerns and cannot realistically be considered apart from one another. The principal factor that determines regional security is usually a high level of threat or fear among two or more states. An important component of the interrelationship between national and regional security is the assumption that domestic security policies impact on regional security.

In West Africa, there exist legal frameworks to ensure that national security policies conform to regional standards. Member states of the Economic Community of West African States (ECOWAS), by virtue of being signatories to different normative instruments, have to incorporate certain provisions in their national security policies. These instruments include the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (1999), the Protocol on Democracy and Good Governance (2001), the Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials (2001) and other regional covenants.

Member states in their national security policies must:

✓   Commit to non-aggression, peaceful resolution of disputes and mutual assistance;

✓   Control small arms and light weapons proliferation;

✓   Control transborder crime;

✓   Take preventive measures against the illegal circulation of small arms; and

✓   Prohibit the unconstitutional take-over of political power.

Box 22

ECOWAS Conflict Prevention Framework

In 2008, ECOWAS member states adopted the ECOWAS Conflict Prevention Framework (ECPF) with the concurrent establishment of a security division in the Commission on Political Affairs, Peace and Security to coordinate programmes aimed at aligning the security policies of member states to international good practices. As part of the activities aimed at engendering good security sector governance, ECOWAS is developing a security governance framework with a plan of action that takes into account peculiarities of the region to feed into continental and global processes. It also intends to develop, adopt and facilitate the implementation of a regulatory framework with a sanctions regime on non-statutory armed groups, including militias, vigilantes and private security agents. It will adopt and implement policies to discourage the use of the military in policing activities, just as it plans to adopt reform policies to ensure that the recruitment, promotion and entitlements of members of the armed forces and other security agencies are transparent, equitable and based on merit, and that they reflect ethnic balance and gender sensitivity.

The ECPF is an ECOWAS policy instrument but is not binding per se. It was designed and adopted by stakeholders within the region and its implementation lies with the community citizens. The role of ECOWAS in the implementation process is to facilitate meetings, strategic options and operational support at the national levels. It is envisaged that thorough implementation of the security governance component of the ECPF could lead to strengthening of oversight institutions for security sector governance. Other improvements could include an increased predisposition of the armed forces towards democratic control, increased confidence and trust between oversight bodies and the military, a positive public perception of and increased confidence in the security forces, reduced crime within the community and the evolution of security services whose composition reflects ethnic, geographical and gender balance.

Source: ECOWAS Conflict Prevention Framework, Abuja, Nigeria (2008); Zabadi, Istifanus and Onuoha, Freedom (2010), "State of West Africa: A Survey of Security Landscape", Nigerian Army Quarterly Journal, 5(3), 304-324.

Clarifying security responsibility between the national and regional levels

State sovereignty implies responsibility for defence and security and the primary responsibility for the protection of its people lies with the state itself. This is the core of the now famed responsibility to protect. However, where a population is suffering serious harm as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to address the situation, the principle of non-intervention yields to the international responsibility to protect. The responsibility to protect embraces three specific components: the responsibility to prevent, the responsibility to react and the responsibility to rebuild.

Failing prevention and containment within a state's juridical borders, the United Nations (UN) Security Council bears responsibility for international (global) peace and security, including sanctioning of intervention in internal conflict. By extension, regional organisations, especially those whose mandate include security cooperation, have also developed capacity to prevent deadly conflict that puts populations at risk. They can also respond to situations of compelling human need with appropriate measures, which may include sanctions and military intervention. ECOWAS policy in this respect vis-à-vis its member states is hinged on the following principles and objectives.

✓ **Subsidiarity and complementarity:** this dual principle seeks to supplement state capacity rather than supplant state authority. Proposing a division of labour between the national and regional levels, paragraph 115 of the ECPF states that ECOWAS member states shall be the principal implementing agencies of conflict prevention and peacebuilding initiatives and shall take the lead in the identification of priorities. For its part, ECOWAS shall be responsible for the facilitation and crafting of overarching regional policies and the mobilisation of resources to support intervention in member states.

✓ **Supra-nationality:** this concept is a futuristic goal which seeks to bypass sovereignty to make ECOWAS decisions directly applicable in its member states. The ECPF restates a fundamental limitation in the peace and security mandate of ECOWAS, which is that ECOWAS member states bear primary responsibility for peace and security. However, latitude for future development is given in the proviso to paragraph 4, which states that tensions between sovereignty and supra-nationality shall be progressively resolved in favour of supra-nationality.

✓ **Humanitarian intervention:** although a fundamental principle of the mechanism is territorial integrity and the political independence of member states (non-interference), Article 25 establishes conditions under which intervention in states may be authorised. One of the conditions is in case of internal conflict that threatens to trigger a humanitarian disaster, or that poses a serious threat to peace and security in the region. In this case, intervention may be authorised at the request of a member state, upon the decision of the

Authority of Heads of State and Government of West Africa, or at the request of the African Union or the United Nations.

National parliaments and national security policy in West Africa

Parliament has a crucial role to play in decisions relating to national security policy. Parliamentary oversight is the main tool for democratic civil control, as well as reform of the security sector. In West Africa, there is still the opportunity for states to develop their national security policy with the expansion of democratisation processes. The parliament is responsible for setting the legal framework for security governance, adopting the budget, monitoring defence expenditures, making the executive account for its activities and planning and overseeing all aspects of security activities. The legal bases and the nature and dynamics of relations between parliaments and the military differ from country to country, however, as do the roles played by different parliaments in the decision-making processes relating to national security policy.

In West Africa, the security sector typically comprises personnel from the army, navy, air force, police, immigration, customs, prison services and other security agencies. It also includes the judiciary. In each country, it is the executive with the president at the apex that manages the security sector. Research suggests that although control is carried out invariably by parliament through oversight functions, there is not much evidence that such an approach has been effectively employed. The need thus arises for enhancing the capacity of parliaments in West Africa to carry out their important task as the representatives of the people. It has been advocated that within the ECOWAS framework, to which all members subscribe, even when the parliament does not possess enough requisite powers to make laws, it can still exercise some influence in matters of security. This is the task that ECOWAS has set for itself.

The ECOWAS Parliament is still in its infancy and is not yet representative, with only an advisory role at present (Chapter 6). However, national parliaments have an important role to play in relation to national security, which should include, *inter alia*:

✓ To contribute to the formulation of a national security strategy and the policy to pursue it;

✓ To authorise troop deployment;

✓ To contribute to the design and enactment of a code of conduct for the military and the armed forces and security services in general;

✓ To oversee and monitor the activities of the armed forces, including receiving a yearly report on these activities;

✓ To appropriate the budgets or the upkeep and the activities of the armed forces and security services; and

✓   To hold the armed forces and security services accountable for their actions and activities.

Box 23

The link between national security policy, security sector reform (SSR) and parliamentary oversight

SSR refers to the reform of the security sector (including the armed forces and security services, non-statutory security actors and security oversight institutions) in order to create systematic accountability and transparency on the premise of substantive and systematic democratic control. SSR is critical to creating a stable and secure environment that is conducive to economic and social development, poverty reduction, good governance and the growth of democratic institutions based on the rule of law. It relies on a range of policy instruments to prevent or address security threats that affect society's well-being. This includes establishing effective democratic oversight of security actors.

An SSR agenda should be formulated in a holistic way and targeted at meeting clearly articulated national security objectives; it should therefore be ideally conceived within the framework of national security policy. SSR rests on two core values: accountability and transparency. Parliamentary involvement in SSR and security policy formulation and review is the element that transforms civilian oversight into democratic oversight, and transforms good governance into democratic governance. Parliamentary oversight therefore enhances democratic governance of the security sector in line with national security objectives.

Parliaments may participate in an SSR process at any or all of the stages, including development, decision making, implementation, monitoring and evaluation. Parliamentary involvement in security policy and security sector reform is essential for the following reasons:

►   **Consolidating democracy and preventing autocratic rule**

    Parliamentary oversight of the security sector is an essential element of power-sharing (checks and balances) at the state level and, if effective, sets limits on the power of the executive or president.

►   **Ensuring accountability through budgetary control**

    The security sector consumes a substantial share of the state's budget. It is essential that parliament monitors the use of the state's scarce resources to ensure efficiency and prevent corruption.

►   **Creating legal parameters for security issues**

    Parliament can play an important role in evaluating and reviewing security legislation and policy. It may, if need be, initiate new legislation or suggest

---

amending existing legislation so as to ensure that the legal provisions adequately reflect the new thinking about security.

► **Balancing security and liberty**

As custodians of sovereignty, parliament has to balance the imperatives of state security and human security. Parliament also ensures that directions and actions of the security services are at all times consistent with the constitution, international humanitarian law and human rights law.

Source: Hans Born, Philipp H. Fluri & Simon Lunn, eds. (2003), Oversight and Guidance: *The Relevance of Parliamentary Oversight for the Security Sector and Its Reform.* Geneva: DCAF, 3–10.

Forging national security policy in post-conflict countries

Post-conflict environments usually present complex challenges for forging national security policy, entailing primarily a disarmament, demobilisation and reintegration (DDR) process and SSR. More specifically, one must address the following issues.

✓   Administering and ensuring access to justice, particularly at the local level.

✓   Rebuilding military infrastructure and ensuring that members of the military conform to the rule of law.

✓   Rebuilding and equipping the police to maintain law and order.

✓   Setting up an ombudsman or similar institutions to address the concerns and complaints of members of the public.

✓   Strengthening and expanding the authority of the state throughout the national territory.

When the authority of the state has collapsed and the remaining structures of government lose their legitimacy, leading to political, societal and economic disintegration on a national and even regional level, the main tasks of a government are to jump-start economic and political governance and to regain the trust of the people. The determinants of sustainable recovery, peace and development are, first and foremost, a committed leadership. Such a leadership protects human rights, ensures the rule of law and security, re-establishes and strengthens credible, transparent and accountable public administrative institutions and reconstructs an efficient, representative public service that attends effectively to post-conflict economic recovery. These key areas of concern constitute the basic prerequisites for peace, reconstruction and reconciliation. Demonstrated action towards accomplishing them can transform the mindset of people to trust in their government's ability to deliver lasting peace and to be patient through the hardships that usually lie ahead.

Post-conflict governments, especially transitional authorities, usually lack legitimacy and have not earned trust as they often are formed as a result of negotiations between the major parties in conflict without the involvement of the majority of the population. They may include former combatants perceived by the population to be responsible for crimes against the people. They also often exercise limited control over the country's assets. The development of public policy often has to be negotiated with other actors (sectarian groups or former parties to the armed conflict who may control parts of the territory or national resources). The challenges that countries in crisis and post-conflict situations face are complex and multifaceted. They vary due to the different historical root causes of conflict and the different political, social and geographical contexts. The strategies to address them will vary from one country to another depending on specific national circumstances. There are, however, some universal principles, values and norms that have been advanced as useful for sustainable peace. They comprise a focused and committed leadership, security, effective government institutions, public trust and legitimacy, freedom of information, inclusive dialogue and popular participation.

The key aspects of a successful post-conflict reform agenda include:

✓ Addressing issues of demographic representation (ethnic and gender equities);

✓ Introducing a system of accountability and the regulation of the conduct of armed forces, particularly the police (parliamentary oversight, a civilian oversight body and an independent complaints bureau);

✓ Improving access to police and justice services, especially in communities previously disenfranchised, and adopting community policing as the operational philosophy to address lingering community tensions; and

✓ Introducing a new equitable selection system and a basic training programme with an emphasis on human rights regulations and a code of conduct.

Box 24

Attempts at forging good security policies in Côte d'Ivoire

The ongoing post-conflict security policies in Côte d'Ivoire include:

✓ Confidence-building between the ruling party and north-based rebel groups to engender stability, in spite of the ongoing DDR process;

✓ Insistence of stakeholders on completion of the DDR process before conducting the presidential elections; and

✓ Reintegration of rebel officials into the national army.

Source : UN DDR Resource Centre (2008) Country programme: Côte d'Ivoire, see http://www.unddr.org/countryprogrammes.php?c=51 (accessed December 19, 2010)

To conclude, the challenge of restoring security in post-conflict societies is a huge task. West African countries must turn security into a holistic concept that goes beyond the traditional focus on state security and includes human security, development and sustained conflict prevention. Parliamentarians can play a significant role.

What you can do as a parliamentarian

► Build your capacity in terms of knowledge on security issues and the role of parliaments in policymaking and implementation.

► Advocate and define a role for parliament in all phases of the national security policy cycle.

► Ensure that there is a logical link between national security policy, security sector reform, operational doctrines, defence plans and budget demands.

► Seize every opportunity to highlight the linkages between most economic and social issues and security.

► Sponsor a bill to enhance the legislative oversight of the security sector in your country.

► Ensure that the opportunity of "Question Time" is utilised to address human rights violations committed by members of the security services.

► Canvass for the domestication of regional security protocols and agreements.

► Formulate legislation that ensures a just and equitable allocation of national resources and income.

► Enact stringent policies that encourage transparency in the management of public affairs and effective decentralisation of governmental structures to ensure the protection of minorities.

► Investigate allegations of activities or behaviour that jeopardise the security or human rights of citizens or the security of the state.

► Partner with civil society to serve as a bridge between the people, especially vulnerable and marginalised groups, and the centres of power.

National security policy and international regulations[1]

The primary function of the state is to maintain its national security and territorial integrity. This cannot be guaranteed by a single state acting alone and is to a large extent tied to the security of the international system. To enhance their individual security, states enter into bilateral and multilateral agreements that help to guide their actions and policies in furtherance of their national security interests. These bilateral or multilateral agreements can be formalised as treaties or conventions. International laws, treaties, regional agreements and legislative instruments can limit or enhance opportunities for national security. This chapter reflects on how the dynamics of international and regional regulations affect national security policy in the West African region.

International law and national security policy dynamics

International law is the term commonly used to refer to the system of implicit and explicit agreements that binds together nation-states in adherence to recognised values and standards. It differs from other bodies of law in that it primarily concerns states rather than private citizens.

In pursuit of national security, international treaties can either limit or enhance the options for defining national security policies. Instances exist where the domestic legal system is incapable of containing obvious and perceived threats to national security. A good example is the experience of Guinea-Bissau with drug trafficking. Similarly, the challenge of international terrorism and transborder crimes like robbery, smuggling, illegal movement of persons and money laundering in West

---

Africa and the apparent weakness of states within the region suggest that a higher premium should be attached to regional arrangements as counter-strategies. In such instances, states ought to cooperate with one another to meet these challenges.

The United Nations (UN) has provided direction for states in terms of regulations that define the pursuit of national security by states in the international system. Most countries of the world are members of the UN, and are thus bound by the UN Charter. Articles 2.3 and 2.4 of the charter state that:

> All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

> All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.

In addition, a number of customary international principles provide a reference framework. Declaration 2625 (XXV) of the UN General Assembly on the principles of international law relating to friendly relations and cooperation between states (1970) is recognised as an authentic interpretation of the UN Charter and therefore binding on all UN member states. In this declaration, the following eight indivisible principles of equal value are outlined:

Principle I: Refraining from the threat or use of force.

Principle II: Peaceful settlement of international disputes.

Principle III: Inviolability of frontiers and territorial integrity of states.

Principle IV: Right of peoples to self-determination and to live in peace on their own territories within internationally recognised and guaranteed frontiers.

Principle V: Sovereign equality of states and non-intervention in internal affairs.

Principle VI: Respect for human rights.

Principle VII: Cooperation between states.

Principle VIII: Fulfilment in good faith of obligations assumed under international law.

Multilateral treaties on security and defence

There is a wide range of multilateral treaties within the realm of security. The main categories of such treaties are as follows (the list is not exhaustive; it only gives examples of treaties in each category):

Treaty regulating world security: Charter of the United Nations.

International treaties on humanitarian law, which regulate international and non-international armed conflicts: Four Geneva Conventions (1949), including the two additional Protocols (1977).

International treaties concerning different types of armaments and their regimes: Anti-Ballistic Missile Treaty, Strategic Arms Reduction Treaty, Landmines Convention, Tlatelolco Treaty.

International treaties creating regional organisations partly relating to security issues: Charter of the Organization of American States, Treaty of the European Union, Final Act of the Conference on Security and Co-operation in Europe/Organization for Security and Co-operation in Europe, Constitutive Act of the African Union, the Economic Community of West African States (ECOWAS) Treaty (1975) and Revised Treaty (1993).

Regional agreements of military cooperation and mutual defence assistance: North Atlantic Treaty Organization Treaty, Partnership for Peace Agreement, Western European Union Treaty, Inter-American Treaty of Reciprocal Assistance, ECOWAS Protocol on Mutual Assistance in Defence Matters.

The rationale for states to ratify international security treaties is to define principles of international behaviour, with a view to strengthening international and regional security and enhancing their bilateral or multilateral cooperation. The executive, through its ministry of foreign affairs, normally leads the process of negotiation.

Some multilateral agreements that have been adopted by states in the West African region include:

✓ Extradition treaties between the Republic of Benin, the Republic of Ghana, the Federal Republic of Nigeria and the Republic of Togo;

✓ ECOWAS Protocol on Non-Aggression (1978);

✓ ECOWAS Protocol on Mutual Assistance in Defence Matters (1981);

✓ ECOWAS Protocol on Free Movement of Persons, Goods and Services and Right of Residence (1980 and 1986);

✓ ECOWAS Convention on Mutual Assistance in Criminal Matters (1992);

✓ ECOWAS Convention on Extradition (1994);

✓ ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (1999);

✓ ECOWAS Protocol on Democracy and Good Governance supplementary to the Mechanism (2001); and

✓ ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials (2006).

Regional instruments enhance national security by:

✓ Aligning practices to support democratic governance and overall sustainable human development;

✓ Guiding local legislators on internationally acceptable norms and good practices in security decision making; and

✓ Encouraging that the rights of citizens are protected.

It is important to note that there are regional regulatory instruments and agreements that could pose severe constraints on national security policy. An example is the ECOWAS Protocol on Free Movement of Persons, Goods and Services and Right of Residence. In Ghana, it is observed that this protocol has opened a fertile breeding ground for fraudsters, some of whom are involved in armed crimes. This is especially so since Ghana exists as a haven of peace in a region that has been chequered by turmoil. Such is also the case in Nigeria, where the protocol constrains the enactment of laws that will curb the influx of migrant religious fundamentalists from other West African countries into Nigeria.

Within the regional context, Article 58 of the ECOWAS Revised Treaty (1993) articulates the collective security role of member states in safeguarding and consolidating relations conducive to the maintenance of peace, stability and security within the region.

Member states of ECOWAS undertook further to maintain periodic and regular consultations among national border authorities and to establish local or joint national commissions to examine any problems encountered in relations between neighbouring states. They also undertook to employ good offices, conciliation, mediation and other methods of peaceful settlement of disputes. The modalities for operationalising these are contained in the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (1999).

The mechanism spells out the roles of the Authority of Heads of State and Government, the Mediation and Security Council (MSC), the ECOWAS Commission and other institutions such as the Council of the Wise in achieving the objectives outlined in the treaty.

The MSC is assisted by the Defence and Security Commission, which is constituted of representatives of the following structures of security cooperation:

✓ **Committee of Chiefs of Defence Staff:** made up of the chiefs of defence staff or equivalent officers and experts in foreign affairs ministries;

✓ **Committee of Chiefs of Security Services:** made up of heads of immigration, customs, gendarmerie, drug/narcotics agencies, border guards and civil protection forces;

✓ **Ministers in charge of Security:** made up of ministers responsible for internal affairs and security or equivalent officers;

✓ **West African Police Chiefs Committee:** made up of chiefs of police of ECOWAS member states.

The Department of Political Affairs, Peace and Security in the ECOWAS Commission also has an important role to play in assisting all the aforementioned bodies in collecting, analysing, articulating and aggregating security incidents and presenting alternatives in order to enhance regional integration. The department acts through three directorates: Early Warning, Political Affairs, and Peacekeeping and Regional Security.

Bilateral agreements and national security

When delineating the security policy of a state, bilateral agreements also play a central role. With only two state parties involved, the provisions of such treaties can be negotiated with a view to adjusting as narrowly as possible the specific values, circumstances and needs of the countries concerned. The Strategic Arms Reduction Treaty between the former Soviet Union and the United States is an example.

Not only have these kinds of treaties been used to express friendship and non-aggression but they also help to solve practical cases of military cooperation. In some cases this includes permission to deploy troops and weaponry on foreign territory, or to address common security threats such as maritime piracy, terrorism and transborder crimes.

The West African region has in recent times witnessed the use of bilateral agreements or treaties to diffuse potentially volatile situations such as international boundary disputes and transborder crimes. Recent examples of such bilateral agreements are the Greentree Agreement between Nigeria and Cameroon, signed on 12 June 2006, spelling out the modalities for handing over Bakassi peninsula from Nigeria to Cameroon. Additionally, a memorandum of understanding between Nigeria and Benin was signed on 14 August 2003, which focused on concerns of both countries about the escalation of smuggling, transborder crimes, human trafficking, drug trafficking, harassment of officials and citizens, illegal migration, impersonation and other crimes.

Overall, bilateral treaties can be seen as a tool to outline foreign security policy, enhance friendly relations with other countries and resolve concrete problems. Parliaments tend to be in a more decisive position when approving these treaties and to have larger scope for suggesting changes in the text—for the executive to negotiate afterwards—than in the case of traditional multilateral security treaties.

Without doubt, security is crucial for development, poverty reduction, good governance and the growth of democratic states and institutions based on the rule of law. Thus the formulation and implementation of a national security policy are vital in the good interests of states and the international system. Given that states in the international system sometimes pursue divergent national security objectives, international regulations in the form of laws and treaties play a vital role in maintaining equilibrium and stability in the interaction between states. However, international treaties can sometimes limit the very base of national security policies. To this end, parliament can improve the effectiveness of international regulations in enhancing rather than limiting the opportunities for pursuing national security policies by performing some of the vital roles outlined in this chapter.

What you can do as a parliamentarian

Treaty negotiations

Ensure that parliament/its relevant committee(s):

► is associated with the process of negotiating bilateral treaties or reservations to multilateral treaties where permitted and that parliamentarians from different political leanings are included as members of the negotiation team;

► receives advice from civil society, particularly relevant research from advocacy organisations, on the issues at stake;

► can present its views in an official and timely fashion to the government so as to ensure that people's concerns and aspirations are taken on board.

Impact analysis

► Ensure that parliament is presented with and can discuss a detailed analysis of the potential—political, economic, social, environmental or other—impact (both medium and long term) of a treaty.

Ratification

► Make sure that parliament is asked in due time to consider the treaty prior to its ratification by the state.

► Ensure consistency between the treaty to be ratified and domestic law by modifying national provisions or, if necessary and possible, by making a reservation or interpretative clause concerning the international agreement.

Review of reservations and interpretative clauses

► Ensure that the continuing validity of the reservations and interpretative clauses made by your country are reviewed as part of the periodic review of the national security policy.

The main operational components of the security sector

The military[1]

The military, a pillar of the security sector in most countries, is usually made up of the army, the air force and the navy. It has existed throughout contemporary history and is widely viewed as the shield and sword of the modern state. Box 25 illustrates that today very few countries in the world do not have a military. In West Africa, all states have a military. As in most of Africa, at independence West African leaders chose to build a military as an important symbol of national sovereignty for their fledgling states. Except for Guinea-Bissau and Cape Verde—whose armed forces resulted from national armed struggles for independence—all the other militaries, particularly the army, were built using elements of colonial armed forces. These forces were often used by colonial authorities to enforce the colonial order, including through the use of brutal force. They typically ignored the rights and interests of the people. It is important to keep this legacy in mind to understand the history of military intervention in politics in most of West Africa after independence. It also explains in part the often antagonistic relations between the military and the civilian populations in West Africa. However, since the democratisation movement of the 1990s, a new era has begun in which armed forces aim to become more professional, more responsive and more respectful of people's rights. They are also constitutionally and legally subordinated to democratically elected leaders and in all their activities are subject to oversight, particularly that of the parliament.

---

[1] This chapter was adapted from the IPU-DCAF Handbook for Parliamentarians by Dr. Boubacar N'Diaye.

Box 25

Countries without a military

Not all countries in the world have a military force. Countries that do not have a military are typically micro-states in the South Pacific such as Nauru, the Maldives, Kiribati, Samoa, Solomon Islands, Tuvalu, Palau and Vanuatu. In the Caribbean, St. Vincent and the Grenadines, St. Kitts and Nevis, St. Lucia, Dominica and Grenada do not have militaries either. Other examples are Costa Rica, Iceland, Mauritius, Panama, East Timor, Andorra, San Marino and Haiti. Most of these countries have paramilitary units or constabulary forces with more than just police powers (for example, national guards and border guards).

Source: Fluri, Philipp, Johnsson, Anders and Born, Hans, eds. (2003), *Parliamentary oversight of the security sector: principles, mechanisms and practices.* Handbook for parliamentarians No. 5. Geneva: IPU and DCAF.

Functions of the military

In the modern state, the military's function is simple. When attacked, it must fight on behalf of the state and in defence of its vital interests, the first of which is survival as an independent state. The military must defend the external security of the state by deterring aggression. These functions were paramount in the period that followed the Second World War, characterised by an intense ideological confrontation during the Cold War. Like other countries in the world, West African countries were also affected by the dynamics of the Cold War and the emphasis on external security.

Since the end of the Cold War, a new set of security concerns have greatly affected the military of most countries around the world, including West African states. Among the security developments are terrorism, maritime piracy, widespread transnational criminality, including transcontinental drug trafficking, the proliferation of small arms and light weapons, cybercrime and corruption. One impact has been a reduction in the size of armed forces worldwide. In West Africa, a long-lasting economic crisis has further contributed to this reduction in size. Following these developments, the military was given new assignments to perform in a different manner from its traditional core tasks.

The armed forces around the world tend to perform some or all of the following functions:

✓ Protecting the state's independence, sovereignty and territorial integrity, or more broadly its citizens' welfare. This means deterring or fighting to repel aggression by foreign armed forces but also defending national security interests when they are threatened.

✓ Taking part in internal security tasks such as assisting law enforcement authorities to maintain order in exceptional cases when the regular police forces are unable to maintain or restore order.

✓ Participating in nation-building (a socio-economic function).

✓ Combating terrorism, transnational crime and other factors of insecurity.

✓ Participating in international peacekeeping or peacebuilding missions.

✓ Participating in disaster relief and assistance to civilian populations.

The degree to which the military performs these functions, if at all, varies from one state to another, depending on the national legal framework and on the perceived security situation.

Protecting the state's sovereignty and society

Despite new security developments and threats, the traditional core mission of most armed forces still remains the most important. This mission includes not only fighting to protect the state's survival and political sovereignty, but also protecting its vital security interests and the lives and legitimate interests of its citizens and those of society at large.

Since the end of the Cold War, political and military leaders have become increasingly aware that national sovereignty is threatened not only by foreign militaries but also by other new non-military threats. The armed forces of a large number of countries, including West African militaries, are currently in the process of carrying out various forms of defence (or security sector) reform to enable them to better fulfil their mission and meet these new challenges. Box 26 describes the three main reform processes.

Box 26

Defence reform: what purpose?

Since the 1990s, armed forces have undergone different types of reforms in a number of countries. In some cases, the term "restructuring" better describes these processes. Reform/restructuring was carried out in pursuit of different objectives, illustrated below:

► Democratisation

In many post-communist, post-authoritarian and post-conflict countries, the aim of defence reform was democratisation:

✓ Making the military accountable to the democratically elected political leadership (the military then constitutes less of a threat to democracy).

✓ Balancing the resources needed for the military with the needs of other sectors of society (defence needs were paramount during the Cold War).

✓ Adapting the military to a new socio-economic environment marked by scarcity.

► Adaptation to the new security environment

✓ Adjusting the size and budget of the military to new security threats.

✓ Preparing the military for new missions, e.g., peacekeeping, fighting drug trafficking, disaster relief, etc.

► Internationalisation

Increasingly, the military no longer operates only within a national context but together with units from other countries. This international cooperation can take place on an ad hoc basis, such as in United Nations (UN) peace missions, or on a long-term and institutional basis (for example the African Union [AU] Common Defence framework and Peace and Security Council provisions, and the Economic Community of West African States [ECOWAS] Standby Force) or on a bilateral or multilateral basis.

✓ This places the military partly under international command and organisational structures.

✓ It also increases the military's ability to operate with those of other countries in terms of doctrine, equipment, training, language, information, and command and control systems (interoperability).

Source: Fluri, Philipp, Johnsson, Anders and Born, Hans, eds. (2003), *Parliamentary oversight of the security sector: principles, mechanisms and practices.* Handbook for parliamentarians No. 5. Geneva: IPU and DCAF.

Assisting civilian law enforcement authorities

A further function performed by militaries in most countries is to assist civilian law enforcement authorities. This use of the military is very controversial because of the risks it entails for the military itself, civil-military relations and for democracy more generally. While it is true that the state and society may be endangered by threats that are beyond the ability of civilian authorities and the police to confront by traditional means, the use of the military for this purpose can be problematic. This function must therefore be carefully considered, a legal framework should be instituted for its use and care must be taken to ensure that the rights of citizens are respected. West African countries, through the 2001 ECOWAS Protocol on Democracy and Good Governance Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, recognised the risks.

Legitimate concerns and the risks of using the military to assist law enforcement authorities include:

✓ It could potentially threaten civilian control and oversight of the military, as it often leads to the politicisation of the military. The subordination of the military to civilian control can be lost when the military perceives that civilian authorities depend on repression to maintain their power. The legitimacy of civilian authorities declines rapidly in proportion to repression by the military of dissidents.

✓ The military can temporarily restore law and order but it cannot remove or resolve the political, social or economic roots of the conflict or unrest.

✓ Armed forces are trained for combat and are therefore not usually specifically trained for policing tasks nor for dealing with large crowds or civilians.

✓ There is a risk of increased rivalries between the police and the military.

This particular function of the military should therefore only be used sparingly under stringent conditions, and only after having exhausted all other options for restoring law and order.

Socio-economic functions

As young states, West African nations have sought to make the military—the national army in particular—a symbol of the nation and an important tool for forging a nation-state. This is particularly true for former countries with revolutionary pasts such as Guinea, Burkina Faso, Mali and Ghana. It is recognised that the military, especially with conscripted soldiers, contributes to nation-building and the reinforcement of national identity. The armed forces enable young people (mostly men) from all parts of a country and from different social backgrounds and ethnic origins to work together. This is especially true in multi-ethnic, multicultural societies, where the military is part of the "melting-pot" process. Another social function of the military lies in providing people with educational opportunities. People with limited or no labour opportunities can benefit from gaining skills for use in civilian life.

A further social function of the military is to assist or support civil administration in remote areas by using active troops and veterans to provide education and preventive healthcare or to tackle ecological degradation. In many West African states, the military also has the tradition of carrying out important economic activities such as building roads, digging wells and producing agricultural or industrial products for their own consumption or for the market. West African countries acknowledged the importance of this mission in the 2001 Protocol on Democracy and Good Governance, which states that "Members of the armed forces may be drafted to participate in national development projects" (Article 19[5]). While in certain cases some of these activities may conflict with the productive activities of civilians, in most cases they complement them and therefore, in a context of scarcity, help national development efforts. They also contribute to creating a positive image for the military in the country. This is particularly true for armed forces such as those in

Senegal that never governed the country after a coup but remained apolitical and professional.

These socio-economic functions are examples of how the military can contribute to society in a positive manner. In some countries, however, the military can interfere negatively in the country's economic, social and political development. The military may monopolise certain activities and, when its interests are not protected by the government, may intervene in politics and threaten democracy. In some cases, the military may be involved in commercial businesses that provide it with revenues in addition to the state budget, which are neither overseen nor controlled democratically. This may seriously undermine democracy and can be difficult and dangerous to confront. Another risk with military involvement in socio-economic activities is that it would seriously weaken the military's professionalism and interfere with its core mission of being prepared at all times to defend the country and its citizens against aggression.

Combating terrorism and transborder crime

By adopting various African Union instruments, in particular the 1999 Algiers Convention on the Prevention and Combating of Terrorism, African countries have recognised that terrorism is a growing menace to peace and stability. Given the experiences of mercenary activities in the 1970s in Guinea and Benin, and more recently of terrorist activities in Niger, Nigeria, Mali and Mauritania, West African states consider terrorism a serious threat and have vowed to combat it. This mission usually falls upon the military. Until recently, the armed forces of West African states did not train to combat small armed groups that were not attached to states. The emergence of this kind of threat has forced the armed forces in many states, notably in Mali, Niger and Mauritania, to better prepare for this kind of mission through additional training and operational readiness. Similarly, with the spread of criminality across borders, including drug trafficking by organised and heavily armed criminal organisations, and the proliferation of weapons, the military is called upon to assist law enforcement agencies in extreme situations to fight criminals and reduce insecurity. In such cases, care must be taken to ensure that the military receives proper training and that the mission does not interfere with its core duty, result in the violation of human rights or weaken democratic control of the armed forces.

Contributing to international peace

Since the 1990s, there has been a decline in the number of conflicts between states and conflicts within states have become more frequent. When fighting ends and the efforts to build peace begin, the armed forces of countries not party to the conflict are asked to contribute to these efforts. This involves ceasefire monitoring, peacekeeping and peace enforcement, among other peacebuilding missions. These missions frequently form part of the functions that the armed forces in many countries, including those in West Africa, must perform. Indeed, in the region countries such as Nigeria, Ghana, Senegal, Mali and Burkina Faso have much

experience participating in various peacekeeping operations in many post-conflict areas around the world.

Armed forces are involved in peace missions for several reasons. Among these are preventing conflicts and avoiding possible spillover effects, such as the destabilisation of entire regions, the disruption of economies and uncontrolled streams of refugees. Peacekeeping missions also contribute to human security and protect the civilian population in conflict areas. Human security, especially the enjoyment of human rights, has become an important objective of the international community since recent conflicts have disproportionately affected the civilian population. One side effect of participation in peace missions is that they offer an opportunity to train the military and gain experience in post-conflict situations. Given the conflict proneness of the region, the provisions of the Protocol Relating to the Establishment of the Peace and Security Council of the AU on regional peacekeeping, as well as the ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (Chapter VI), can be useful for West African armed forces that are well-trained in peacekeeping operations. Indeed, the ECOWAS Ceasefire Monitoring Group (the former peacekeeping structure) was often used during conflicts in a number of ECOWAS member states.

Disaster relief

Every country can be affected by natural or man-made disasters such as earthquakes, floods, large fires or plane crashes in urban areas and the outbreak of disease. The mission of the armed forces can also involve preventing disasters, such as caring for the environment. This is particularly true for developing countries like West African states, where infrastructure and service delivery mechanisms are underdeveloped or perform poorly. In such emergency situations, because it is often an organisation that is well-suited for large-scale operations and has unmatched equipment and operational capabilities, the military is typically called in by civilian authorities to assist in supplying disaster relief. It carries out tasks such as maintaining law and order during emergencies caused by disasters, distributing clean water, food, medical and other supplies, and maintaining lines of communication and transportation. A side effect of using the military for disaster relief operations is that it becomes visible to society in a positive way, and its popular support increases. It can equally increase the skill-set of the military and equip troops better for similar situations in the future.

A clear legal framework should stipulate that the military assists and is subordinated to civilian authorities for disaster relief operations. Among the institutions of the state, the parliament has a particularly important role. It not only provides the legal framework but must also ensure continued support and provide the necessary oversight so the military has the means to meet the challenges inherent in these missions while upholding the laws, regulations and principles of a democratic society.

Box 27

On the legitimate use of armed forces: the ECOWAS position

In West African states, as in other developing countries, political stability can be jeopardised by strong challenges to a sitting government, even when these changes are peaceful and legal. Sometimes challenges are not legal or peaceful, and their scope and possible consequences for stability can be so dire that the authorities must act to maintain or restore law and order. In most West African countries, the police and their specialised units, and in some cases the paramilitary and gendarmerie, are in charge of crowd control and maintaining or restoring law and order. In some cases, however, the challenge is such that armed forces have to be used to back up the police in order to help them to maintain and restore order effectively. In some extreme cases, a state of emergency must be declared to give civilian authorities special powers to face such threats (Chapter 7).

In the 2001 Protocol on Democracy and Good Governance Supplementary to the 1999 Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, ECOWAS member states agreed that when the armed forces carry out their law and order functions:

1. the use of arms to disperse non-violent meetings or demonstrations shall be forbidden; whenever a demonstration becomes violent, only the use of minimal and/or proportionate force shall be authorised;
2. all cruel, inhuman and degrading treatment shall be forbidden (Article 22).

The norms that should govern the use of force in times of crisis are contained in the final provisions of the Draft Supplementary Act relating to a Code of Conduct for the Armed Forces and Security Services of ECOWAS.

Article 28: Policing in peacetime
In peacetime, the maintenance of law and order is the responsibility of the police, the gendarmerie and the national guard, where they exist.

Article 29: Policing in times of crisis
In times of crisis or social upheaval, the protection of life and property shall be the primary responsibility of the police and 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, in accordance with the national constitution.

Article 30: Rules of engagement in times of crisis

In times of armed conflict, the political authority shall define the rules of engagement for the security services, as well as the scope of their involvement in the defence of national security alongside the armed forces.

Source: Protocol A/SP1/12/01 on Democracy and Good Governance Supplementary to the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, Dakar, Senegal (2001); Draft Supplementary Act relating to a Code of Conduct for the Armed Forces and Security Services of ECOWAS.

What you can do as a parliamentarian

Functions of the military

► Educate yourself on military and security matters.

► Make sure that the functioning of the military:

   ✓ Is well defined in law and military rules and regulations;

   ✓ Is consistent with the national security concept and policy;

   ✓ Corresponds to the actual security needs of the society;

   ✓ Is not weakened by non-military functions detracting from the military's readiness to deter aggression and safeguard the interests of the state and society.

Defence reform

► Advocate for reform of the military and the security sector as a whole.

► Make sure that the competent parliamentary committee(s) receives detailed reports on the reforms envisaged or undertaken with the corresponding impact analysis, and that it can raise issues, for example through parliamentary hearings.

Use of the military in civilian law enforcement

In principle, the military should not be involved in civilian law enforcement but where there is no other solution, the parliament should do the following:

► Make sure that the involvement of the military in law enforcement is clearly defined, restricted and regulated by law as to the:

    ✓   Circumstances in which it may be resorted to;

    ✓   Nature and limits of the involvement;

    ✓   Duration of the involvement;

    ✓   Kind of military units to be involved in each case;

    ✓   Competent institution(s) and authorities empowered to make the decision to call upon the armed forces and to discontinue its involvement;

    ✓   Competent jurisdiction in case of any breach of the law or human rights violations in that context, etc.

► Pass laws providing that approvals or warrants must be issued by an authorised institution before house searches and arrests can be carried out, and before lethal weapons can be used.

► Make sure that oversight mechanisms exist—parliamentary or otherwise—to ensure that military involvement in law enforcement is consistent with international humanitarian law and human rights law.

The police and the gendarmerie[1]

The structure and organisation of police forces in West African countries were largely inherited from the colonial powers. Countries formerly under French colonial rule (Benin, Burkina Faso, Côte d'Ivoire, Guinea, Mali, Niger, Senegal and Togo) inherited a structure with two separate forces, namely the police and the gendarmerie. They carry out more or less complementary tasks but answer to different authorities (the ministry of the interior/security for the police and the ministry of defence for the gendarmerie). Their tasks are similar in that they both concern law enforcement and the protection of citizens on all or part of the national territory. Other countries formerly under English and Portuguese colonial rule have just one police force. There are five English-speaking countries in West Africa (the Gambia, Ghana, Liberia, Nigeria and Sierra Leone) and two Portuguese-speaking countries (Cape Verde and Guinea-Bissau).

Organisation and role of the police and the gendarmerie in French-speaking countries

The police

Police forces are present in each of the 15 member states of the Economic Community of West African States (ECOWAS) and are organised differently. However, there are great similarities where the police force is of a French-speaking country.

---

1   This chapter was written by Colonel Moctar Ndoye and Colonel Meïssa Niang.

Organisation

Whether it is a civil or paramilitary organisation, the police generally come under the jurisdiction of the ministry of the interior. Yet, some countries such as Benin, Burkina Faso, Mali, Guinea and Togo have a ministry of national security responsible for law and order, which includes the police.

A director general with a command staff is usually found at the top of the hierarchy. S/he is assisted by a deputy director general, several administrative services managers (personnel, police training establishments, etc.) and also by specialised service managers such as a Police Criminal Investigation Department, Intelligence, Police Narcotics and Drugs Squad, etc. It should be noted that in Côte d'Ivoire the director general is assisted by three deputy managing directors, responsible for police criminal investigation, intelligence, documentation and public safety, who in turn oversee nine special service departments.

Organisation at the territorial level is also considerably the same everywhere and is based on the existence in large urban areas of central police stations or headquarters that oversee other police stations of lesser importance.

There is a clear difference between the general police services and public order mobile units comprised of specialised crowd control units. In Senegal, the Mobile Intervention Group, based in Thiès with two operational units in Dakar and Ziguinchor, is a special force responsible for law enforcement in all zones under police jurisdiction. Mobile Intervention Group personnel may nevertheless serve in police stations, where they lend their assistance as members of the urban corps.

In contrast to the gendarmerie, the police have civil or paramilitary status.

Responsibilities

The eight countries formerly under French colonial rule inherited a structure and organisation similar to the police of the former colonial authority. Responsible in large urban areas for criminal investigations and law enforcement, the police are also charged with controlling points of entry into national territory (seaports, airports and border checkpoints). Other responsibilities include the control of foreign nationals (issuing residence permits) and the issuance of travel papers (identity cards and passports) to nationals.

As a law-enforcement agency and in its criminal investigation role, the police are responsible for the following: preventing and detecting infringements of criminal law, identifying perpetrators of crime and collecting evidence against them, and arraignment of perpetrators in the examining courts (public prosecutor of the republic, general prosecutor or prosecuting chambers). Its role also includes carrying out orders (arrest warrants, subpoenas, summonses and search warrants) issued by magistrates, serving legal documents, using delegated powers and assisting other agents of the state responsible for executing legal acts.

In an administrative role, the police also control road traffic and execute general

or special requisitioning orders issued by the government authority responsible for enforcing public law and order.

The gendarmerie

Having inherited the traditions of the French constabulary, the gendarmerie is a military body responsible for providing policing services. It is present in all French-speaking ECOWAS member states and operates in both smaller towns and in rural areas.

Organisation

The gendarmerie is an integral part of the armed forces and its administration comes under the jurisdiction of the ministry of defence. In matters of public law and order, however, it applies the directives of the ministry of the interior or the ministry of security. The officers and constables are accountable, when they perform criminal investigation duty, to the public prosecutor, like their counterparts in the police. The public prosecutor is the supervisor of all activities relating to criminal investigation, under control of the prosecuting chamber of the competent national court of appeal.

Like the police, the gendarmerie is administered in some countries by a general management (Benin, Mali and Togo), in others by a high command (Niger and Senegal), a senior commander (Côte d'Ivoire) or a chief of staff (Burkina Faso and Guinea). Assisted by a general staff, this authority has one or several training establishments, special branches and/or territorial commands. For example, the high command of the Senegalese gendarmerie has, in addition to a general staff, a training establishment command, an administration centre, an engineering centre, and two large commands: the mobile gendarmerie and the territorial gendarmerie, each overseeing a number of mobile or territorial units.

Responsibilities

Contrary to the police, the gendarmerie usually covers rural areas and smaller towns, as well as transportation routes (roads, railways and waterways).

Within its area of jurisdiction, the gendarmerie's responsibilities are similar to those of the police in its criminal investigation and law enforcement roles. The gendarmerie is also responsible for military policing, recording infringements of a military nature (insubordination, desertion, etc.) and, in certain cases, common law offences committed by the military. It acts as the military police for armed forces in the field or on missions outside of the territory.

The gendarmerie in some countries provides support to customs and the water and forestry services as part of its economic and environmental responsibilities.

Lastly, due to its nature and military equipment, the gendarmerie also accompanies the armed forces in its national defence operational missions. It has units equipped and trained for this purpose, and a network across the country enabling it to make an effective contribution through information gathering.

Organisation and role of the police in English- and Portuguese-speaking countries

Unlike the French-speaking countries, the English- and Portuguese-speaking countries have no gendarmerie. They have one police force responsible for law enforcement over the entire national territory. However, the organisation and responsibilities of the police differ considerably between the English- and Portuguese- speaking countries.

English-speaking countries

A common feature among these countries, with the exception of Liberia, is that they are former British colonies that acquired independence between the end of the 1950s and the early 1960s (Liberia declared its independence in 1847 following the return of freed African-American slaves). Border and immigration controls in these countries are provided by a separate immigration service, with an Inspector General of Police at its head. Apart from Liberia, where the police are currently being reformed following the civil war that ravaged the country, the organisation and responsibilities assigned to the police are based on the same structure and principles.

Organisation

In the Gambia, Ghana and Sierra Leone, the police come under the jurisdiction of the Ministry of Internal Affairs. In Nigeria, it is answerable to the Ministry of Police Affairs, while in Liberia, it comes under the Ministry of Justice.

One similarity across English-speaking countries, including Liberia, is that the police are commanded by an inspector general of police, assisted by one or several deputies and staff.

In Sierra Leone, the staff comprise of six officers with the rank of assistant inspector general having different responsibilities such as personnel, training and leisure pursuits, operations, criminal policing, support services and professional standards. In addition to these is the armed branch: the Operational Support Division. Four area commands are deployed in the north, south, east and west regions. These units all meet once weekly under the chairmanship of the inspector general in a forum called the Executive Management and Change Board.

In Nigeria, the general staff is also organised around six deputy officers with the rank of deputy inspector general (DIG), responsible for administration (DIG "A"), operations (DIG "B"), support (DIG "C"), investigations (DIG "D"), training (DIG "E"), and search (DIG "F"). The Nigerian police are covered in detail in the case study in Box 28.

In Liberia, the inspector general is supported by the Criminal Investigations Division and two deputies, the DIG administrator who oversees a deputy commissioner (DC) administrator, and the DIG operations. The DIG operations has three persons under his/her command: the DC NEEWARD, responsible for the police counties

(the organisation of the territory), the DC ERU, responsible for the intervention units, and the DC Central Monrovia, responsible for the special sector of the capital and assigned a police support unit.

Responsibilities

The responsibilities are the same as those described for the police of the French-speaking countries, except for border and immigration control, which is undertaken by the immigration service.

Portuguese-speaking countries

As with the English-speaking countries, Cape Verde and Guinea-Bissau have no gendarmerie, only a national police force. Tasks relating to border and immigration control are performed by the national police force. In Cape Verde, a national director heads the police, while in Guinea-Bissau s/he is known as the commissioner general.

The mandate of the police is the same as in the French-speaking countries, with the exception that the police in Cape Verde and Guinea-Bissau have exclusive jurisdiction over the entire territory. The police force of Guinea-Bissau is presently being restructured as part of the country's security sector reform initiative.

Regulation of the police and the gendarmerie

In all ECOWAS member states, the operations of the police and the gendarmerie are subject to very strict regulation. The arms and forces at their disposal raise the question of compliance with the legal standards on the use of arms and legitimate force, as well as accountability. At the regional level, additional provisions have been added to supplement national regulations.

ECOWAS standards

The 2001 Protocol on Democracy and Good Governance

Section IV (Articles 19–24) of the 2001 Protocol on Democracy and Good Governance supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (supplementary protocol) concerns the role of the armed forces, the police and other security agencies in a democracy.

Article 19 of the supplementary protocol stipulates in paragraph 2 that "The police and other security agencies shall be responsible for the maintenance of law and order and the protection of persons and their property."

Article 20 reaffirms their republican nature through the submission of the armed forces, police and other security agencies to the authority of legally constituted civilian authorities. Civilian authorities in turn must respect the apolitical nature of the armed forces and police and forbid all political and trade union activities in the barracks.

The use of arms is regulated by Article 22, which forbids their use for the dispersion of non-violent demonstrations. If a demonstration becomes violent, only the use of minimal and proportionate force shall be authorised. Paragraphs 2 and 3 of this article also forbid all cruel and degrading treatment, and the arrest or harassment of persons during police investigations on the grounds that they are family members or relations of the suspect.

Article 23 establishes the necessity to include instructions on the constitution of their country, ECOWAS principles and regulations, human rights, humanitarian law and democratic principles in the training of the security forces.

Draft Supplementary Act relating to a Code of Conduct for the Armed Forces and Security Services of ECOWAS

Also relevant is the Draft Supplementary Act relating to a Code of Conduct for the Armed Forces and Security Services of ECOWAS. The aim of the draft supplementary act is to lay down minimum standards of conduct for the armed forces and security services, including the police, in West Africa (see box 57). Upon its adoption by the ECOWAS Council of Ministers and the Authority of Heads of State and Government, the supplementary act shall be annexed to and form part of the 1993 ECOWAS Revised Treaty.

National regulations

Generally, national regulations converge in relation to standards to which all ECOWAS member states have subscribed to, including accountability of the security services. However, incorporation of regional provisions into national legislation and their effective implementation should still be improved upon.

Even where national legislation is adequate, there are challenges facing effective application of the law in most West African states. These include personnel shortages, insufficient equipment and problems relating to law enforcement training. Added to this is a lack of specialist organisations capable of undertaking the fight against new and emerging forms of criminal activity.

Personnel

International standards, especially those put forward by the United Nations, recommend a minimum of one police officer for every 400 people as acceptable police coverage. In most ECOWAS member states, this ratio is a little less than 1:1,000, if not lower. Only Nigeria, which has 371,800 police officers, fulfils this condition with a ratio of 1:376. Ghana, with some 30,000 police officers, has a ratio of about 1:733 and needs 20,000 extra personnel to reach 1:440. As for Benin, it operates at around 1:1,200, police and gendarmerie combined.

Equipment

The equipment of security services poses a problem in most West African states. Equipment should be available for work on a daily basis but it is not unusual to find that the members of the police forces of some states have to manage through their own means in order to obtain uniforms, accessories and even phosphorescent jackets allowing them to work safely at night. Officers have been killed on night duty simply because they had no phosphorescent jacket to make them visible to drivers.

Weapons are also often inadequate in the face of well-armed and organised criminal gangs. The situation concerning the allocation of personal arms for the Nigerian police—formerly one weapon for every 2.7 police officers—was improved to 1:1.8 just before the 2007 general elections. Efforts are currently being made to rapidly make available one weapon per police officer.

The lack of equipment is also evident in problems of mobility owing to serious shortage of vehicles. Police officers are often seen having to manage by their own means to go on duty. Patrols, which enable the police to monitor an area and discourage the commission of crimes, are often forfeited due to a shortage of vehicles or fuel.

In research units, the renewal of equipment which is essential for taking fingerprints and other evidence is rarely/seldom done. In an era of rapid technological advancement, the personal filing system of convicted or wanted persons that were inherited from the colonial times still remain in handwritten form and are badly kept.

Police equipment should be boosted by political authorities to provide the necessary funding in order to guarantee a police force capable of ensuring the safety of citizens.

Training

Existing training facilities, in most cases inherited from colonial times, are usually outdated and under-equipped. Proper subaltern training can only be achieved with great difficulty.

A problem arises from the non-existence or the limited nature of accommodation facilities. In general, the number of recruits far exceeds these facilities, and the living and studying conditions of trainees are unsafe. One solution to the problem would be consistent recruitment spread over several years, accompanied by the construction of training centres capable of accommodating large numbers. The most daunting case in this respect is that of Guinea-Bissau. This country's police academy is located in a military camp inside the capital, Bissau. Problems between the army and the police meant that for almost two decades it was impossible to organise training courses for new recruits. The most recent training was conducted in 1992, with assistance from the French police. In order to resolve the problem, the government allocated some land a few kilometres away from Bissau for the

construction of a new police training college. However, the problem of funding to develop the site persists.

Equipping the training centres is another problem. In addition to instructing recruits in working techniques and police ethics, training should enable them to learn how to use equipment required for their future duties (training aids play a very important role here). The types of equipment required include any resources that will help instructors to simplify instruction for trainees, ranging from simple blackboards to computers and video projectors, forensic laboratories, and other equipment for practical exercises and simulations in criminal investigation, law enforcement, firearms use and physical education.

Efficient security services depend on the availability of funding needed to train agents properly, as well as funding for continuous personal development through practical courses and physical training.

Box 28

Case study: the Nigerian Police Force

With its numbers at 371,800, the Nigerian Police Force has the largest manpower in the whole of Africa, serving the largest population of the continent (estimated at 140 million by 2006 census figures). In responding to one of the highest crime rates on the continent, the Nigerian police are the only police organisation recognised in the country by Article 214 of the 1999 Constitution.

Commanded by an inspector general of police and with its headquarters in Abuja, the Police Force is divided into 12 zones, each overseen by an assistant inspector general. These inspectors share the coordination of the 36 commands corresponding to the 36 states of the federation.

Each of the 36 state commands is headed by a commissioner of police and covers a number of areas, each commanded by assistant commissioners. These are followed by stations managed by chief superintendents.

Public order tasks are the responsibility of special units called mobile police. The mobile police consist of 56 public order squadrons distributed nationwide and overseen at the central level by a police superintendent.

The Nigerian Police Force has seven training organisations:

► **Police academy in Kano** for the training of superintendents.

► **Police college in Maiduguri** for specialised mobile force training.

► **Police college in Enugu** for inspector training.

► **Police colleges at Owerri and Kaduna** for the training of police constables.

> ► **Police college at Lagos** for training of cadets.
>
> ► **Staff college at Jos** for officers, but often accommodates high-ranking managers from all the security services for training courses.
>
> The abovementioned colleges face common challenges, including lack of maintenance and non-existent or unsuitable equipment for training purposes. They do not have any financial autonomy to enable them to effectively manage their property base and ensure that the equipment they have is maintained. The Kano academy dates from 1988. Under the jurisdiction of the police headquarters training department, it is entirely state funded. Like the other training establishments, it suffers from a lack of maintenance, although this could be remedied if the academy were to be set up as a support centre for a general programme. For example, the National Drug Law Enforcement Agency training college at Jos could double as a regional anti-drug training centre, funded by foreign capital.
>
> *Source:* Alemika, E. and Chukwuma, I.C., eds. (2005) *Crime and Policing in Nigeria: Challenges and Options.* Lagos: CLEEN and Network on Police Reform in Nigeria.

The need for regional cooperation

Weak cooperation at the regional level among the different national security services increases the possibility of offenders evading police surveillance and travelling across countries unidentified.

In response to this problem, an initiative was taken in 1997 to create the West African Police Chiefs Committee (WAPCCO) at a constitutive meeting held in Abuja, Nigeria. WAPCCO, which unites the chiefs of police of the 15 ECOWAS member states, is a forum for police cooperation. It was recognised in 2003 by a resolution of the Authority of Heads of State and Government of West Africa as a specialized institution of ECOWAS.

In May 2009, the ECOWAS Commission set up a wider forum uniting not only the chiefs of police but also the commanders of the gendarmerie forces of the member states. This is the Committee of Chiefs of Security Services (CCSS). It was created in pursuance of Article 18(b) of the 1999 Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security. The terms of reference of the CCSS include improving police cooperation, defining and implementing a strategy for combating transborder crime and monitoring the build-up of the police/gendarmerie component of the ECOWAS Standby Force.

A cooperation agreement by ECOWAS member states on criminal matters has been in place since 2003. There is also a cooperation agreement between ECOWAS and the International Criminal Police Organisation (ICPO-INTERPOL), committed to implementing several projects aimed at building the capacity of West African police structures.

Other state security providers

Even though the armed forces, the police and the gendarmerie and/or national guard constitute the core of the state security system, the other state security providers are nonetheless important actors of national security.

The customs service

Present along the land, sea and air borders of each ECOWAS member state, the major task of the national customs services is to fix basic revenue—and ensure that such revenue is collected—on all goods that are imported, exported or transiting through the national territory. Customs services also control and prevent the importation or exportation of restricted and prohibited goods. The revenue is paid to the treasury.

The customs services of almost all the ECOWAS member states generally have the following responsibilities:

✓ A fiscal responsibility to collect customs revenue and pay tax and duty to the treasury;

✓ A financial responsibility to protect the economy and promote investment;

✓ A responsibility to assist other institutions in the application of different regulations and consumer protection policies; and

✓ A responsibility for security and simplification of the international trade supply chain.

The customs services also support the combating of:

✓ Illegal trade in illicit goods such as the importation of fake goods;

✓ Illegal transfers of arms and ammunition;

✓ Money laundering;

✓ Traffic of illicit drugs;

✓ Illegal trade in cultural artefacts;

✓ Importation of toxic and hazardous substances; and

✓ Illegal trade in endangered species.

To carry out their responsibilities effectively, customs services are invested with legal and/or regulatory prerogatives in the domains of the use of force, investigation, arrest and detention.

The World Customs Organisation (WCO), to which most African countries are affiliated, is an intergovernmental organisation that focuses exclusively on customs matters. It is particularly noted for its work in areas covering the development of global standards, the simplification and harmonisation of customs procedures, trade supply chain security, the facilitation of international trade, the fight against fraud, anti-counterfeiting and anti-piracy initiatives, public-private partnerships, integrity promotion and sustainable customs capacity-building programmes.

In 1995, the WCO divided its members, as they were becoming increasingly numerous on a global scale, into six regions, each represented on the WCO Council by a vice-chairperson elected at a regional level.

The West and Central Africa region unites 21 members. It incorporates regional organisations like the West African Economic and Monetary Union (UEMOA), ECOWAS and the Economic Community of Central African States (ECCAS). It also incorporates the WCO regional intelligence liaison offices in Cameroon and Senegal, the regional training centre in Ouagadougou, Burkina Faso and the regional office for capacity building in Abidjan, Côte d'Ivoire.

A technical commission for customs and other related matters exists within ECOWAS. In pursuance of the ECOWAS Revised Treaty, this commission holds regular meetings to devise and define the community regulations needed for the successful harmonisation of national customs legislation. As part of the security services, customs personnel are subject to the stipulations of Articles 19–22 of the 2001 Protocol on Democracy and Good Governance, as well as those of the Draft Supplementary Act relating to a Code of Conduct for Armed Forces and Security Services of ECOWAS.

The immigration service

An organisation responsible for immigration exists in every ECOWAS member state. Each organisation is either independent or incorporated in the structure of the national police force with various names such as the Airport and Border Police Directorate, the Territory Surveillance Directorate in French-speaking countries such as Senegal, and the Independent Immigration Service in English-speaking countries such as Ghana and the Gambia. The Nigerian Immigration Service became independent from the police force in 1958.

These immigration services, more or less well-equipped depending on the country, control the movements of citizens and aliens with due regard to the ECOWAS Revised Treaty and the ECOWAS Protocol on Free Movement of Persons, Goods and Services and Right of Residence. They also ensure the application of international health legislation laid down by the International Organisation for Migration (IOM) and the World Health Organization (WHO).

The national parks, waters, forestry and hunting services

These services, whose responsibility is to apply natural resources and biodiversity conservation policies, are paramilitary organisations equipped to deal with transborder crime and poaching.

Regulations of varying strictness, depending on the country, have been established to accommodate interventions on the part of these organisations whose personnel, often badly trained or underpaid, are sometimes players in the breakdown of law and order.

What you can do as a parliamentarian

► Assess law enforcement resource needs through site visits (Chapter 23) and work on passing resolutions and budgets for sufficient funding to meet the security services' personnel and equipment needs (police, gendarmerie, customs, etc.).

► Convince the executive to work towards achieving the ratio of one police officer/gendarme for every 400 people, as recommended by the United Nations.

► Support cooperation efforts among different West African security services and ensure that necessary resources are allocated in order to conduct joint operations to strengthen law and order.

► At the regional level, convince heads of state and government to promote the idea of creating a West African police force through cooperation of the police/ gendarmerie from ECOWAS Member States (similar to Europol). This would contribute towards increased safety within the region and socio-economic development and encourage further foreign investment.

Secret and intelligence services[1]

Intelligence services (sometimes referred to as "security services") provide independent analysis of information relevant to the security of the state, society and the protection of vital national interests.

There are increasing threats to national and regional security. These result from the proliferation of small arms, transborder crime, drugs and human trafficking, armed robberies, maritime piracy, terrorism and other crimes and require the reinforcement of the intelligence capabilities of West African states.

New technologies are expanding capacities for surveillance, detection and apprehension of possible suspects, and greater cooperation is taking place among intelligence services, both internally and externally. Parliament has an important role to play to ensure that the expanding powers of the intelligence services do not violate the constitutional rights of citizens nor run counter to international humanitarian and human rights laws and principles.

Nature of intelligence services

Intelligence services depend on the executive branch of government. The primary purpose of intelligence services is to gather and analyse strategic information needed in decision making by state authorities. Such actions sometimes require a high degree of secrecy, as some of the information required can only be obtained by using stealth methods or secret sources. These need to be protected from disclosure. While intelligence services may legitimately use secret operations in the

---

[1] This chapter was adapted from the IPU-DCAF Handbook for Parliamentarians by Mr. Johnny Kwadjo.

pursuit of information on behalf of the state and society, there is a danger that the use of this power and information can be abused. Intelligence services can become a threat to the society and the political system they are meant to protect. Due to the secretive nature of intelligence work, there is a particular need for democratic oversight (parliamentary in particular) of the intelligence services in addition to executive control.

Within the context of developing democracies in West Africa, one of the most problematic issues has been weak oversight of the intelligence services. This is due not only to the legacies of prior non-democratic regimes—in which the intelligence or security apparatus was a key element of control and in which human rights abuses often went unpunished—but also to the inherent tension between intelligence and democracy.

Democracy requires accountability of governors to the governed and transparency. Intelligence services, by contrast, must operate in secret in order to be effective. They thus avoid, to some degree, both accountability and transparency. Even well-established democracies that have typically developed mechanisms to deal with this dilemma continue to struggle with the tensions inherent in the exigencies of democracy and the necessity of intelligence activities. Fledgling democracies such as those in West Africa are still in the process of creating effective mechanisms and transforming the lag effect of the legacy of intelligence activities inherited from authoritarian regimes.

In a democracy, intelligence services should strive to be effective and politically neutral (non-partisan). They should adhere to professional ethics and operate within their legal mandates and in accordance with the constitutional and democratic norms of the state.

Democratic oversight of intelligence structures should begin with a clear and explicit legal framework. Intelligence organisations should be established by legislation passed by parliament. Statutes should further specify the limits of the service's powers, the methods of operation and the means by which intelligence services will be held accountable.

Box 29

Parliament and special funds assigned to intelligence services: the example of Ghana

Parliament passed the Security and Intelligence Agencies Act of 1996, Act 526, which established the country's internal and external intelligence agencies. Section 10 of the act states that:

"The Departments existing immediately before the coming into force of this Act and known as the Bureau of National Investigations and the Research Department, respectively, are hereby continued in existence under this Act as the Internal and External Intelligence Agencies of the State, referred to in this Act as 'the Intelligence Agencies'."

In section 17(2), the law provides that:

"The Minister assigned responsibility for [the Intelligence Agencies] shall in respect of each year submit a report to Parliament on the Intelligence Agencies."

An additional requirement in section 32 is that:

"There shall be provided by Parliament from the Consolidated Fund such monies as may be required for the expenses of the Intelligence Agencies."

The national security coordinator of Ghana, who is the professional head responsible for the intelligence agencies, is enjoined by section 33(1) to "keep books of account and proper records in relation to them." These books of account "shall be audited by the Auditor-General each financial year." Under this provision, the Auditor-General's Department audits the accounts of the country's intelligence agencies and submits a report to parliament on them each year to facilitate parliamentary oversight of the accounts of these agencies.

Source: Security and Intelligence Agencies Act of Ghana (1996), Act 526. Accra: Government Printer, Assembly Press, GPC/A432/300/7/96.

Most states implement some degree of formal oversight, usually in the form of parliamentary oversight committees. The purview of already existing parliamentary committees, such as the defence or armed forces committee is sometimes expanded to include intelligence matters. In other countries, the parliament has established separate parliamentary committees or subcommittees focusing specifically on the oversight of the intelligence and secret services.

Parliamentary oversight committees should be guaranteed access to information, a role in appointing the head(s) of intelligence service(s) and budgetary oversight (see Box 30).

In addition to, or in the absence of, a competent parliamentary committee, some states have formally established intelligence oversight committees within the executive branch or cabinet. Cabinet and executive-level oversight bodies normally involve a managerial or administrative function, and tend to be less independent from the structures whose activities they supervise than parliamentary (or other independent) committees, which involve representatives from across the political spectrum.

Box 30

Some practices of parliamentary committees in dealing with classified documents

► If necessary the committee meets behind closed doors.

► The committee reports to a plenary of the parliament, followed by a public debate (on non-classified issues).

► The committee is entitled to request any information, provided that it does not disclose information on current operations nor the names of employees of the intelligence services.

► The committee may disclose any information after it has determined (by a qualified majority or normal majority) that the public interest would be served by such a disclosure.

► The committee does not limit itself to the information that it has requested. On its own initiative, the minister(s) responsible for the intelligence services should provide information to the committee, whenever such information may help to complete understanding.

► Committee members are usually sworn under penalty of law to keep the information they are given during the oversight process confidential.

Source: Fluri, Philipp, Johnsson, Anders and Born, Hans, eds. (2003), *Parliamentary oversight of the security sector: principles, mechanisms and practices.* Handbook for parliamentarians No. 5. Geneva: IPU and DCAF.

Parameters for intelligence services in democracies

The particular form of oversight of intelligence or secret services is influenced by the state's legal traditions, political system and historical factors. For example, certain countries influenced by the British common law tradition tend to emphasise the judicial aspect of oversight. In contrast, legislative oversight tends to be favoured by continental European countries and states that have experienced repressive police powers at some point in modern history. The United States has oversight control mechanisms in the executive, legislative and judicial branches. Some democratic countries have created the institution of the ombudsman, which is empowered to investigate alleged violations of human rights and other ethical violations by the intelligence services and to inform the public about the outcome of the inquiry.

Scope of oversight

The oversight of intelligence services is often limited in scope. This limitation may concern the type of activity (domestic/ counterintelligence or foreign intelligence), or substantive areas of concern (operational methods, covert action).

Open or confidential debate in parliament

Generally, intelligence oversight in democratic societies remains less open and less developed than in other areas of state activity. For example, the deliberation of parliamentary intelligence oversight committees does not usually occur in full and open public debate, and the members of parliament involved may have to take a special oath committing them to respect the confidential nature of the information made available to them. Regardless of the particular form of oversight adopted, democratic societies seek to maintain a balance between ensuring the appropriate, legal behaviour and accountability of such organisations through regular scrutiny while preserving their secrecy and effectiveness in protecting national security.

Division of tasks

A structural means of controlling intelligence is to avoid a monopoly of the intelligence function by one organisation or agency. A proliferation of different intelligence organisations, perhaps corresponding to separate structures such as the armed forces and police, may be less efficient and foster bureaucratic competition but is generally considered to be more conducive to democratic control. Therefore many states have separate services for internal, foreign and military intelligence. This distinction may be practical and necessary from a democratic oversight point of view but it fragments intelligence gathering and analysis, which turned out to be especially problematic after the terrorist attacks on the United States in 2001.

Training of intelligence personnel

The training and professional formation of intelligence experts are a key aspect of oversight. In particular, the inculcation of professionalism and commitment to democratic norms and human rights principles, as well as a sense of civic responsibility, is an important aspect in the training of intelligence personnel. Democracies endeavour to train and employ civilians in intelligence functions and not leave this to the domain of the military only.

Declassification of material

Another structural factor that may facilitate control and accountability is the possibility that information about intelligence activities will become accessible to the public after a certain period of time. This can be promoted by freedom of information legislation and by rules on the release of classified materials after a set amount of time. This possibility of delayed transparency and eventual public scrutiny may facilitate democratic control.

What you can do as a parliamentarian

Parliamentary oversight mechanisms

► Make sure that your parliament has a committee or subcommittee with a specific mandate to oversee all intelligence services (for a comparison, see Chapter 20 on parliamentary defence and security committees).

► Make sure that this committee's mandate is clearly defined and is restricted as little as possible, and that its members have access to all necessary information and expertise.

► Ensure that the parliamentary committee takes action and reports periodically on its findings, conclusions and recommendations.

Democratic and legal framework

► Make sure that the law on intelligence services regulates and defines the status, purview, operation, cooperation, tasking, reporting duties and oversight of the intelligence services. In addition, the use of specific methods of acquiring information and keeping records containing personal details should be regulated by law, as well as the status of intelligence services employees.

► Monitor whether the intelligence services are politically neutral and operate according to professional ethics, including a commitment to democratic norms and a sense of civic responsibility.

► Make sure that the parliamentary intelligence oversight committee takes action to ensure that intelligence personnel receive continuous training on democratic principles and human rights law.

► Parliament should enact laws that give all three branches of the state a complementary role.

   ✓ The executive has the final responsibility of tasking and prioritising the intelligence services.

   ✓ The parliament enacts relevant laws, oversees the budget and oversees the government's role and the functioning of the intelligence services. Parliament should not interfere in intelligence operations on the ground.

   ✓ The judiciary issues warrants if the intelligence services want to interfere in private property and/or communication, and ensures that the intelligence services operate within the law.

Transparency and accountability

► Make sure that the parliamentary intelligence oversight committee is consulted or informed about the general intelligence policy developed by the executive.

► Make sure that the parliamentary intelligence oversight committee seeks to ensure that intelligence services operate in a legal, appropriate and accountable manner, while preserving their necessary confidentiality and effectiveness. This includes, inter alia, legal provisions with regard to wire-tapping.

► Make sure to that effect that the committee is comprehensively informed about the activities of intelligence agencies, and has a role in appointing the heads of the intelligence and secret services.

Issues relating to confidentiality

► Make sure that the legislation on freedom of information is an important means of accountability and oversight—both direct and indirect—of intelligence services.

► Special audits should be in place in the case of secret funds in order to maintain a balance between confidentiality and accountability requirements.

► Make sure that criteria and delays for the release of once-classified material are provided by law so as to secure or raise the prospect of delayed transparency. The titles of reports that can be accessed through freedom of information legislation must be released periodically.

Private military and security companies[1]

Traditionally, the state has had the monopoly on the legitimate use of force and has been the sole security provider, responsible for the provision of internal security and defence from external threats. In recent years, however, a new phenomenon has emerged involving a privatisation of security. Since the 1990s, there has been a global proliferation of private military and security companies (PMSCs). These non-state actors are particularly relied upon in areas of armed conflict. This is one of the main reasons why a considerable number of such companies have been operating in West Africa, which also happens to be very rich in mineral resources. Sometimes these mineral resources are used as a form of payment for PMSCs contracted by states. The involvement of these private companies in the African extractive industry weakens efforts to bring about sustainable peace and development.

While there is no universally accepted definition of PMSCs, the Montreux Document on Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies during Armed Conflict (Montreux document) has attempted to give a working definition. The Montreux document contains rules and good practices for PMSCs operating in armed conflicts.

The Montreux document defines PMSCs as "private business entities that provide military and/or security services, irrespective of how they describe themselves." It further states that military and security services "include, in particular, armed guarding and protection of persons and objects, such as convoys, buildings and other places; maintenance and operation of weapons systems; prisoner detention; and advice to training of local forces and security personnel."

---

1 This chapter was adapted from the IPU-DCAF Handbook for Parliamentarians by Mr. Sabelo Gumedze.

PMSCs have been involved in Africa's armed conflicts, peacekeeping missions and humanitarian assistance operations. The majority of these forces can be divided into three main groups: mercenaries, private military companies and private security companies. It is important that the activities of these actors can be controlled by state mechanisms.

Functions, risks and regulatory challenges regarding private military and security companies

In some cases, post-conflict or so-called failed states are tempted to call on PMSCs to compensate for a lack of adequate military training and strength, which leaves them unable to provide security for all their citizens. In others, states are unwilling to uphold the notion of the state as the holder of the monopoly on the use of force. By using PMSCs they perhaps seek to avoid democratic oversight mechanisms that would operate in respect of their own security sector. PMSCs are also engaged by states to assist them when facing intra-state conflicts. Some examples of the involvement of earlier PMSCs in West African conflicts include the now-defunct Executive Outcomes and Sandline International in Sierra Leone. What distinguished these PMSCs from others was their involvement in offensive combat operations.

In those circumstances, the use of PMSCs may seem to have positive effects in the short run, especially in terms of improving national professional skills and training capabilities, and even sometimes in terms of increased self-confidence. However, the negative impact on the democratisation process may be multifaceted, as illustrated in Box 31.

Effective public and democratic oversight, in particular by parliament, is needed over state security actors as well as non-state security actors such as PMSCs.

Box 31

Private military and security companies and some potential dangers for democracy

► Private military and security actors may bring a degree of stability in the military/security sphere but, in the long run, some governments may see reliance on military/security force as the main way of resolving internal problems.

► Sometimes there is a very thin line between private military companies and private security companies, resulting in a dilemma regarding the application of the law, especially where different laws apply to each.

► PMSCs tend to be more professional than the national armed forces and security services, but heavy reliance on them may render the national forces redundant or unable to undertake their responsibilities effectively within a democracy.

► Due to their professional composition and aptitude, private military/security actors are more likely to engage in mercenary activities, thus tilting the balance of power in favour of the highest bidder (be it a rebel faction or the state) and undermining a constitutional democratic process.

► The engagement of PMSCs in mercenary activities by states introduces a danger that seriously hampers any peace and security efforts, particularly in developing and small states.

► PMSCs are usually registered or incorporated in a "home state", recruit their personnel from a third/foreign country (including in Africa) and are contracted by a "contracting state" to operate in a "territorial state". This brings into play a complex conflict of laws relating to their activities.

► A majority of PMSCs recruit former military personnel and ex-policemen through dubious recruitment agencies. These sometimes serve as "security guards" in zones of armed conflict without any effective regulation, monitoring or oversight either by the "contracting state", the "territorial state", the "home state" or the PMSCs themselves. This gap increases the risk of their personnel being more prone to commit violations of human rights and international humanitarian law.

► Hiring foreign experts to operate in "territorial states" raises a number of questions, including the nature of the military/security mission and budgetary aspects. From a democratic and good governance perspective, such questions should always be addressed in a public and parliamentary debate.

► PMSCs are more likely to avoid treating their personnel for post-traumatic stress disorder after their deployment in conflict zones. This can increase the risks of anxiety disorders developing after exposure to traumatic events.

► In many cases, these private military/security actors act as arms brokering agents under the guise of other more visible (and more legitimate) missions.

Source: Fluri, Philipp, Johnsson, Anders and Born, Hans, eds. (2003), *Parliamentary oversight of the security sector: principles, mechanisms and practices.* Handbook for parliamentarians No. 5. Geneva: IPU and DCAF.

Mercenaries

Definition

A definition of mercenaries is provided in Article 1 of the 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries adopted by the United Nations (UN) General Assembly in Resolution 44/34 of 4 December 1989. The convention entered into force on 20 October 2001 but few countries have ratified it. The convention expands the definition contained in Article 47 of Additional Protocol 1 to the Geneva Conventions of 1949 (in particular with respect to those persons who are specifically recruited to participate in concerted acts of violence with the aim of overthrowing a government, or undermining the constitutional order of a state or its territorial integrity):

Article 1 – For the purposes of the present Convention,

1. A mercenary is any person who: (a) Is specially recruited locally or abroad in order to fight in an armed conflict; (b) Is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party; (c) Is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict; (d) Is not a member of the armed forces of a party to the conflict; and (e) Has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.

2. A mercenary is also any person who, in any other situation: (a) Is specially recruited locally or abroad for the purpose of participating in a concerted act of violence aimed at: (i) Overthrowing a Government or otherwise undermining the constitutional order of a State; or (ii) Undermining the territorial integrity of a State; (b) Is motivated to take part therein essentially by the desire for significant private gain and is prompted by the promise or payment of material compensation; (c) Is neither a national nor a resident of the State against which such an act is directed; (d) Has not been sent by a State on official duty; and (e) Is not a member of the armed forces of the State on whose territory the act is undertaken.

For the purposes of the convention, a serious offence is committed by any person who recruits, uses, finances or trains mercenaries, or attempts to commit such acts or is an accomplice in such acts or attempts. However, there are cases when governments hire foreign military experts for special tasks (jet pilots, anti-terrorist operations, etc.). These foreign military experts may be employed by PMSCs or merely freelancing.

The definition provided under the first Additional Protocol to the Geneva Conventions of 1949 is cumulative, in the sense that a mercenary is defined as any person to whom all of the listed elements apply. Article 47(2) is more or less

similar to Article 1(1) of the Organization of African Unity (OAU)—now the African Union (AU)—Convention for the Elimination of Mercenarism in Africa of 1977 in all respects, save for the part dealing with motivation. According to Article 1 of the AU convention:

1. A mercenary is any person who:

    a. is specially recruited locally or abroad in order to fight in armed conflicts;

    b. does in fact take a direct part in the hostilities;

    c. is motivated to take part in the hostilities essentially by the desire for private gain and in fact is promised by or on behalf of a party to the conflict material compensation;

    d. is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflicts;

    e. is not a member of the armed forces of a party to the conflict; and

    f. is not sent by a state other than a party to the conflict on official mission as a member of the armed forces of the said state.

2. The crime of mercenarism is committed by the individual, group or association, representative of a State or the State itself who, with the aim of opposing by armed violence a process of self-determination, stability or the territorial integrity of another State, practises any of the following acts:

    a. shelters, organises, finances, assists, equips, trains, promotes, supports or in any manner employs bands of mercenaries;

    b. enlists, enrols or tries to enrol in said bands;

    c. allows the activities mentioned in paragraph (a) to be carried out in any territory under its jurisdiction or in any place under its control or affords facilities for transit, transport or other operations of the abovementioned forces.

3. Any person, natural or juridical, who commits the crime of mercenarism as defined in paragraph 1 of this Article commits an offence considered as a crime against peace and security in Africa and shall be punished as such.

While the definition in the AU convention includes material compensation, the UN convention, in Article 47(2)(c), requires that such material compensation must be "substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party." This definition is unfortunately very narrow and it is easy for any person who may at face value be seen as a "mercenary" to be excluded purely on these grounds. It is therefore possible for a person to engage in mercenary activities and fall short of being a "mercenary" in terms of the provision on a technical point, i.e., where the material compensation is

not substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that party.

One of the most challenging aspects of defining a mercenary is that modern warfare also includes non-state actors such as PMSCs. The flaws identified in the definition of a mercenary thus make it possible for these companies to engage in "mercenary" activities without breaking the law. This is one of the reasons why the anti-mercenary conventions have not been effective. The list of conditions in the UN and AU conventions makes it almost impossible to classify PMSC personnel as mercenaries.

The special rapporteur on mercenaries of the UN Commission on Human Rights recommended in his report that "the General Assembly should reiterate its invitation to all states that are not yet party thereto to ratify or accede to the Convention. It should, at the same time, invite member states to review their national legislation so as to bring it into line with the Convention" (paragraph. 70). The special rapporteur's mandate was, however, short lived.

In an attempt to address the challenges posed by the involvement of PMSCs in mercenary activities, on 7 April 2005, under the auspices of the UN and during its thirty-eighth meeting, the UN Commission on Human Rights decided to end the mandate of the special rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination, and to establish a working group. Its establishment meant extending the mandate of the special rapporteur, which was mainly mercenaries, to that of PMSCs, which can arguably be termed the "new modalities of mercenaries".

One of the most important elements of the working group's mandate is to study, identify and monitor current and emerging issues, manifestations and trends of mercenaries, mercenary-related activities and activities of PMSCs that have an impact on human rights in general, including the right of peoples to self-determination. In the discharge of its mandate, the working group is guided by the international standards set forth in relevant international instruments.

According to Resolution 2005/2, the commission requested the working group to undertake the following tasks:

a. To elaborate and present concrete proposals on possible new standards, general guidelines or basic principles encouraging the further protection of human rights, particularly the right of peoples to self-determination, while facing current and emergent threats posed by mercenaries or mercenary-related activities;

b. To seek opinions and contributions from governments and intergovernmental and non-governmental organisations on questions relating to its mandate;

c. To monitor mercenaries and mercenary-related activities in all their forms and manifestations in different parts of the world;

d. To study and identify emerging issues, manifestations and trends regarding mercenaries or mercenary-related activities and their impact on human rights, particularly on the right of peoples to self-determination; and

e. To monitor and study the effects of the activities of private companies offering military assistance, consultancy and security services on the international market on the enjoyment of human rights, particularly the right of peoples to self-determination, and to prepare draft international basic principles that encourage respect for human rights on the part of those companies in their activities.

Activities

Mercenaries are a relatively old phenomenon, featuring as early as biblical times. Mercenaries have continued to feature in more recent times especially during conflicts, in particular those in Africa.

Mercenaries have also been involved in coups d'état. One recent example in West Africa was the botched coup plot that involved Simon Mann, the founder of Executive Outcomes, a security consultancy. The coup was aimed at toppling President Teodoro Obiang Nguema of Equatorial Guinea and seizing the country's oil riches. Mann confessed to the crime of mercenarism and served a prison sentence in Equatorial Guinea.

One of the lessons from the alleged coup plot against Equatorial Guinea is that it is possible for bad elements within PMSCs to switch roles from being a legitimate private security/military actor to being a mercenary. One of the main challenges facing the world today is the extremely secretive nature of mercenaries, who sometimes hide behind legitimate PMSCs.

Private military companies

Private military companies are a kind of modern and corporate type of "mercenary". As such, they work for profit, i.e., giving military services and training or, more precisely, performing combat and/or non-combat roles. From a legal point of view, however, they do not fit into the narrowly drawn definition of mercenary forces as they normally consist of retired military personnel who are no longer active in the security forces. Private military companies offer a wide range of services, from combat and operational support, advice and training to arms procurement, intelligence gathering, hostage rescue, etc. Regardless of the type of services they provide, their common characteristic is to operate at the request of governments, especially in conflict situations or post-conflict reconstruction.

An example of such a private military company is the United States (US)-based Military Professional Resources Incorporated (MPRI), which has operated in some West Africa states. This is a professional services company engaged in defence-related contracting, focusing on support and assistance in defence matters such as law enforcement expertise and leadership development. It was created by

former senior military officers in 1988 and still is primarily operated by ex-military personnel. Another example is DynCorp International, which, among other things, provides critical support to military and civilian government institutions, as well as base operations and maintenance services for military installations, facilities and equipment.

Both MPRI and DynCorp International (and other companies such as ArmorGroup, EOD Technology and AECOM Technology Corporation) are members of the International Peace Operations Association, a US-based non-profit trade association (as defined under s. 501[c][6] of the US Internal Revenue Code) whose mission is, among other things, to promote high operational and ethical standards among the companies active in the peace and stabilisation operations industry.

Private security companies

Private security companies provide services aimed at protecting businesses and property, and thus at contributing to crime prevention. As such, private security companies exist everywhere but recent trends show that their use has increased, especially in conflict regions where businesses feel a need for more protection than the state can provide. They are believed to be more concerned with the protection of property and personnel than with the military side of a conflict. Examples of United Kingdom (UK)-based private security companies include Aegis Defence Services, Control Risks, Olive Group and Janusian Security Risk Management. These companies are members of the British Association of Private Security Companies.

The British Association of Private Security Companies aims at promoting, enhancing and regulating the interests and activities of UK-based firms and companies that provide armed security services in countries outside the UK, including in Africa. It represents the interests and activities of its members in relation to proposed or actual legislation. Within Africa, one of the largest private security companies is Group 4 Securicor, which specialises in outsourced business processes in sectors where security and safety risks are considered a strategic threat. In West Africa, Group 4 Securicor operates in Cameroon, Ghana, Guinea, Côte d'Ivoire, Mali, Mauritania, Nigeria and Sierra Leone.

In practice, however, companies often combine military and security expertise, since both appear to be equally important and necessary in conflict regions. This sometimes blurs the line between private military and security companies. With the advent of the robotics revolution, PMSCs are already involved in the operation of unmanned weapons systems. There are reports of them being involved in the operation of drones in Afghanistan, for example. They are likely to be involved in the increased use of such weapons systems in order to be more professional and effective, and ultimately to maximise their profit.

Due to the increased importance and spread of private security actors, it becomes increasingly important that democratic institutions, especially the parliament, assure a minimum standard of oversight and control over those new actors in the security sector, otherwise basic democratic principles are threatened.

What you can do as a parliamentarian

Legislation

► Acquaint yourself with the international instruments dealing with private security and military companies and mercenaries, as well as the Montreux Document on Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies during armed conflict.

► Make sure that your state is party to the 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries, and has adopted satisfactory corresponding legislation.

► Make sure that your state is party to the Geneva Conventions of 1949 and the Additional Protocols thereto, and has adopted satisfactory corresponding legislation.

► Make sure that your state is party to the 1977 OAU Convention on the Elimination of Mercenarism in Africa, and has adopted satisfactory corresponding legislation.

► Verify that a legal framework for private security and military companies—whether operating within or outside your state—is in force.

Respect of norms and arms embargoes

► As PMSCs operate abroad in conflict regions, encourage your parliament to check whether the activities of the PMSCs based in your country are in line with the national security strategy, foreign policy and relevant international laws, norms and resolutions.

► Prohibit operations of PMSCs in regions or countries which are subject to an arms embargo through legislation.

► Ensure that both human rights law and international humanitarian law are respected by PMSCs (including their personnel) within your country, or abroad in cases where they are registered within your state.

► Suggest that your government facilitate an official visit of the "UN working group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination" in order to monitor mercenaries and mercenary-related activities in all their forms within your country.

Transparency

► Make sure that no foreign PMSC is allowed to operate on your national territory without prior authorisation from parliament, even where it is operating at the request of or with the consent of the government.

► Make sure that the government's budget for PMSCs and their activities is approved by parliament.

► Make sure that the recruitment of citizens by PMSCs (and sometimes through recruitment agencies) is in accordance with the law and effectively regulated, if not prohibited.

► Make sure that there is no conflict of interest for government officials who are directors, shareholders or owners of PMSCs, especially as regards contracts with the government.

► Require that the government keep physical copies of all contracts of PMSCs operating within the state's jurisdiction and that the parliament is also authorised to review such contracts.

Accountability

► Make sure that the parliament keeps the government accountable for the acts of PMSCs, both in law and in practice, at home and abroad.

► Ascertain how many PMSCs (including their personnel) are registered and operating within your country and how many citizens are exporting their security and military skills abroad.

► If need be, summon the regulatory authority for PMSCs and their directors and shareholders operating in your state to answer questions regarding their activities.

Regional and international peacekeeping forces[1]

In the current international context, increasing efforts are being made to resolve conflicts by means expressed under the provisions of the United Nations (UN) Charter, Chapter VI (Peaceful settlement of disputes) or Chapter VII (Action with respect to threats to the peace, breaches of the peace and acts of aggression). Based on these provisions, the UN has developed a series of concepts and operations (for their definition see Box 32) and has defined a set of procedures for organising and carrying out such missions (see Box 33 on the process of UN peacemaking operations step-by-step).

In addition, Chapter VIII of the UN Charter deals with regional arrangements. Chapter VIII obligates regional organisations to resolve disputes (including through enforcement actions), with the authorisation of the Security Council. The Economic Community of West African States (ECOWAS) has provided the first example in the world of an economic organisation whose agenda has become primarily focused on security issues. From the beginning of the 1990s, the spread of insecurity in the region led it to get involved in peacekeeping missions.

Contributing to peace missions abroad

Peacekeeping, peace-enforcement and peacemaking operations depend on the participation of member states, which agree to send their national contingents to contribute to the operations authorised by the Security Council. The objective of these operations is to re-establish peace and security in destabilised regions.

---

1   This chapter was adapted from the IPU-DCAF Handbook for Parliamentarians by Dr. Niagalé Bagayoko-Penone.

From a good governance perspective, it is proper and advisable that, within the system of checks and balances between parliament and government, the parliament should have the opportunity to participate in the decision to engage armed forces abroad.

Box 32

Peacemaking, peacekeeping, peace enforcement, peacebuilding: some useful UN definitions

Peacemaking

Peacemaking refers to the use of diplomatic means to persuade parties in conflict to cease hostilities and negotiate a peaceful settlement of their dispute. As with preventive action, the United Nations can play a role only if the parties to the dispute agree that it should do so. Peacemaking thus excludes the use of force against one of the parties to enforce an end to hostilities.

Peacekeeping

Peacekeeping initially developed as a means of dealing with inter-state conflict and involved the deployment of military personnel from a number of countries, under UN command, to help control and resolve armed conflict. Today, peacekeeping is increasingly applied to intra-state conflicts and civil wars. The tasks of UN peacekeepers—military personnel, civilian police and a variety of other civilians—range from keeping hostile parties apart to helping them work peacefully together.

This means helping to implement peace agreements, monitor ceasefires and create buffer zones. It also increasingly means creating political institutions, working alongside governments, non-governmental organisations and local citizens' groups to provide emergency relief, demobilise and reintegrate former fighters, clear mines, organise and hold elections and promote sustainable development. The peacekeepers' strongest "weapon" is the impartiality with which they carry out their mandate.

Peace enforcement: is enforcement action the same as peacekeeping?

In the case of enforcement action, the Security Council gives member states the authority to take all necessary measures to achieve a stated objective. Consent of the parties is not necessarily required. Enforcement action has been used in few cases. Examples include the Gulf War, Somalia, Rwanda, Haiti, Bosnia and Herzegovina, Albania and East Timor. These enforcement operations are not under UN control. Instead, they are directed by a single country or a group of countries, such as Australia in East Timor (1999), and the North Atlantic Treaty Organisation (NATO) in Bosnia and Herzegovina (from 1995) and Kosovo (1999).

The UN Charter provisions on the maintenance of international peace and security are the basis for both peacekeeping and enforcement action (Chapters VI and VII).

Peacebuilding

Peacebuilding refers to activities aimed at assisting nations to cultivate peace after conflict. Such operations have an extremely large mandate due to their state-building and reconstruction tasks.

Humanitarian missions

These missions aim to give humanitarian relief in the case of civil wars, famines and natural disasters like floods, droughts, storms and earthquakes. Many participants—governments, non-governmental organisations and UN agencies—seek to respond simultaneously to these complex emergencies, where sometimes logistical help from military forces is needed as the only way of implementing and ensuring the relief programmes.

Source: See the United Nations website at http://www.un.org.

It is in the interest of the government and the people to engage the parliament as much as possible in the process of sending troops abroad. Parliamentary debate and voting enhances the democratic legitimacy of the mission and raises popular support.

Peacekeeping in West Africa

When the Liberian conflict broke out in 1989, ECOWAS member states proved unable to find an agreement to activate the existing Protocol Relating to Mutual Assistance on Defence (PMAD), which from its adoption in 1981 committed ECOWAS member states to give mutual aid and assistance in defence. Consequently, some ECOWAS member states (Nigeria, Ghana, the Gambia, Togo, Mali) belonging to the Standing Mediation Committee (set up three months earlier with the mandate of mediating disputes between member states) decided to set up an ad hoc force, the so-called ECOWAS Ceasefire Monitoring Group (ECOMOG). The aim behind the creation of this force was to prevent the overthrow of the unpopular government of President Samuel Doe by the National Patriotic Front of Liberia led by Charles Taylor. ECOMOG's ceasefire monitoring mandate quickly transformed into a robust peacekeeping operation between 1990 and 1998. Later, ECOMOG acted as a buffer force in Sierra Leone (1997–2000), Guinea-Bissau (1998–1999), Côte d'Ivoire (2003) and again in Liberia (2003).

From 1999, the institutional evolution of ECOWAS could be seen as an attempt to establish a common conceptual reference that would give regional backing to West African states' involvement in peacekeeping missions.

Peacekeeping and the 1999 Mechanism

In 1999, a protocol creating the ECOWAS Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security was adopted (both the PMAD and the Protocol Relating to Non-Aggression have been subsumed as part of the mechanism). Chapter II of the 1999 mechanism establishes various organs that have authority to deal with peace and security issues:

✓ The ECOWAS Authority, made up of heads of state and government of member states;

✓ The Mediation and Security Council (MSC), which comprises nine member states and is mandated (according to Article 7 of the mechanism) by the ECOWAS Authority to take, on its behalf, appropriate decisions in case of crisis and emergency;

✓ The ECOWAS Commission (formerly the Executive Secretariat), especially through the Directorate of Peacekeeping and Regional Security, which is under the Office of the Commissioner for Political Affairs, Peace and Security; and

✓ The supporting organs established under Article 17 of the mechanism to assist the MSC:

- The Defence and Security Commission

- The Council of the Wise (formerly the Council of Elders)

- ECOMOG, which is now institutionalised as a standing force.

Peacekeeping and the 2001 Supplementary Protocol

Considering that the 1999 mechanism does not address the structural roots of conflicts, the Supplementary Protocol on Democracy and Good Governance was added in December 2001, becoming an integral part of it. The protocol's main concern is the development of a constitutional state based on the rule of law, the strengthening of democracy and the adoption of common principles of good governance in the 15 member states of ECOWAS.

The 2001 supplementary protocol identifies, through its section IV, four core missions for the West African armed forces: defence of the democratic institutions (Articles 19[1] and 19[2]); peacekeeping missions under ECOWAS, the African Union (AU) or the UN (Article 19[4]); contribution to national development (Article 19[5]); and fighting terrorism (Articles 24[1] and 24[2]).

The ECOWAS Conflict Prevention Framework

The ECOWAS Conflict Prevention Framework (ECPF) was adopted by the MSC on 16 January 2008. It aims to address prevention and peacebuilding challenges in West Africa. The ECPF functions as an operational tool for the implementation of ECOWAS protocols and mechanisms on peace and security. It also seeks to mainstream conflict prevention into ECOWAS policies and programmes, using existing resources such as the departments of the commission (especially the

Department for Political Affairs, Peace and Security), the early warning system and the Council of the Wise.

The ECPF identifies 14 components: early warning; preventive diplomacy; democracy and political governance; natural resource governance; cross-border initiatives; security governance; women, peace and security; practical disarmament; youth empowerment; the ECOWAS standby force; human rights and the rule of law; humanitarian assistance; the media (role in a democracy and in transition); and peace education (culture of peace). Objectives, activities, benchmarks and capacity requirements for each component are identified in the document.

The member states and civil society are presented as the major actors and constituencies in conflict prevention and peacebuilding. In addition, the ECPF envisions coordination mechanisms with the AU as well as with the UN:

Within the overall framework of AU-ECOWAS cooperation, the African Union shall:

    a. Work in partnership with ECOWAS to identify conflict prevention and peacebuilding opportunities for cooperative action with ECOWAS and member states;

    b. Work in partnership with ECOWAS to create space and facilitate resource mobilisation for capacity-building and the implementation of the ECPF in member states;

    c. Facilitate the enhancement of ECOWAS capacity for the implementation of the ECPF (paragraph 118, ECPF).

Within the overall framework of UN-ECOWAS cooperation, the United Nations shall:

    a. Provide political legitimacy for the realisation of ECOWAS goals within the framework of the ECPF;

    b. Cooperate with ECOWAS in creating space and mobilising financial and technical support to implement the priority areas of human security in the region;

    c. Render support for capacity-building of ECOWAS, member states and civil society to undertake conflict prevention and peacebuilding activities (paragraph 119, ECPF).

Parliament's involvement in the decision process on sending troops abroad

Although sending troops abroad is increasingly important in the context of dealing with new threats and possibilities of solving international crises, parliament's role in some states is limited and sometimes non-existent when it comes to approving participation in peace missions. This situation can and should be improved, at least partly, in order to ensure democratic oversight of security issues.

Three different situations may be identified. For each of them, the parliament's role and direct participation could be improved with a view to good governance.

Parliament's *a priori* or *a posteriori* approval (strong role)

If *a priori* approval is required, armed forces can be sent abroad only in accordance with a decision by the parliament. A slight distinction has to be made between a situation where the legislature has the power to debate and take a vote on the topic (United States) and a case when it is compulsory to adopt a special law that sets the rationale and mandate for such a mission (Sweden). Both cases enforce the democratic legitimacy of humanitarian interventions and peacekeeping missions.

Timing is of the essence in defence matters. As parliamentary procedure is not generally expeditious, a criterion of prior approval is not always easy to implement. This is why, in most cases, it is only a posteriori that parliament is involved in the deployment of troops abroad. For example, under the United States (US) War Powers Resolution, the Congress should agree a posteriori on all engagements of troops abroad for more than 92 days. This stands mainly for instances when troops have already been deployed before the parliament was able to give its approval. In contrast, in the Netherlands, Article 100 of the constitution calls for early cooperation between parliament and government when it comes to armed forces going abroad. In this case, parliament must receive in advance all necessary information concerning the deployment or disposition of the armed forces for the enforcement or promotion of international law and order; this covers humanitarian aid in cases of armed conflict.

Parliaments with a restricted—debating—role on sending troops abroad (restricted role)

In this case, the constitution or laws restrict the role of parliament. The parliament is allowed to have a debate on sending troops abroad in a concrete case but cannot change the decision taken by the executive. Moreover, the parliament is not supposed to have a vote on this topic. The government only informs the parliament afterwards. Though the parliament cannot vote on the decision concerned, the debate as such enhances the democratic legitimacy of sending troops abroad.

In those cases where parliament's powers are very restricted, the parliament may not be associated formally with the procedure of sending troops abroad. However, customary practices may prescribe that the parliament and government debate on sending troops abroad and even, in some countries, vote on it.

Parliaments excluded from the decision process (no role)

This situation occurs when the parliament cannot even hold a debate on sending troops abroad and its a posteriori approval is not needed. Sending troops abroad is mainly regarded as a foreign policy decision belonging fully to the executive. The fact that the parliament does not take part in the decision-making process considerably limits its capacity to oversee peace missions.

Other means available to parliament

Even when the parliament is excluded from the decision-making process or can play only a very limited role, it can indirectly exert pressure on the government in at least four ways:

✓ The parliament can compel the executive to explain its responsibility before parliament for decisions regarding troops sent abroad. However, if the parliament is not fully informed about the government's international agreements, it cannot effectively challenge the government's decisions.

✓ The parliament can challenge the executive when presented with amendments to the budget. In cases of unplanned and unexpected peace missions, the parliament has to approve additional funds that were not included in the existing budget. Hence it has the possibility of expressing its opinions via the power of the purse (Chapter 21).

✓ Parliament's involvement is not limited to the debate and vote on sending troops abroad. During a peace mission, parliamentarians can put questions or use any question time to tackle the government regarding the mission. Additionally, parliamentarians can visit the troops abroad (see Chapter 23).

✓ From the point of view of post-accountability, after the peace mission is accomplished, parliament can carry out an inquiry or ask the government to assess the peace mission.

Role of West African parliaments

In West Africa, distinctions can be made between two kinds of stipulations regarding the role of parliaments in troop deployment outside the national territory:

✓ On the one hand, there are parliaments that have to approve the deployment, according to constitutions that are mainly inspired by the US model. This is the case in Nigeria (section 5[4] [b] of the 1999 Constitution) in particular.

✓ On the other hand, there are parliaments which have no power in this regard. This is generally the case in francophone states whose constitutions are inspired by the 1958 French constitution.

It is crucial to commit West African parliaments in the supervision and oversight of troop deployment in peacekeeping operations decided by ECOWAS member states. Indeed, participation in peace missions increasingly influences the way in which defence and security apparatuses are funded.

✓ Participating in peacekeeping missions can provide substantial resources to the security budget at the national level, states being entitled to a substantial financial contribution when their intervention is made under the aegis of the United Nations. Moreover, when a state sends troops to a peace mission led by a regional organisation, it is frequently given logistics (field hospitals, cars, radios) or equipment (boots, uniforms). The parliament definitely needs to be informed about the additional resources coming from participation in peacekeeping missions.

✓ In addition, participating in peacekeeping missions can provide substantial revenues and rising compensation to individual soldiers (with the opportunity to establish supplementary incomes, and thus to finance living expenses, social insurance and pensions). Participating in peace missions also enables soldiers to improve their professional skills and consequently gives them new opportunities in terms of career promotion and advancement. However, criteria used in the selection process are often based on nepotism and other shady practices that undermine the principles that should be upheld in the management of the security sector. Parliamentary supervision could contribute to introducing more objective selection criteria.

The ECOWAS Parliament was established under Articles 6 and 13 of the ECOWAS Revised Treaty of 1993 (see Chapter 6). The parliament is a forum for dialogue, consultation and consensus for representatives of the peoples of West Africa. It is empowered to consider any issues affecting the community, citizenship, technical matters and social integration. On these issues, the parliament is invited to make recommendations to the appropriate institutions and/or organs of the community. Presumably, parliamentarians may be asked to express their views on peacekeeping activities, which are a matter of interest to the community.

Box 33

The process of deploying UN peacekeeping operations

The United Nations has no army. Each peacekeeping operation must be designed to meet the requirements of the new situation; each time the Security Council calls for the creation of a new operation, its components must be assembled "from scratch".

The 15-member Security Council authorises the deployment of a peacekeeping operation and determines its mandate. Such decisions require at least nine votes in favour and are subject to a veto by the negative vote of any of the council's five permanent members (China, France, the Russian Federation, the United Kingdom and the United States). The secretary-general makes recommendations on how the operation is to be launched and carried out, and reports on its progress; the Department of Peacekeeping Operations is responsible for day-to-day executive direction, management and logistical support for UN peacekeeping operations worldwide.

The secretary-general chooses the force commander and asks member states to contribute troops, civilian police or other personnel. Supplies, equipment, transportation and logistical support must also be secured from member states or private contractors. Civilian support staff include personnel assigned from within the UN system or loaned by member states and individuals recruited internationally or locally to fill specific jobs.

The lead-time required to deploy a mission varies and depends primarily upon the will of member states to contribute troops to a particular operation. The timely availability of financial resources and strategic lift capacity also affects the time necessary for deployment. For some missions with highly complex mandates or difficult logistics, or where peacekeepers face significant risks, it may take months to assemble and deploy the necessary elements.

Source: See the United Nations website at http://www.un.org.

ECOWAS process for deploying peacekeeping troops

According to Article 19 of the 1999 mechanism, the Defence and Security Commission is responsible for formulating the mandate of peacekeeping forces for the consideration of the MSC, defining the terms of reference for the force and determining the composition of the contingents.

According to Article 22 of the 1999 mechanism, ECOMOG (now replaced by the ECOWAS Standby Force) was charged with the tasks of observing and monitoring, peacekeeping and restoration of peace, enforcement of sanctions (including embargos), preventive deployment, peacebuilding, disarmament and demobilisation, policing activities (including the control of organised fraud and crime), and any other operations as may be mandated by the MSC. It is also important to note that Article 25 of the mechanism authorises intervention in internal conflicts of member states if the situation threatens to trigger a humanitarian disaster, or poses a serious threat to regional peace and security.

A chain of command was established by the 1999 Mechanism, running from the chief of mission (Article 32[2]) to the ECOMOG commander (Article 33), the special representative (Article 34[1]), the force commander (Article 34[2]) and the contingent commanders (Article 34[3]). Article 52 states that ECOWAS shall, "in accordance with Chapter VII and VIII of the United Nations Charter, inform the United Nations of any military intervention undertaken in pursuit of the objectives of the Mechanism."

Finally, Chapter IX of the mechanism relates to the task of peacebuilding in the aftermath of conflict. Once hostilities have ceased, ECOWAS efforts will be focused on peace consolidation (Article 44[a]), establishment of political conditions (Article 44[b]), implementation of disarmament (Article 44[c]), resettlement and reintegration of refugees and internally displaced persons (Article 44[d]), and assistance to vulnerable persons (Article 44[e]).

Box 34

Rules of engagement of peace missions

When the parliament authorises sending troops abroad, it may also define the level of force the troops are allowed to use and under what circumstances; in other words, the rules of engagement.

Rules of engagement (ROE) stipulate the prescribed limits to indiscriminate use of deadly force for a particular operation. They have to be decided on an individual basis, and try to limit as much as possible the use of force while at least simultaneously allowing soldiers sufficient latitude to defend themselves. The fundamental premise of self-defence must be sustained. ROE are soldier support factors as well as operational or tactical parameters. They must be carefully tailored to comply with operational and political concerns, as well as international regulations such as UN Security Council resolutions.

ROE must incorporate criteria that clearly outline the application of a graduated use of force to provide the balance in the military response needed to defuse, escalate or resolve confrontation. Defining ROE in terms of graduated levels of response enables tactical elements to apply the force necessary to meet varying levels of violence while minimising collateral damage. In this sense, ROE can stipulate the following levels of use of force (from minimum to maximum):

✓ Only for self-defence of the troops;

✓ Self-defence of troops plus defence of life of civilians;

✓ Self-defence of troops, life of civilians and defence of determined objectives (i.e., a hospital, a bridge, etc.);

✓ The use of all necessary measures to ensure the aims of the operation are fulfilled.

At the same time, ROE should include reference to the kind of weapons allowed in a specific peace operation. The range might be from no weapons at all to heavy weapons including ships, planes and missile technology.

Source: Fluri, Philipp, Johnsson, Anders and Born, Hans, eds. (2003), *Parliamentary oversight of the security sector: principles, mechanisms and practices.* Handbook for parliamentarians No. 5. Geneva: IPU and DCAF.

Training soldiers for peace

Participating in a peacekeeping operation is a demanding task for any military force and requires additional training and instruction on top of the standard preparation of the troops.

This is true at the operational level, where troops may need special knowledge on demining, the capability of interacting with civilians, including practical mediation skills (as well as, in some cases, knowledge of the local language), knowledge about local customs and traditions, a clear understanding of human rights and humanitarian law, and a comprehensive knowledge of the rules of engagement of the specific mission.

The need for special training is also relevant at the planning level: transporting and provisioning the troops becomes a particularly difficult challenge and in some instances overwhelms the material capabilities of certain states.

Lastly, extra training and preparation are also required at the commanding and logistic levels. As national troops of many countries may be operating in the same area under a unified control, the traditional straight line of command leading to a ministry of defence is changed. Coordination between the different national armed forces and organisations such as the International Committee of the Red Cross becomes fundamental.

Box 35

Peacekeeping training in West Africa

In West Africa, three regional peacekeeping schools are contributing to the training of the military, paramilitary and civil recruits coming from African states, particularly ECOWAS member states, to allow them to participate in the peace support operations led by the United Nations, the African Union or other regional organisations.

► **The Kofi Annan International Peacekeeping Training Centre,** located in Accra (Ghana), trains and prepares peacekeeping force headquarters (commanders and their staff, military and civilian) at the operational level of command to operate effectively and cohesively as a national or regional force headquarters or as part of an international coalition force headquarters in the contemporary peacekeeping environment..

► **The Ecole de Maintien de la Paix,** located in Bamako (Mali), trains soldiers and civilians at the tactical level.

► **The National Defence College** in Abuja (Nigeria) provides peacekeeping training at the strategic level.

In addition, most of the ECOWAS member states' military and police academies have inserted peacekeeping training sessions into their curricula.

Finally, since the mid-1990s, a number of non-African powers have been training African troops to improve their peacekeeping skills: France under the so-called RECAMP programme (Programme de renforcement des capacités africaines de maintien de la paix), now known as EURECAMP since the European Union integrated it into its training policy; the United States with the ACOTA (Africa Contingency Operations Training and Assistance) programme, formerly known as ACRI (African Crisis Response Initiative); the United Kingdom (UK) with the UK African Peacekeeping Training Support Programme; and Portugal with the PAMPA programme (Portuguese Support of Peace Missions in Africa).

Criteria for sending troops on humanitarian missions abroad

The parliament and government could develop criteria for sending troops abroad. Using a clear set of criteria increases transparency of the decision-making process, which could increase public support for peace operations. Two kinds of criteria are relevant. The first set of criteria refers to the political context and type of operation. The second set focuses on the mission itself, its mandate, command, duration and the types of troops (see below).

What you can do as a parliamentarian

General criteria referring to the context and type of peace missions

► Make sure that parliament or its competent committee(s) looks into:
  - ✓ The international commitments of the state;
  - ✓ The appropriateness of sending/receiving troops as part of a peace mission;
  - ✓ The rationale for or background to any specific intervention (e.g., a large-scale violation of human rights in the country concerned);
  - ✓ The establishment of basic terms of reference for regional or global peace missions;
  - ✓ The basic rules of engagement of soldiers in regional or global peace missions;
  - ✓ The proportionate use of military force;
  - ✓ The provisions for effective political decision making;
  - ✓ The limits to the authority of the state;
  - ✓ Public support for or hostility to the very principle of national involvement in peace missions;

✓ Assessment procedures and any principles with regard to possible follow-up issues;

✓ The need for parliament to receive full information at the end of the mission, in order to review the entire peace mission.

Specific criteria relating to a given peace mission

► Make sure that parliament or its competent committee(s) looks into the following:

✓ The definition of the scope and mandate of the peace mission;

✓ The type of military units involved;

✓ The military feasibility of the mission;

✓ The suitability and availability of the military units and materiel;

✓ The potential risks for the military personnel concerned;

✓ The expected duration of the operation and the criteria to be met for its prorogation in case of need;

✓ The budgetary implications;

✓ The public reaction to the matter.

Use of parliamentary procedures in connection with peace missions

► Make sure that, if necessary, parliament may:

✓ Conduct public hearings on peace missions;

✓ Conduct an inquiry into the carrying out of a peace mission;

✓ Request that any personnel involved in a peace mission who are suspected of human rights violations are duly called to account.

► Do not hesitate to resort to the procedure of parliamentary questions and hearings with regard to ongoing peace missions.

Security under parliamentary scrutiny: conditions and mechanisms

Conditions for effective parliamentary oversight[1]

In any democracy, the role of the parliament is vital. A genuine democracy is inconceivable without a parliament or its functional equivalent playing its legislative and oversight roles. Similarly, it is difficult to imagine a security sector functioning according to democratic principles and norms without parliamentary involvement and oversight. Parliamentary oversight of the security sector depends on the power of the parliament in relation to the government and the security services. In this context, power means the capacity to influence the government's options and behaviour according to the collective will of the people as expressed in parliament. It also includes the capacity to oversee the implementation of policies, legislation, decisions and the budget, as approved by the parliament. This power derives not only from the constitution and laws but also from rules of parliamentary procedures and customary practices.

Conditions for effective parliamentary oversight of the security sector include:

✓ Clearly defined constitutional and legal powers;

✓ Sound customary practices;

✓ Sufficient resources and established expertise; and

✓ Demonstrated political will.

---

1 This chapter was adapted from the IPU-DCAF Handbook for Parliamentarians by Dr. Boubacar N'Diaye.

Constitutional and legal powers

The constitution (or its equivalent) provides the most important legal basis for parliamentary oversight of the security sector. While constitutions vary from one country to another according to the country's political, cultural, economic and social background, most constitutions stipulate that:

√   The executive (e.g., president, prime minister or minister of defence) is responsible for, directs and disposes of the armed forces and security services; and

√   The executive is accountable to the parliament.

As constitutional provisions have the highest juridical status, it is important to inscribe parliamentary powers regarding the security sector in the constitution. Constitutions cannot be easily changed; any such reform generally requires a qualified majority in parliament. Therefore the constitution represents an effective way of protecting the power of the parliament in that sensitive field.

While the executive typically is in charge of defence and security matters, the constitutions of most West African countries nonetheless reserve considerable powers for the parliament in the management of armed forces. For example, the 1999 Constitution of the Federal Republic of Nigeria (Section 218[4]) gives authority to the National Assembly to make laws for the regulation of "the powers exercisable by the president as Commander-in-Chief of the armed forces of the Federation, and the appointment, promotion and disciplinary control of members of the armed forces of the Federation."

Similarly, the Constitution of Mali stipulates that the parliament has the power to determine by law "the general organization of the defence and national security" of the country. Comparable versions of this disposition are found in other constitutions in francophone countries. Such powers may be further reinforced by specific legislation (which the parliament must realise it has the power to enact) and through the rules of procedure of parliament. In addition, over time social norms and practices for accountability and parliamentary oversight have been developed.

Box 36 gives an indication of the wide range of powers that parliaments can use when overseeing the security sector. Most of these powers are discussed in other chapters.

Box 36

Instruments or tools that may be used by parliament for securing democratic oversight of the security sector

1. General powers

    a. To initiate legislation
    b. To amend or rewrite laws
    c. To question members of the executive
    d. To summon members of the executive to testify at parliamentary meetings
    e. To summon military staff and civil servants to testify at parliamentary meetings
    f. To summon civilian experts to testify at parliamentary meetings
    g. To obtain documents from the executive
    h. To carry out parliamentary inquiries
    i. To hold hearings

2. Budget control

    a. Access to all budget documents
    b. The right to review and amend defence and security budget funds
    c. Budget control is exercised on the level of programmes, projects and line items
    d. The right to approve/reject any supplementary defence and security budget proposals

3. Peace missions/deployments abroad: the parliament's right to approve/reject

    a. Participation in decision making before troops are sent abroad
    b. Mandate of the mission; ensuring a United Nations mandate
    c. Budget of the mission
    d. Risks of military personnel involved
    e. Rules of engagement
    f. Chain of command/control
    g. Duration of the mission
    h. The right to visit troops on mission

4. Procurement

    a. Obligation of the executive to inform parliament fully on procurement decisions
    b. The right to approve/reject contracts
    c. Review of the following phases of procurement:
        i. specifying the need for new equipment
        ii. comparing and selecting a manufacturer
        iii. assessing offers for compensation and offset

5. General defence and security policy: the right to approve/reject

    a. Security policy concept
    b. Crisis management concept
    c. Force structure
    d. Military strategy/doctrine

6. Defence/security personnel

    a. The right to approve/reject the personnel plan
    b. The right to fix ceilings for manpower
    c. The right to approve/reject or the right to be consulted on the highest military appointments (such as chief of staff)

Source: Fluri, Philipp, Johnsson, Anders and Born, Hans, eds. (2003), *Parliamentary oversight of the security sector: principles, mechanisms and practices.* Handbook for parliamentarians No. 5. Geneva: IPU and DCAF.

Customary practices

Not all behaviour and interaction can be regulated by law. Hence it is equally important to develop and maintain habits and practices of parliamentary oversight backed by social norms, such as mutual respect and trust. For example, informing and involving parliamentarians fully and in a timely manner about new developments with regard to security is not only a matter of transparency and legal accountability but of dialogue between people too.

Parliamentarians should acquire and develop their people skills and cultivate relations of trust with other security actors, including members of the armed and security forces.

Resources and expertise

Generally, the ability of the parliament to oversee the security sector depends on such factors as time, the level of expertise and quality of the information available to its institutions, specialised commissions and members.

The time factor

It is crucial for parliament to receive timely information on the government's intentions and decisions regarding security issues and the security sector. The parliament will not have a strong case if the government briefs it only after having reached a final decision. In such situations, the parliament will be confronted with a fait accompli and will have no other alternatives than to approve or reject the government's decision.

In times of national crisis or emergency, the government is usually bound to act very quickly and will only inform the parliament post facto. This, however, does not excuse it from acting within the framework approved by parliament.

As far as regular and long-term policy issues are concerned, parliament should have enough time to analyse and debate essential matters such as the defence budget, arms procurement decision making or a defence review.

One way of getting round the time pressures routinely confronting parliamentarians in their work is to develop a proactive strategy. Box 37 presents some elements of such a strategy for overseeing the security sector.

Box 37

Proactive strategies for parliamentary oversight of the security sector

The work of parliamentarians is often dominated by the news of the day. Moreover, their political agenda is to a large extent imposed by the government. An effective way to overcome time restraints, however, may be to develop a proactive strategy for parliamentary oversight. With regard to the security sector, such a strategy could include the following.

► **Agenda setting.** Parliamentarians should continuously try to translate people's intentions and needs into issues on the political agenda.

► **Latest developments.** The parliament needs to stay informed about the latest national and international developments in security and military matters. This may be achieved not just via governmental channels but also via non-state organisations such as universities, think tanks, etc.

► **Lessons learned.** The parliament needs to learn from past operations carried out by security sector participants, by means of frequent and structural reviews.

► **Continuous review.** The parliament has to require that the government take account of all latest intentions, developments and lessons learned when updating its security policy.

Source: Fluri, Philipp, Johnsson, Anders and Born, Hans, eds. (2003), *Parliamentary oversight of the security sector: principles, mechanisms and practices.* Handbook for parliamentarians No. 5. Geneva: IPU and DCAF.

Information, expertise and parliamentary staff

Effective parliamentary oversight of the security sector requires expertise and resources within the parliament or at its disposal. However, the expertise found within parliament rarely matches the expertise of the government and the security forces. In most cases, parliaments have only a very small research staff, if any, whereas the government can rely on the staff of the ministry of defence and other ministries dealing with the security sector. Some parliaments, like the Argentine Congress, have a military liaison office permanently attached to them that can be consulted by parliamentarians and parliamentary staff and can provide advice, more especially to the committee on defence/security issues. In addition, parliamentarians are only elected to sit in parliament for a limited term, whereas civil servants and military personnel on the whole spend their entire career in the ministry of defence.

In West Africa, as in most of the world, the basic problem is that parliaments mainly rely on information emerging from the government and military, yet these are the institutions they are supposed to oversee. This creates a disadvantageous position for parliamentarians vis-à-vis their counterparts in the executive branch and military. The situation is made worse by the closed nature of the security sector due to its typically military modus operandi, a culture of secrecy sometime reinforced by laws.

Even when they outlast parliamentarians, the staff of most parliaments in West Africa have very limited (if any) expertise in defence and security matters. Limited financial means allow neither the accumulation and upkeep of relevant documents and archives nor the training and capacity-building of parliamentary staff. Not surprisingly, the staff of the parliament share the tendency of parliamentarians to concede to the expertise of members of the defence and security forces in security matters. They may consider it an infringement on their reserved domain, even a challenge, to develop such expertise. Finally, most West African countries have not developed an "infrastructure of knowledge" in security matters in the form of think tanks, foundations, academic institutions and civil society organisations with established expertise to help parliamentarians (or for that matter the executive branch) address these issues. This will be a challenge for parliamentarians to meet in the coming years as security issues gain even more saliency.

Political will

Even if the legal basis for parliamentary oversight is impeccable (that is, the parliament has the constitutional and legal authority) and the parliament has enough resources and expertise to fulfil its mission, effective parliamentary oversight of the security sector cannot be taken for granted. The last condition for proper parliamentary oversight is the political will of the parliamentarians to use the tools and mechanisms at their disposal. It is a crucial condition for effective parliamentary scrutiny of the security sector.

For decades, parliaments in West Africa were at best rubber-stamp parliaments whose main mission was to provide formal legal sanction to decisions made by the executive, whether military or civilian. Security issues were typically out of bounds for parliaments. This legacy, along with other challenges mentioned above, is not easily overcome even when the political and security environments are much more permissive for parliaments to genuinely play their role.

A combination of this legacy and other handicaps makes it difficult for parliamentarians to muster the required political will to carry out their mission in the security sector. In West Africa, the lack of political will to exercise oversight on the security sector can be caused by different factors, including:

✓ A legacy of deference to the executive branch in security matters and a resulting deficit in expertise and self-confidence on the part of parliamentarians in their ability to be effective in playing their control and oversight role.

✓ Party discipline and loyalty: sometimes it is in the interest of the parliamentarians of the governing party to keep the executive in power. They have a tendency to refrain from public criticism of the executive, or of individuals, because of political or personal affinities.

✓ Constituency interest/lack of interest: in many West African countries, the public may not be generally interested in "security issues", certainly not as typically framed. The average citizen also tends to abide by the legacy of treating "security" as the preserved domain of high authorities. Therefore, parliamentarians may consider that it "does not pay" in terms of electoral politics to spend too much of their time on security issues. Parliamentarians should recast security as a public good all citizens should feel concerned about and are competent to address.

✓ Security considerations force parliamentarians, who are for example members of the intelligence committee, not to disclose their findings.

✓ Personal choice leads parliamentarians to share in the rewards of poor and non-transparent management of the security sector that accrue to members of the executive branch, instead of challenging irregularities and facing the attendant risks.

These are only some of the explanations why political will to carry out faithfully the oversight function may be lacking in West African parliaments, as in many others around the world. As a result of this, parliamentary instruments may be applied in a tentative or "lukewarm" way when overseeing the policies and actions of the executive, except when an extreme situation such as a scandal or an emergency compels otherwise. Nevertheless, it is a constitutional duty and an important mission of any parliamentarian to scrutinise with vigilance and foresight the intentions and actions of the executive in its administration of the security sector.

What you can do as a parliamentarian

► Establish—wherever it does not yet exist as a separate entity—a parliamentary security/defence committee concentrating expertise and parliamentarians' knowledge on security issues. Parliament could consider dividing the defence committee into subcommittees on procurement, personnel issues, the budget and peace missions.

► Hold regular hearings on relevant security issues and obtain the testimony of national and regional experts; keep records of depositions.

► Attend national and international seminars and go on study tours, visits to premises of security services (see Chapter 23) and training sessions for parliamentarians on security and security-related issues. This could also include briefings for parliamentarians travelling to countries where national troops are involved in peace missions.

► Exchange experiences and practices with parliamentarians from different countries, for example during sessions of international parliamentary assemblies.

► Have well-trained and sufficiently numerous professional parliamentary staff selected through an open recruitment process.

► Secure access to specialised and up-to-date libraries and documentation/research centres, including electronic databases.

► Secure advice from external experts from non-state organisations (e.g., universities, think tanks) or retired military officers.

► Make international and regional treaties relating to the security field available to parliamentarians in the national language(s) together with their status of ratification and relevant documents from the treaty monitoring bodies, if any.

► Select on a yearly basis two or three themes related to the security sector that will be thoroughly investigated (e.g., by subcommittees).

► Set up an all-party group of parliamentarians (both chambers wherever appropriate) concerned with security/defence issues: such a caucus may serve as an informal think tank on these issues.

► Encourage, including through appropriate tax policies and other incentives, the growth of independent national and regional expertise in the form of independent research and policy institutions that specialise in defence and security issues.

Parliamentary mechanisms applied to the security sector[1]

All legal systems provide parliaments with a variety of means to retrieve information for controlling policy, supervising the administration, protecting the individual and bringing to light and eliminating abuse and injustice. In addition, parliamentarians can benefit from or develop good practices and informal methods that complement these constitutional or legal tools and mechanisms. While the constitution may provide for some of these mechanisms, parliamentary rules of procedure (often referred to as standing orders) stipulate which actors are allowed to employ which mechanisms, on which occasions and how they may be employed.

Although several mechanisms are available, the three common methods by which parliaments obtain information from the government are:

✓   parliamentary debates;

✓   parliamentary questions and interpellations; and

✓   parliamentary inquiries.

Parliamentary debates on security

Parliamentary debates on security issues provide a key opportunity for exchanging opinions and gathering essential information about facts and the government's intentions. Generally speaking, parliamentary debates on security policy and issues can occur in five types of situations.

---

1   This chapter was adapted from the IPU-DCAF Handbook for Parliamentarians by Mr. Okey Uzoechina.

✓ Following the presentation by the executive of its yearly defence budget proposals.

✓ Further to official or unofficial statements by relevant ministers, such as the minister of defence or the minister of foreign affairs.

✓ In connection with a national defence review or the presentation of a defence white paper, or any other major national defence documents.

✓ In connection with the government's programmes, which are mainly issued after an election.

✓ Regarding any specific issue that demands a parliamentary debate, such as a scandal, major security concern or disaster.

Box 38

Common features of the parliamentary machinery and procedures for overseeing the executive

The work of parliamentarians is often dominated by the news of the day. Moreover, their political agenda is to a large extent imposed by the government. An effective way to overcome time restraints, however, may be to develop a proactive strategy for parliamentary oversight. With regard to the security sector, such a strategy could include the following.

► **General debate**

"In some countries, the provisions of the constitution require the executive to give parliament periodic accounts of its stewardship…. In most countries, matters of general policy are not automatically subject to periodic examination. Most often they would come up for debate if specifically raised by a member…."

► **Interpellation**

"Interpellation is the stock procedure for obtaining information and exercising control in the classical parliamentary system. An interpellation is addressed by a member of parliament either to a minister to explain something his department has done or to the head of the government on a matter of general policy. An interpellation has two essential features: first it gives rise to a general debate; and secondly it carries a political sanction, because the debate culminates in a vote on a motion expressing either the satisfaction or the dissatisfaction of the house with the explanations furnished by the government. An interpellation is a most effective procedure because ministers are called directly to account. It is not simply a device to obtain information, but a direct form of control…."

► **Adjournment motion**

"In the British system, the procedure of interpellation is unknown, though the 'adjournment motion' is not unlike it. The adjournment motion moved

immediately before the beginning of a recess gives an opportunity for raising a series of matters with the government, but no vote is taken….”

► **Questions**

“The procedure of questions’… purpose is to elicit concrete information from the administration, to request its intervention and, where necessary, to expose abuses and seek redress. It is also used to obtain detailed facts which will help members to understand the complicated subject matters of bills and statutory instruments laid before parliament…. [T]he procedure provides the opposition with a means of discovering the government’s weak points and because of the publicity given to them they have a salutary effect on the administration…. The popularity of this procedure can be attributed to the fact that in making use of his right to ask questions, the member of parliament is a completely free agent….”

► **Committees of inquiry**

(see Box 40 below)

Source: Michel Ameller (1966), *Parliaments: A Comparative Study of the Structure and Functioning of Representative Institutions in 55 Countries.* Geneva: Inter-Parliamentary Union.

Parliamentary questions and interpellations relating to security

Questions—either written or oral—form part of the parliament’s inquisitorial function and are one of the most widely used parliamentary procedures to oversee a government’s action.

Questions can dramatically contribute toward an effective oversight of the security sector, given the essential function they perform. With regard to security, in general, parliamentary questions:

✓ Provide members of parliament with an opportunity to obtain timely, accurate and up-to-date information about the government’s defence and security policy and security issues in general;

✓ Help parliament to control the implementation of security-related statute laws adopted by parliament;

✓ Help to focus public attention on defence and security issues, especially when the question is oral and the response is broadcast or televised and/or otherwise reproduced in parliamentary debates or the national official bulletin (clearly, the informative function of parliamentary questions is not limited to the area of the parliament itself. Questions are also aimed at providing information for a larger audience, including the media, non-governmental organisations and civil society as a whole);

✓ Can be instrumental in influencing or reorienting the government's political agenda on security issues; and

✓ Allow members of the opposition to raise questions on security issues of concern to them or regarding which they had not been able to obtain satisfactory information so far.

The standing orders of the Sierra Leone parliament (2007–2012) contain elaborate provisions for questioning government ministers. Questions may be put to ministers relating to public affairs for which they are responsible, proceedings pending in parliament or any matter of administration they are responsible for. Procedural and substantive rules of questioning specified in Order Nos. 20–22 include the following:

✓ A question shall not be asked without notice unless it is of an urgent character and the member of parliament has obtained the permission of the speaker to ask it;

✓ A member who desires an oral answer to a question shall mark his notice with an asterisk and such a question shall be put down for a day not earlier than 14 clear days after the day on which the notice was given;

✓ A question may not include the names of persons or statements of fact unless they are necessary to make the question intelligible and can be authenticated;

✓ A question may not contain arguments, expressions of opinion, inferences, imputations, controversial, inimical or offensive expressions or be based upon hypothetical cases;

✓ A question may not be asked regarding proceedings in a committee of the house before the committee has presented its report to parliament;

✓ A question may not be asked regarding any matter on which a judicial decision is pending, or which reflects on the decision of a court of justice;

✓ A question may not be asked which makes or implies a charge of personal character or which reflects upon character or conduct, except of persons in their official or public capacity;

✓ A question may not be asked seeking information about any matter which is secret;

✓ A question may not be asked seeking information set forth in accessible documents or ordinary works of reference;

✓ After the answer to a question has been given, supplementary questions may, at the discretion of the speaker, be put for the purpose of elucidating the answer given orally. The speaker may refuse any question which introduces matters that are not related to the original question;

✓ The speaker may at his discretion permit a member to ask a question in the house in the absence of the member who has given notice of such a question;

✓ Subject to the approval of the speaker, a minister may state that he declines to answer a question if the publication of the answer will be contrary to the public interest.

Parliamentary questions with regard to the security sector are, for the most part, very sensitive. The minister responsible for answering parliamentary questions often shows little willingness to do so. Such reluctance often derives from the confidential character of the activities of the security sector. In many cases, documents concerning national security are classified and therefore unavailable to parliamentarians or the public.

Box 39

Suggestions for effective questioning

► **Thorough preparation:** it is impossible to improvise when questions asked relate to security issues, especially technical ones. Informal contacts with military personnel (or a personal military or paramilitary background) can also be of great help.

► **Unequivocal language:** a lack of clarity in the formulation of the question that may give rise to some form of misunderstanding can entail an inadequate, insufficient or misguided ministerial answer.

► **Timing:** the moment at which a question is raised is, of course, crucial to its effectiveness and its impact, including in terms of publicity.

Source: Fluri, Philipp, Johnsson, Anders and Born, Hans, eds. (2003), *Parliamentary oversight of the security sector: principles, mechanisms and practices.* Handbook for parliamentarians No. 5. Geneva: IPU and DCAF.

The power of the executive to classify documents is limited by law, however. Moreover, the process of classifying documents has to be transparent so that it is known who is responsible for deciding which documents can be subject to classification, the duration of the confidentiality period and the conditions for classifying and declassifying documents.

As far as the institutional context is concerned, the following factors appear to contribute to the effectiveness of parliamentary questions:

✓ The possibility for parliamentarians to present complementary questions whenever they are not satisfied with the answer or need further clarification.

✓ The possibility for parliamentarians to initiate a debate on issues raised during question hour.

✓ The will of members of parliament to avail themselves of the procedural possibility to ask questions.

✓ The possibility for the public to attend parliamentary question time, or follow it on radio or television.

✓ The publicity surrounding the debates that follow and, in any case, the publication of the questions and answers in documents accessible to the public.

Special parliamentary inquiries on security

Apart from their role in the legislative process, parliamentary committees also take part in the effective oversight of government policy. Government activities can be monitored by means of temporary information assignments, which may involve more than one committee and usually result in the publication of a report. Where the mandate of the committee is ad hoc, this mandate terminates upon conclusion of the inquiry and the submission of the committee's report to the parliament. In Benin, Niger and Togo, a proposal for a committee of inquiry on a specific issue is referred to one of the existing committees that has jurisdiction over the issue. The committee examines the proposal and reports back to the plenary. Parliament then decides on the establishment and terms of reference of the committee based on the report. Special parliamentary inquiries should have subpoena powers of judicial inquiry.

With regard to security/defence issues, ad hoc committees of inquiry have significant importance and their advantages are numerous. In particular:

✓ Their very setting up may be viewed, by the public especially, as a positive political signal;

✓ They may be an adequate tool for detailed scrutiny of politically sensitive issues related to the security sector; and

✓ They may allow a precise evaluation of the government's policy on specific security issues and propose, where appropriate, means of redress or reorientation likely to be accepted by the entire house and the government.

Box 40

Key characteristics of parliamentary committees of inquiry

"Committees of investigation are widely used to study specific issues. For this purpose, parliament instructs a number of its members to collect such information as it needs to enable it to exercise proper control, and to make a report on which the house will, if it thinks fit, hold a debate and come to a decision.

> The right to institute an inquiry is a natural corollary of the principle that parliament must be fully informed of any matter on which the Executive takes action (…).
>
> In some countries, it is difficult for committees of inquiry to make an effective inquiry. Often they have no power to compel persons to attend except by ordinary process in the courts. This entails the intervention of governmental authorities, slows down the committee's proceedings and mutes the effect of its inquiry. (…) Yet the best way of making a parliamentary inquiry effective is by taking evidence on oath. (…)
>
> Evidence given by civil servants to committees of inquiry raises a special problem because they are subordinate to the minister in charge of their particular department. How far can the government order them not to reply to questions put to them by parliamentarians? (…) In [some countries] the consent [to give evidence] of the department concerned is always required; but it may not be withheld unless to furnish the information required would be prejudicial to public security or liable to jeopardise or make difficult the carrying on of the public service (…).
>
> It should be noted that, whatever the system, the committee set up to conduct an inquiry is nothing more than an investigating and fact-finding body whose sole function is to make a report to the house which has set it up. It is always a matter for the house itself to draw the necessary conclusions from the inquiry and data elicited by it (…)."
>
> *Source:* Michel Ameller (1966), *Parliaments: A Comparative Study of the Structure and Functioning of Representative Institutions in 55 Countries.* Geneva: Inter-Parliamentary Union.

Another important feature of committees of inquiry is their composition. The proportion of opposition members of parliament involved as opposed to those of the majority is, of course, of crucial importance to the outcome of the inquiry.

Given that the power to conduct inquiries is one of the bedrocks of parliamentary oversight, it is prescribed as a matter of course in the constitutions of most West African states (Section 146, Cape Verde's 1999 constitution; Section 109[2]–[3], the Gambia's 1997 constitution; Article 103[3] and 103[6], Ghana's 1992 constitution; Sections 88–89, Nigeria's 1999 constitution; Articles 62 and 85, Senegal's 2001 constitution; Section 93[3]–[6], Sierra Leone's 1991 constitution). According to section 88(2) of the Constitution of the Federal Republic of Nigeria 1999, the investigative powers conferred on the National Assembly are exercisable only for the purpose of enabling it to make laws with respect to any matter within its legislative competence and correct any defects in existing laws. It can expose corruption, inefficiency or waste in the execution or administration of laws and in the disbursement and administration of funds appropriated by it.

The inquiry powers vary substantially from one parliament to another and from one committee to another. The core powers include the power:

✓ To choose the topic and scope of the parliamentary inquiry;

✓ To carry out visits to army bases and other premises of security services (see Chapter 23);

✓ To collect all relevant information, including classified and top-secret documents, from the presidency, governmental administration or the general staff;

✓ To summon witnesses and issue a warrant to compel the attendance of any person who, after having been summoned to attend, fails, refuses or neglects to do so;

✓ To issue a commission or request to examine witnesses abroad;

✓ To take evidence under oath from members of the presidency, government administration or the military, as well as civil society; and

✓ To organise public or closed hearings.

Box 41

Parliamentary oversight mechanisms in some West African states

Côte d'Ivoire, National Assembly

► **Accountability of government to parliament**

The president is the exclusive bearer of executive power and is the head of the civil service. He appoints the prime minister, who is responsible to him (Article 41 of the constitution).

► **Oral and written questions of parliamentarians**

Parliamentarians may put oral or written questions to the government. The president must reply within a month of the question being asked. However, in exceptional circumstances or to gather information for the response, he may ask for an extended deadline that may not exceed one month. For oral questions, the deputy (the parliamentarian) may request when delivering his or her question that the presidential reply be followed by a parliamentary debate. At the request of one quarter of the deputies, whose presence must be accounted for by a roll call, an oral question that has just been answered may, upon the assembly's decision, also be followed by a debate. The inclusion of oral questions in the agenda is decided by a chairpersons' conference. Questions may only be included if they were submitted eight days before the meeting.

► **Committees of inquiry and missions to government departments**

The parliament exercises control over government administration through committees of inquiry and missions to the government to audit public financial services.

Mali, National Assembly

► **Accountability of government to parliament**

The cabinet is collectively responsible before the National Assembly (Article 54 of the constitution).

► **Oral and written questions of parliamentarians**

Parliamentarians can pose oral questions, which are answered in plenary session. Written questions are answered within a month of being tabled. The time reserved for oral questions is at the start of the plenary session following the tabling of the oral question. Questions do not give rise to debates, however.

► **Committees of inquiry and missions to government departments**

The parliament exercises oversight over the administration's activities through committees of inquiry and the standing committee for the evaluation and monitoring of draft bills.

Niger, National Assembly

► **Accountability of government to parliament**

The government sets out and conducts national policy (Article 61 of the constitution). It is collectively responsible before the National Assembly. Presidential acts are countersigned by the prime minister and relevant ministers where applicable.

► **Oral and written questions of parliamentarians**

Parliamentarians may, either individually or collectively, interpellate the prime minister or any member of government by means of a request (Article 80 of the constitution). They may also obtain information on government activities through written or oral questions.

► **Committees of inquiry and missions to government departments**

The National Assembly may set up special committees of inquiry or oversight on any given subject.

Togo, National Assembly

► **Accountability of government to parliament**

Under the authority of the president, the government decides and leads national policy and directs civil and military administration (Article 77 of the constitution). Government is collectively responsible to the National Assembly.

► **Oral and written questions of parliamentarians**

The members of the government may be heard by the National Assembly or its committees by means of interpellations or written or oral questions, which may give rise to debate. As part of questions with debate, the conference of presidents (committee heads) sets the total time given to parliamentary groups, divided among parliamentary groups proportionate to their numerical strength. When government questions are without debate, the president may reply to the government. No voting may take place when government communications are under way.

► **Committees of inquiry and missions to government departments**

The National Assembly may authorise the committees to appoint information or inquiry missions for issues within their competence. The objective, duration and composition of the mission must be stated, and it must report to the assembly within a fixed deadline. A committee of inquiry or control is created by the assembly as a result of voting for a motion for resolution. This motion must state precisely either the factors that give rise to an inquiry or the public services or state enterprises whose management must be examined by the committee. The relevant committee must submit its report during the month of the ordinary session following the appropriation of this motion.

Source: Data generated from the IPU PARLINE database (September 2009).

Application of the parliamentary mechanisms to security-related issues in West African states

Generally, parliaments in West African states are bestowed with significant oversight powers by virtue of the mechanisms of investigation (committees of inquiry), questions and interpellations, and general debate. However, the parliaments have proceeded with great and undue caution in applying these mechanisms to the security sector, a perceived exclusive sphere of competence of the military and, in some cases, the president as commander-in-chief of the armed forces.

Parliaments have often shied away from investigating irregularities and allegations of corruption in defence equipment procurement, loss of civilian lives and other gross human rights violations by armed and security forces, as well as budgetary malfeasance in the defence and security establishment. For instance, the high-handed operations of the joint military task force against militant groups in Nigeria's Niger Delta in May 2009 were justified by the National Assembly on the grounds of national security, even when there were civilian casualties. Ironically, in the few cases where parliamentary inquiries have been conducted, the reports of such inquiries are often not made available to the public due to applicable secrecy laws or the apprehension that such publication will be contrary to the interest of national security.

Box 42

Reaction of the minority in the parliament of Ghana over acquisition of four MH7 helicopters

Parliament approved US$55 million for the purchase of equipment for Ghana's Congo UN operations. This included four MH7 helicopters, of which two were to be used for the UN operations and two kept for the Ghana Air Force. The original estimated cost for these helicopters was US$14.5 million. However, for inexplicable reasons the cost estimates were changed to US$19.5 million.

On 20 August 2002, the Ministry of Defence (MoD) signed an agreement with Wellfind, a United Kingdom company, for the supply of four MH7 helicopters, spares and flight training. Wellfind subsequently signed an agreement with Kazan, a Russian manufacturing company, for the supply of these helicopters, spares, tools and flight training on 24 September 2002. However, before deliveries could be made, the Ghanaian minister of defence opened negotiations with yet another Russian company, Rosoboron Export. The cost of Rosoboron Export's offer was considerably higher (US$5 million) than that of Wellfind/Kazan. The minority in parliament criticised the minister's suspension of a contract without due process of law and raised the spectre of corruption in the process. As a result, parliamentarians and several newspaper editors raised concerns about the unexplained increase in cost outlays and the general necessity for these acquisitions.

The minority party in parliament, the New Democratic Congress, and its chief whip, E. K. Doe Ajaho, alleged some amount of corruption in the procurement process. Kwame Addo-Kufuor, the defence minister, in responding to the opposition criticism for the wholly untoward abrogation of the Wellfind/Kazan contract, argued that the suspension had come about "due to some unanticipated financial circumstances beyond its [MoD] control." The MoD promised that it "would in future… revisit the contract when our finances improve."

In spite of the media and political criticism, the MoD argued that the procurement process, prior to its abrupt abrogation, had been "guided by the policy of transparency and adherence to the laid down procedures in the procurement of military hardware in all its transactions" and that the MoD "had sought to protect state resources so that there will be no financial loss to the state." Public knowledge about the suspension of this helicopter deal can be related to stringent due diligence from parliament and the media, and certainly not the MoD's desire to be forthcoming with information.

Source: Kwesi Aning (2005), "Military Imports and Sustainable Development: Case Study Analysis—Ghana." Paper prepared for Project Ploughshares.

Parliamentary privileges and immunities

In order to make oversight effective, parliamentarians usually enjoy a layer of protection while performing their functions. In effect, certain privileges and immunities attach to parliamentary mechanisms. Generally, immunity applies to proceedings—debates, inquiries, motions, voting—both in plenary and at committee levels, and may cover other persons and activities sanctioned by parliament. The utility of such protection is heightened with particular respect to the disclosure and receipt of sensitive information that may have security implications. The main purpose of protection is to enable parliamentarians to carry out their responsibilities independently, impartially, without undue influence and without fear of official harassment. The privileges and immunities of parliament may be provided in the constitution (in the case of the Gambia, Ghana and Sierra Leone), in other laws (in the case of Nigeria, the Legislative Powers and Privileges Act) or in parliamentary rules of procedure.

General privileges relate to freedom of speech and debate in parliament. The constitution or other laws usually provide that such freedom shall not be impeached or questioned in any court or place out of parliament. Furthermore, the institution of civil or criminal proceedings against a member of parliament may be prohibited in relation to anything said in parliament or any matter brought before parliament by petition, bill, motion or report. This provision, which features in the constitutions of most West African states, improves the disposition (attitude) of parliamentarians towards oversight.

Similar protection may also be extended to any person appearing before parliament or a committee of parliament as a witness in an inquiry or to answer a question. To encourage full disclosure by members of the executive appearing before parliament, Article 121(4) of the Constitution of the Republic of Ghana 1992 prescribes that an answer by a person to a question put by parliament shall not be admissible in evidence against the person in any civil or criminal proceedings out of parliament. However, this protection does not extend to proceedings for perjury brought under the criminal law.

Parliamentary defence or security committees[1]

Parliaments in plenary session debate, give consent to and sometimes formally approve the government's policy and action. However, the bulk of the work of parliament is conducted at the committee level. This is because committees are structured to carry out sectoral, technical and in-depth cross-party scrutiny. Committees prepare reports to be debated in plenary, exercise oversight over ministries, departments and agencies of government, monitor implementation of government policy and advise the plenary on all legislation and parliamentary decisions to be taken.

Given the complexity of the security sector, a well-developed committee structure is crucial if the parliament is to exert real influence on the executive. Parliamentary oversight of the security sector involves not just one committee but several committees, which may be found under different names in different parliaments (and may sometimes have their mandates combined). These committees include those dealing solely or primarily with core defence and security agencies or institutions, and those with peripheral jurisdiction—which is only incidental upon their major functions—over the security sector. The committees may at times be called to hold joint sessions.

Most commonly, these committees are the following:

✓ **Defence committee** (sometimes found under the name of armed forces committee, national defence and security committee or security and external affairs committee), which generally deals with all issues related to the security

---

sector, e.g., the mission, organisation, personnel, operations and financing of the military, and with conscription and procurement.

✓ **Committee for foreign affairs,** which deals with, for example, decisions to participate in peace missions or accept their presence on national territory, declarations of war, international security, international/regional organisations, treaties and arrangements.

✓ **Budget or finance committee,** which has a final say on the budgets of all security sector organisations; possibly the public accounts committee, which reviews the audit reports for the entire national budget, including the defence budget.

✓ **Committee (or subcommittee) on intelligence** services and related matters, which often convenes behind closed doors.

✓ **Committee for industry and trade,** which is especially relevant in matters of arms procurement and trade (compensation and offset).

✓ **Committee on science and technology** (for military research and development).

✓ **Committee of interior** (sometimes found under the name of home affairs or internal affairs), which deals with the police, border guards and often other paramilitary organisations.

In Nigeria—which has the largest armed forces in West Africa—security oversight functions in both the Senate and the House of Representatives are shared by separate committees on the army, the air force and the navy. Furthermore, in the House of Representatives an overarching committee on defence has extensive powers over issues common and concurrent to the armed forces. In the Senate, however, the committee on the army is lumped together with defence, given the de facto central place of the army. The preference for separate committees instead of a single armed forces or defence committee may be due to the need to ensure effective oversight of the sector against the backdrop of strong and politicised armed forces.

Box 43

Jurisdiction and membership of core defence and security committees in the House of Representatives of Nigeria

Committee on Defence

Prescribed membership: not more than 40; actual membership: 28

Jurisdiction

► Oversight of the Ministry of Defence and Office of the Chief of Defence Staff

► Army, Navy and Air Force Departments in the Ministry of Defence

► Ammunition depots, forts and arsenal

► Scientific research and development in support of the armed services

► Selective service

► Size and composition of the army, navy and air force

► Barracks

► Strategic and critical materials necessary for the common defence

► Military applications of nuclear technology

► Special oversight on disarmament and military dependants' education

► Military cadets

► War graves, monuments and memorabilia

► Nigerian Defence Academy and other military educational institutions

► Defence Industry Corporation

► Peacekeeping operations

► Veterans' measures generally

► Compensation, vocational rehabilitation and education of veterans

► Readjustment of servicemen to civil life

► Annual budget estimates

Committee on Army

Prescribed membership: not more than 40; actual membership: 25

Jurisdiction

► Oversight of the Nigerian army

► Ammunition depots, forts, arsenal reservations and establishments

► Development projects of the Nigerian army

► Army barracks, landed property and appurtenances

► Annual budget estimates of the army

Committee on Air Force

Prescribed membership: not more than 40; actual membership: 22

Jurisdiction

► Clearance of foreign military aircraft
► Nigerian air force development projects
► Oversight of the Nigerian air force and its units and establishment
► Annual budget estimates

Committee on Navy

Prescribed membership: not more than 40; actual membership: 21

Jurisdiction

► Navy development projects
► Oversight function over the Nigerian navy and its units and establishment
► Naval barracks, landed property and appurtenances
► Annual budget estimates

Source: Standing Orders of the House of Representatives, Federal Republic of Nigeria (2009). Data valid as of September 2009.

Powers and means

The committee system in parliament is predicated on delegation of essential parliamentary responsibilities (deliberative, budgetary, oversight and, in some cases, legislative) to members constituting a specialised unit for functional efficiency and administrative convenience. However, the extent of the powers delegated varies widely among states and among committees. In most West African states, the constitution grants adequate legal authority to the parliament to perform oversight responsibilities for security. The mandate of the parliamentary defence or security committee is then elaborated in the standing orders or other rules governing the conduct of the affairs of parliament.

For instance, Article 34(c) of the Constitution of Liberia vests parliament with the powers to provide for common defence, to declare war and authorise the executive to conclude peace, to raise and support the armed forces of the republic and make related appropriations, and to make rules for the governance of the armed forces of the republic. Further, Article 38 empowers each house in parliament to adopt its own rules and procedures, and to establish its own committees and subcommittees. Pursuant to this power, both the Senate and the House of Representatives of Liberia have established standing committees on national security and on defence. The jurisdiction of the Committee on National Security extends to all proposed legislation, messages, petitions, memorials and matters relating to national security and intelligence, among other things.

Titles V and VI of the 1992 Constitution of Mali enumerate the powers of the National Assembly. With respect to oversight of the security sector, the constitution grants the National Assembly the powers to determine by law the general organisation of defence and national security, to authorise the declaration of war and to summon members of the government—including the minister for defence and his staff—for questioning on security sector matters. Furthermore, the by-laws which govern the functioning of the National Assembly of Mali (adopted in September 2002) elaborate complementary oversight powers of parliamentarians on the security sector. The Committee on National Defence, Security and Civil Protection considers the budget for the armed forces and is charged with monitoring the execution of the budget. The committee also oversees the general management of the security sector.

The power of parliamentary committees to collect and receive evidence from external sources varies widely, even in advanced democracies. Some committees, such as the ad hoc committees of the British House of Commons, are not entitled to collect evidence themselves. Other committees, such as those in the United States Congress, have nearly unlimited power to take evidence from external sources (under oath). The standing orders of both the Senate and the House of Representatives of the National Assembly of Nigeria authorise each committee to consider such investigations and studies (including the collection and examination of documents, and calling and interrogation of witnesses) as it may consider necessary or appropriate in the exercise of its responsibilities.

Some parliamentary committees have the capacity to legislate—adopting or even drafting new laws or proposing amendments to existing legislation—while other committees are only entitled to scrutinise action by the executive and budgetary appropriations without being able to legislate. Where there is a limitation on the capacity of committees to legislate, such committees usually have the power to make recommendations to parliament on the matters considered.

The level of means and expertise available to a committee will be crucial to allow it to perform its mandate effectively, i.e., the number, capacity level and stability of the staff servicing the committee; the research capacity and its nature (specialised versus general, separate versus part of the broader parliamentary research unit); data access and relevant support documentation (capacity to obtain and reproduce it); capacity to call on experts; and capacity to hold hearings and carry out inquiries (see Chapter 19).

Having emerged from a long period of legislative inactivity attributable to the years of military rule, by 1999 the National Assembly of Nigeria was faced with a huge capacity gap and the lack of experience of most of its members. In order to fill this gap, the rules of both chambers of the National Assembly empower the committees to retain the services of experts, professionals and consultants as each committee may deem necessary. This provision is especially apt for defence and security committees considering the dearth of experience and expertise in the sector among members of parliament. Additionally, each standing committee has a budget approved for its business which is reflected in the annual budget of the National Assembly.

Challenges faced by some defence and security committees in West Africa

Looking inwardly, the capacity of parliamentary defence and security committees may be viewed through the lens of the "three As" of parliamentary oversight: authority, ability and attitude. This tripartite self-assessment approach will provide a contextual basis for analysing broader (sectoral) challenges confronting the committees in overseeing the security sector.

The constitutions of all West African states endorse the principle of civilian control over the armed forces and security services, of which parliamentary oversight is an essential component. Although the extent of the powers granted to defence and security committees varies from state to state, the major challenge in the exercise of oversight by the committees can hardly be attributed to inadequate legal authority for oversight.

On the other hand, the ability of these committees in the parliaments of several West African states is hampered by a dearth of security experts in defence committees of nascent and transitional democracies; low turnover of experienced parliamentarians after elections; and insufficient financial, human and technical resources necessary to exercise oversight responsibilities. Of these three constraining factors, resources remain the only controllable factor that would contribute to bridging the capacity gap created by the first two factors. The greater the financial resources available to a committee, the more able it is to recruit support staff, train its members and staff, hire outside expertise when needed, apply information and communications technology to improve its efficiency, and conduct site visits and other oversight activities that involve mobility.

The National Assembly (Assembleia Nacional) of Cape Verde has two committees responsible for defence and security affairs: the committee for the reform of the state, public administration, local power and defence; and the committee for legal affairs, social communications and security. The committees are not specialised, as they combine the security and defence portfolio with other public and social sector portfolios. They are composed of seven members each, in accordance with party representation in parliament. Most of the members are university graduates but do not have specialised training or experience in defence and security issues. Of the 14 members, only three were returned for a second tenure in the 2006 election. The committees meet once or twice a month and the meetings are not open to the public.

Due to the long and drawn-out civil war in Liberia, most members of the bicameral legislature are serving for the first time. Many lack not only the experience but also the academic background that is required to do their work as parliamentarians. The lack of facilities to support the work of the committees also reduces their ability to exercise oversight. However, since the legislature has the power to set its own funding allocation, it can allocate resources to bridge this gap. A positive development with regard to bridging the knowledge and experience gap has been

the many training workshops for parliamentarians organised within the framework of security sector reform. As a result, members of parliament are more conscious of their powers and therefore more able to hold the government to account on defence and security-related issues.

Oversight of the security sector within Senegal's National Assembly falls to the 30-member committee on defence and security. The committee does not meet regularly and its meetings are not open to the public. Members of the committee have received detailed briefings on peacekeeping operations and frequently visit barracks to intermingle with troops. However, due to a wide knowledge gap in security issues among members of the committee, they are often unwilling to raise questions on defence budget and security strategy, on which they generally defer to the executive. In most cases, parliament ends up simply rubber-stamping initiatives forwarded to it by the executive.

Regrettably, even where both the authority and the ability to exercise oversight are adequate and sufficient, some parliamentary defence and security committees in West Africa still have a lukewarm attitude to exercising their powers. Factors that engender a weak disposition towards oversight include party discipline and weak opposition, especially in parliaments with a one-party majority; deference to a powerful executive on security issues due to little understanding of these complex issues; and secrecy and lack of communication with military counterparts.

Box 44

Possible key functions of a parliamentary committee on defence or security issues

Security policy

► To examine and report on any major policy initiative announced by the Ministry of Defence.

► To examine the defence minister periodically on his discharge of policy responsibilities.

► To keep under scrutiny the Ministry of Defence's compliance with freedom of information legislation, and the quality of its provision of information to parliament by whatever means.

► To examine petitions and complaints from military personnel and civilians concerning the security sector.

Legislation

► To consider and report on any draft legislation proposed by the government and referred to it by the parliament.

► To consider international or regional treaties and arrangements falling within the area of responsibility of the Ministry of Defence.

► If appropriate, to initiate new legislation by requesting the minister to propose a new law or by drafting a law itself.

Expenditures

► To examine and report on the main estimates and annual expenditures of the Ministry of Defence.

► To consider each supplementary estimate presented by the Ministry of Defence and report to the parliament whenever this requires further consideration.

► If necessary, to order the competent authorities to carry out an audit.

Management and administration

► To consider and, if appropriate, report on each major appointment made by the relevant executive authority (leading military commanders, top civil servants).

► To consider the internal organisation of the defence sector, eventually through external bodies relating to the parliament (e.g., ombudsman), and to draw the attention of the parliament to possible malfunctioning.

Source: Based on the Report of the Hansard Society Commission on Parliamentary Scrutiny (2001), United Kingdom.

What you can do as a parliamentarian

Areas covered by a committee dealing with defence issues in your parliament or chamber

► Review the mandate of the committee and its possible subcommittee(s) so as to make sure that:

- ✓ It is well defined;
- ✓ It allows the committee to cover all areas in depth;
- ✓ It includes reasonable access to information necessary to ensure transparency and accountability of the security sector; and
- ✓ It is consistent with the security policy and policies of other ministerial functions that may have security implications, such as foreign affairs, aviation/maritime security, industry, power supply, etc.

How to build up an effective parliamentary defence committee

► Ensure that the competent committee and subcommittee in your parliament or chamber are provided with—both by law and in practice—the mechanisms described in Box 38.

► Recommend that committee membership should last for a whole parliamentary session in order to allow members to gather expertise and develop a firm attitude in dealing with the complexities of the security sector.

► Consider setting up subcommittees for specific fields of defence, such as the budget, procurement, personnel and peace missions in order to increase the breadth and depth of oversight.

► Raise awareness among committee members about the workings of the security sector, including enhancing appreciation of the linkages between security objectives and budget demands.

► Facilitate joint capacity-building and encourage information sharing between the committee and security actors in the executive branch of government in order to promote common understanding and robust civil-military relations.

► Initiate legislation for security sector information policy and a review process specifically related to defence expenditure.

► Support the repeal of secrecy laws and the initiation of legislation to guarantee freedom of information. There is a need for legislation that regulates access to information and, especially, members of the committee on intelligence should be granted access to classified and sensitive information. In any case, confidentiality should not preclude accountability.

► Make sure that the committee enjoys the adequate level of resources and access to expert advice to conduct its business and carry out investigations and site visits when necessary.

► Especially where there is no specialised research unit attached to the committee, encourage the committee to tap into the resources available in security policy research institutions and specialised bodies such as the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the Inter-Parliamentary Union (IPU). This will facilitate capacity-building and exchange of best practices on security policy issues.

► Examine and review internationally collected best practices for parliamentary oversight of the security sector.

► Establish a regional network of national parliamentary defence and security committees at the level of the parliament of the Economic Community of West African States (ECOWAS). Linked to the governance pillar of the ECOWAS Vision 2020 document, such a network will promote the sharing of ideas and experiences and constitute a vehicle for diffusing an integrated regional security policy down to the national level.

Security and the power of the purse[1]

Parliament and the budgetary process in relation to security

Everywhere in the world, parliaments have by law a key role to play in adopting and overseeing budgetary provisions relating to security, although the degree of political incentives and possibilities for performing that role may vary from country to country. In practice, all too often parliaments are poorly equipped to exert any decisive influence and their action is further hampered by secrecy and opacity in relation to certain security allocations and spending. A long-established culture of supremacy of the executive in the security sector often inhibits action by parliament, which tends to leave virtually all initiatives in the defence and security budget-making cycle in the hands of the executive and the armed forces.

Despite this, parliamentarians should not underestimate the power of the national budget as an instrument for security sector oversight and reform in accordance with society's needs. The "power of the purse" can and has to be used to ensure the best use of the allocations in a manner accountable to the public.

Box 45

The budget: a key instrument for democratic governance

"The national budget is not just a technical instrument compiling income and proposing expenditure. It is the most important policy statement made by the executive in the course of the year, and reflects the fundamental values underlying national policy. It outlines the government's views on the socio-economic state of the nation. It is a declaration of the government's fiscal, financial and economic objectives and reflects its social and economic priorities. (...) The budget further provides a valuable measure of the government's future intentions and past performance."

"The budget is a critically important document in ensuring transparency, accountability, comprehensiveness and good governance. By providing a detailed description of proposed expenditure, it allows parliament and the general public to "know where the money goes" and thus increases transparency. In addition, the budget requires approval by parliament before the government can spend money or raise revenue, making ministers accountable to parliament and its committees."

"Transparency and accountability should be constitutional requirements, especially with regard to the national budgetary process. Together with transparency in the entire budgetary process, accountability is at the very heart of democracy."

Source: Inter-Parliamentary Union (2002), *General Report of the IPU Seminar on Parliament and the Budgetary Process, Including from a Gender Perspective.* Bamako, Mali, November 2001. Geneva: IPU.

Parliament can in fact be attentive to security issues and the security sector in the four main phases of the typical budget cycle.

Budget preparation: this phase is for the executive to propose allocations of money for several purposes but parliament and its members can contribute to the process through different formal and informal mechanisms.

Budget approval: in this phase, the parliament should be able to study and determine the public interest and suitability of the allocations and may, in certain contexts, complement security-related appropriations with specific guidelines.

Execution or spending: in this phase, parliament reviews and monitors government spending and may strive to enhance transparency and accountability. In the case of extra-budgetary demands, parliament monitors and scrutinises these to prevent cost overruns.

Audit or review: in this phase, parliament scrutinises whether there was misuse of the money allocated by the government. Additionally, parliament periodically evaluates the entire budget and audit process to ensure accountability, efficiency and accuracy.

Box 46

Why should parliament take an active part in the budget?

► The opposition can use the budget debate to develop alternative proposals.

► The majority, in voting the budget into law, display their confidence in the action of the executive by underscoring the points that justify their confidence and the cohesion between policy implementation and the manifesto on which the majority were elected.

► Budget control is one of the most important ways to influence government policy. Budget review grants the executive a discharge, thereby ending the budget cycle.

Source: Inter-Parliamentary Union (2002), *General Report of the IPU Seminar on Parliament and the Budgetary Process, Including from a Gender Perspective.* Bamako, Mali, November 2001. Geneva: IPU.

Effective budgeting with regard to security

Accountability and transparency are essential conditions for effective budgeting. The best way to realise accountability is through a transparent process of budget-making. Proper accountability and transparency can be developed from the principles of effective budgeting.

Prior authorisation. The parliament should authorise the executive to carry out expenditure.

Unity. All expenditure and revenue should be presented to parliament in one single, consolidated budget document.

Periodicity. The executive is expected to respect a regular timeframe to present the budget every year to the parliament. Periodicity also involves the need for specifying the timeframe during which the financial allocations will be spent.

Specificity. The number and descriptions of every budget item should result in a clear overview of the government's expenditure. Therefore, the description of the budget items should not be vague and the funds related to a budget item should not be too large.

Legality. All expenditures and activities should be in keeping with the law.

User-friendly structure. The executive is expected to acquaint the parliament with a plan of estimated expenditure that is manageable and understandable to the wide and diverse audience that is usually present in parliament.

Comprehensiveness. The state budget concerning the different aspects of the security sector has to be all-inclusive and complete. No expenditure should go unaccounted for, including the budgets of all security services, i.e., the military, other state militarised organisations, police and intelligence services, and private military companies hired by the executive.

Publicity. Every citizen (individually or organised) should have the opportunity to make or even express his or her judgement of the budget. This requires that all budget documents have a user-friendly structure and that they be made available for reading everywhere in the country (by sending copies to local libraries, for example).

Consistency. Clear links should be established between policies, plans, budget inputs and performance outputs.

Means and ends. The budget explanation should be able to communicate clear understandings of the aims of the budget in terms of resource inputs; performance or capacity objectives to be achieved; and measurable results on plans. A flexible budget should allow changes in any of these three parameters.

These principles may in fact be considered to be quality criteria for proper modern budgeting. Where parliamentarians lack appropriate information on the security sector, they are unable to raise socio-economic and developmental concerns in the defence budget cycle.

Conditions for proper security budgeting

There are various elements of proper budgeting that enhance parliamentary oversight of the security sector budget. Among these, a clear constitutional and legal framework, value for money, budget discipline, timing and interaction with civil society appear to be prominent.

Clear constitutional and legal framework

The right of parliamentarians to oversee the security sector must be clearly spelled out in the constitution and additional laws. Further, the parliament must enact laws to obtain information from the government; the power to elicit information from the government must be exercised in accordance with those laws. Parliamentary oversight of the security sector through the budget has to be ingrained in the political habits of the parliament. This requires considerable effort.

Value for money

The budgeting process should apply the two basic rules of value for money:

✓   Effectiveness – realising the policy goals ("doing the right thing"); and

✓   Efficiency – realising the policy goals using the least resources possible ("doing the right thing economically").

Box 47

Planning, programming and budgeting system

The planning, programming and budgeting system (PPBS) was first used in the United States in the early 1960s for defence budget development and is currently used in many other countries. A typical PPBS cycle consists of an initial planning phase, in which the security environment and national interests and threats are analysed to determine the tasks, composition and structure of the armed forces. Considering these imperatives, programmes are developed. The programme, a form of business plan, identifies the concrete objectives to be met. It is a crucial link in the cycle as it works to relate the identified objectives to the financial resources. In this way, a PPBS parts with the practice of allocating resources according to the stated needs and instead looks to plan and programme according to given and forecasted budgetary constraints. Hence, it is important that the programmes are developed on a priority basis, where the most immediate needs for the armed forces are met. Risk assessments dealing with the consequences of not meeting a given objective can be used for setting the priorities. Completing the cycle is a performance measurement phase, during which the ministry and society can determine to what extent the objectives have been met at the end of the year. An efficient distribution of resources can thus be achieved.

Source: Kate Starkey and Andri van Meny (2000), "Defence Budget Transparency on the Internet," Information & Security, Vol. 5, Chapter 4.

In order to evaluate whether the defence budget is giving value for money, as per the modern budget theory, expenditure should be related to programmes and objectives (see Box 47), i.e., expenditures should be related to the relevant policy fields and goals (e.g., peace missions, education). Also, all expenditures should be grouped together in functional clusters. Furthermore, parliament should be able to assess the level of value for money with the aid of auditors (see Chapter 25). This implies that the government presents to the parliament an output budget instead of an input budget. Systematic budgeting systems, like a PPBS, can be possible only if the security services make their plans transparent in a manner consistent with confidentiality requirements.

Budget discipline

To make sure that the government sticks to the rules of the legal framework and to the budget as adopted by parliament, budget discipline is essential. Parliaments could consider the following elements of budget discipline:

✓ The relation between the defence and security budget (calculation of expenditure) and the development of the price level.

✓ Using norms for monitoring and setting limits for underspending and overspending.

✓ Using measures during the budget implementation to avoid underspending and overspending.

✓ In case of underspending or overspending of the defence and security budget, the minister of finance and the cabinet should be notified.

✓ Rules for compensating defence and security budget overspending: compensation of defence and security overspending within the defence and security budget or compensation from other government budgets.

Timing and periodicity

To attain the utmost effectiveness of proper budgeting for the security sector, it is necessary to allow sufficient time for examining the defence and security budget proposals before the vote. At least 45 days to three months in advance is the optimum required timing, enabling parliaments to review a complex defence and security budget thoroughly.

Provision of accurate, comprehensive and timely information on defence and security budget policies is also beneficial for several reasons:

✓ This information is a prerequisite to public information and debate.

✓ It facilitates identification of weaknesses, need for reforms and trade-offs between security and other government expenditures.

✓ Transparent budget management of the security sector improves its public and parliamentary accountability and increases public confidence in the government.

Interaction with civil society

Parliament can draw budget and financial planning experts from civil society into the financial review and monitoring process; this may be particularly helpful when it comes to security-related budgeting, which is not always straightforward or easy to follow. Transparency of the budget-making process should be based on, among other things, freedom of information legislation.

Training and expertise

Finally, many parliaments need to improve the capacity of both members of parliament and parliamentary staff through training and research opportunities for their specialised staff. To that effect, as part of its efforts to promote democratic governance and effective parliamentary work, the Geneva Centre for the Democratic Control of Armed Forces is conducting regional seminars directed at both parliamentarians and parliamentary staff.

Box 48

Basic components of the defence budget: the Nigerian defence budget of 2007

Personnel costs

> Salary and wages
> Benefits and allowances
> Social contribution

Goods and non-personnel services

> Travel and transport (general)
> Travel and transport (training)
> Utilities
> Materials and supplies
> Maintenance services
> Training
> Other services
> Information technology consulting
> Financial
> Fuel and lubricants
> Miscellaneous
> Grants and contributions

Capital projects

> Ongoing projects (others)
> New projects (others)

Source: Nigerian Defence Budget 2007, The Budget Office, Nigeria.

Transparency and accountability in security budgeting

Confidentiality versus secrecy

Transparency of decision making is an essential way of ensuring that outcomes of decisions are consistent with public intentions and policy objectives. Transparency in defence and security budgeting enables parliaments to play their oversight role in an efficient manner. It enhances the confidence of society in its security sector. A lack of transparency in defence and security budgeting is often connected to obsolete budget designs or poorly defined security objectives. This is also related to the absence of multidisciplinary expertise in the national statutory audit organisations, weak constitutional provisions on providing information for public scrutiny of decisions, and a bureaucratic attitude that prefers confidentiality to accountability. The statutory audit authorities and legislators need to identify and address these broader systemic weaknesses.

However, it is often debated that special circumstances may justify some level of confidentiality in defence and security budgeting and expenditure. Confidentiality may be genuinely necessary and justified in the interests of national security where an undefined requirement for transparency may engender intrusiveness, which may increase vulnerability. In such instances, national security interests should be clearly defined and unambiguous to avoid abuse of the confidentiality clause and appropriately structured information should be given to parliamentary defence and security committees to facilitate oversight. Such committees may sit and hear evidence on camera, shielded from the gaze of the public and the media, when occasion demands. Where parliament directly participates in the budgeting process, confidentiality does not always equate to lack of accountability (see Box 50).

In practice, the level of confidence varies from one state to another. Whereas detailed aspects of the defence and security budget in the United Kingdom or United States are matters of public debate and scrutiny, some West African states may not open defence budget to public scrutiny beyond general estimates. In many Western states, parliamentary debates on the security budget even appear on official websites of parliaments. In worst cases, it is suspected that there could be a double standard in security budgeting where an edited version (shadow budget) is sent to parliament and the unedited budget is for the eyes of the executive only. In any case, excessive emphasis on secrecy is not justified and may damage public confidence in the armed forces.

Box 49

Key obstacles to transparent security budgeting in West Africa

Secrecy

Excessive secrecy—a vestige of the democratic deficit that characterised the long years of military autocratic rule—remains the greatest challenge to transparent security budgeting in much of West Africa. Parliament may lack access to classified security documents, which are often seen as an exclusive reserve of the military. In some countries, legislation may prohibit disclosure of official information on the grounds of national security interests.

Complexity

Technicalities and complexity of issues in defence and security-related expenditure often overwhelm parliamentarians lacking in experience. This raises the issue of insufficient capacity to analyse technical defence budget proposals. Insufficient resources (library, internet facilities and professional support staff) also affect the ability of parliamentarians to analyse security needs and make appropriate decisions on defence budgeting. With professional support from an independent legislative budget office (incidentally, no West African parliament has established one), complex defence proposals and policies may be translated into easy-to-understand formats for parliamentarians.

Corruption

Corruption is associated with security budgeting, especially when it relates to defence equipment procurement (Chapter 22). Transparency International's Global Bribe Payers Index rates defence as one of the top three sectors for bribery and corruption. The International Monetary Fund's report on Corruption and Military Spending (IMF Working Paper WP/00/23) states that bribes account for as much as 15 percent of the total spending on weapons acquisition. Endemic corruption in the security sector in West Africa is reinforced by secrecy and complexity. Extra-budgetary revenues and unilateral executive appropriations also fall outside the purview of security budgeting, including foreign military aid and grants.

Source: Adedeji Ebo and Boubacar N'Diaye, eds. (2008), *Parliamentary Oversight of the Security Sector in West Africa: Opportunities and Challenges,* Geneva: DCAF, 20, 55; Sanjeev Gupta, Luiz de Mello and Raju Sharan (2000), *Corruption and Military Spending* (IMF Working Paper WP/00/23).

Controllable and uncontrollable defence and security-related expenditures

If it is to oversee the security sector and be able to assess whether money should be spent on the security services or other fields of government, the parliament needs to have access to relevant budget documents to ensure financial probity. Giving parliament only grand totals would violate the principle of specificity, one of the principles of proper budgeting (see above). If it is not provided with specific information, the parliament cannot fulfil its constitutional duty of monitoring and overseeing the defence budget.

The parliament should have access to all defence and security budget documents. In some countries, the parliament is even provided with information on the line items of the budget, the most detailed level of budgeting. In other countries, however, the parliamentary committee on defence is the only one to be presented with information on the defence budget items. From the point of view of good governance, it should be guaranteed that either the relevant committees of the parliament (if necessary behind closed doors) or the parliament as a whole have access to all budget documents. The same procedure should apply to other security services, notably the intelligence services.

The classification of the budget of the security services should be in keeping with the law, especially the law on freedom of information.

While discussing and voting on the defence and security budget, the parliament's freedom to change it is restricted by mandatory spending (e.g., a procurement contract signed in previous years) and entitlements programmes (e.g., pensions and healthcare for military people). These expenditures can only be changed in the long term.

In countries with weak governance and oversight structures, attempts to control defence and security-related expenditures prove more futile due to the fact that certain aspects of defence spending are pushed off-budget. In parts of West Africa, budgetary allocations for other sectors of the economy have been unilaterally diverted to arms and defence equipment procurement in order to squash rebellion or engage in war. Natural resource predation in conflict situations has also provided a rich source for funding war efforts, as witnessed in the complementary war economies of Liberia and Sierra Leone. Due to the democratic deficit that marks conflict and post-conflict periods, such spending remains largely unaccounted for.

Nigeria's oil wealth is believed to have funded the country's role in the Economic Community of West African States (ECOWAS) Ceasefire Monitoring Group's operations in Liberia and Sierra Leone. Clear figures for these external operations are conspicuously absent in Nigeria's defence budgets during that period. This and other forms of external military assistance are often conducted below the radar of parliamentary oversight. Volunteering troops for United Nations (UN) or African Union (AU) peacekeeping operations provides another source of off-budgetary inflow. Ghana, Nigeria and Senegal have volunteered troops for such operations.

UN payments for the troops are a black spot in defence budgets and some of this revenue may be written off as expenses by corrupt military officers.

In order to give a complete picture of defence expenditure and to ensure probity, parliamentary oversight should extend to off-budget defence spending such as external aid, contributions to peacekeeping and defence equipment procurement.

Box 50

Three levels of classification in the security budget

Parliamentarians need to ensure a balance between the need for confidentiality of information in special circumstances, the related allocations in the defence budget and accountability. One way could be to have the budget proposals broken down to different levels of security classification, as follows:

► General defence budget presented to parliament.

► Classified capital and operating expenditure, which may be scrutinised by a subcommittee on defence budget and military expenditure.

► Expenditure relating to higher levels of military classification, which may be scrutinised by a representative group of members of a scrutiny committee. This group should be given access to classified documents according to established procedures set out in a national secrecy act.

Source: Ravinder Pal Singh (1998), *Arms Procurement Decision Making, Volume 1: China, India, Israel, Japan, South Korea and Thailand.* New York: OUP and SIPRI.

Transparency against mishandling of public funds and corruption

Parliaments play a key role in ascertaining that the government is not mishandling public funds. It has been demonstrated that such abuses can happen with respect to the budget allocated to the security sector, given the complex technical issues and requirements of strategic security.

Transparency and accountability in defence and security budgeting are a sine qua non to any effective parliamentary control of the security sector. Transparency is in turn a precondition for accountability, which itself is fundamental to good governance. Hence, these two concepts are key to the entire budget cycle.

> "As the general lack of accountability and transparency in defence budgeting can… feed concerns about the size, capabilities and intentions of a country's armed forces, greater transparency will draw attention to military spending and reduce the potential for uncertainty and misunderstanding that lead to conflict." – *Paul George*

It is generally recognised that excessive military expenditure diverts valuable resources that could otherwise be used for poverty alleviation and social development. The representatives of the people are to be provided with information as to why and how the executive plans to organise the security of the society, since this is being done through the public's tax contributions. Their misuse in developing countries is particularly damaging. The government, in terms of pursuit of objectives of good governance, is also obliged to consider public opinion in its deliberations relating to the security sector. Parliament has to ensure that the defence budget balances development and security needs. There are many problems that can hinder effective parliamentary budget control of the security sector, as highlighted in Box 51.

Box 51

Main problems constraining effective budget control of the security sector

► **Absence of a constitutional framework.** Difficulties might arise out of the absence of a clear constitutional (or other normative) framework that empowers parliamentarians to oversee the activities of the security sector. Although this relates to the legal authority of parliament to carry out its oversight functions, the general attitude (willingness and commitment) of parliamentarians in playing the watchdog role in the security sector will logically be feeble where such authority is weak or lacking.

► **Non-articulation of national security policy or defence white paper.** The uncertainty created by the non-existence of official policies highlighting national security and defence priorities in most West African states is a critical loophole in standard-setting. A clear national policy forms an essential guide to medium- and short-term military budgeting. Such loopholes contribute to the lack of transparency and accountability prevalent in the security sector, as certain actions may be justified under the vague heading of "national interest".

► **Lack of information.** Closely related to a deficient constitutional framework is the shortage of legislation on freedom of information that facilitates the disclosure of sensitive information. Therefore, imperfection and ambiguity in the legal framework can hamper the efforts of the parliament in exercising oversight. The consequence is that the public and parliament are deprived of the accountability to which they are entitled in a sound democratic system.

► **Off-budget activities and income sources of the security sector.** The exact nature and benefits of the off-budget sources of income of the security sector for special activities (in particular activities of a commercial nature, such as the profits of military companies or from providing services) and external military aid are not always known to parliament or

---

even to ministry officials. These activities should be accounted for to the parliament, just as any other way of financing the security sector.

► **Hiding defence expenditures.** Security sector expenditure on pensions, infrastructure, transportation etc. is quite often transferred to the budgets of other ministries/sectors, such as welfare, housing and railways. This practice misrepresents the defence budget and distorts the ability of the public and parliament to make valid assessments of the real defence expenditure.

► **Inefficient/fraudulent disbursement of funds.** Intentionally withholding the disbursement of funds after spending has been authorised creates problems in the process of budget monitoring and auditing, and also affects the timely execution of projects. Late submission of annual budget estimates by the executive or late approval by the parliament also creates irregularities in the disbursement of funds. Capital funds controlled by the Ministry of Defence (MoD) may not be released when they are due. Instead, the funds are held until the last quarter of the financial year. Funds are then disbursed so that unspent monies are not returned to the treasury but are shared by influential members of the ministry.

► **Weak media.** Many countries have weak media (in the sense of lack of expertise and resources) that do not closely follow the workings of the security sector and the parliament. This deprives the general public of current and up-to-date information on the activities of its representatives and the security sector parties.

► **Too little time for proper scrutiny.** As previously pointed out, little timing for scrutiny of the defence budget can represent a problem for effective parliamentary oversight. As parliamentarians juggle time between their primary role of lawmaking and constituency relations, too little time may be given to a posteriori budget monitoring and scrutiny.

► **Lack of experience, expertise and staff.** Many parliaments lack the resources, expertise and personnel to carry out all the demands made of them in order to ensure that the executive is held accountable to the people it serves. The situation in post-conflict states is compounded by a lack of experience on the part of parliamentarians; poor understanding of basic defence issues and processes which were hitherto shrouded in secrecy; and the low turnover of experienced parliamentarians after elections, which leads to loss of institutional memory.

Source: Fluri, Philipp, Johnsson, Anders and Born, Hans, eds. (2003), *Parliamentary oversight of the security sector: principles, mechanisms and practices.* Handbook for parliamentarians No. 5. Geneva: IPU and DCAF.

Budget control in post-conflict states

The internationalised internal armed conflicts that swept across West Africa in the 1990s and early 2000s have demonstrated that the development of the idea and practice of parliamentary oversight—which is an essential element of the democratic control of armed forces and security services—should be prioritised in post-conflict states. Box 52 takes a closer look at budgetary practices in West African states that have been active in integrating their political systems within a more transparent and accountable framework.

Box 52

Defence budget practices in selected West African states in transition to democracy

Ghana

The team from the MoD that appears before parliamentary hearings is led by the minister. At meetings of the Parliamentary Committee on Defence and Interior, it is mandatory for the minister of finance to be present; this is not usually the case with other ministries, departments and agencies, where the presence of the chief director of the ministry of finance is considered sufficient. The parliamentary committee in turn forwards its observations and recommendations to the floor of parliament, where the estimates are considered for final approval.

Mali

In the National Assembly the military budget is first examined by the Defence and Security Committee. The committee invites the directors of all the main divisions of the armed forces, the army chiefs of staff, the army joint chiefs of staff and the minister of defence for discussions on the mission, the annual objectives and the budgetary requirements of the armed and security forces. The committee can propose amendments to the budget or a reformulation of the objectives. Following the work in the committee, the draft budget is presented to a plenary session of the National Assembly for debate and voting. If approved, the budget estimates become the Finance Act and public dissemination of the act commences.

Nigeria

Since 1999, the Defence Committee of the Senate has been divided into three subcommittees to oversee the three services of the Nigerian armed forces (army, navy and air force). Each of these service subcommittees discusses and approves the budgetary estimates of its service. The same process takes place in the House of Representatives. The Defence Committee's aggregated draft is then forwarded to the Senate's Finance and Appropriation Committee.

In the course of examining the details of the budget, the Defence Committee can call the minister of defence and officials of the MoD to defend the ministry's estimates.

Sierra Leone

During the authorisation stage, parliament scrutinises the recurrent and development estimates of the MoD, which have been submitted to parliament as part of the overall Bound Volume 31. This integrated approach gives members of parliament time to reflect on the estimates and raise questions during the debates leading to approval. The crucial phase during authorisation takes place in the various appropriations committees, with the Defence, Internal and Presidential Affairs Committee overseeing the defence component of the bound volume. The committee may send out questionnaires to the director-general of the MoD soliciting information on any areas of the budget that raise interest, particularly concerning previous allocations.

Source: Wuyi Omitoogun and Eboe Hutchful (2006), *Budgeting for the Military Sector in Africa: The Processes and Mechanisms of Control.* New York: OUP and SIPRI.

What you can do as a parliamentarian

The security sector in the budget cycle

► Make sure that parliament is attentive to the security sector in the four main phases of the typical budget cycle: budget preparation; budget approval; execution; and auditing of expenses.

► Ensure oversight by statutory audit institutions.

► Strengthen support for, and collaboration with, extra-parliamentary organs of inspection, audit and oversight within various security sector agencies.

► Audits by parliament and other monitoring institutions should link policy objectives with budgetary demands and outputs (performance audit).

How to build up an effective parliamentary defence committee

► Demand that the budget is prepared with respect for the principles for effective budgeting presented in this chapter.

► Try to obtain the assistance of independent experts able to help parliament or yourself individually to assess whether the proposed security appropriations are relevant and appropriate and are presented in a transparent manner.

► Ensure that security services are using modern methods of financial planning and budgeting, which enables parliament to make valid assessments of defence expenditure and to understand the relations between objectives, financial inputs and performance outputs.

► Check the situation in your own parliament using the points listed in Box 51 as a reference and take whatever initiatives are possible in your political context with a view to remedying or curbing any specific weaknesses.

Arms and defence equipment procurement[1]

Procurement policy for the defence sector should be derived from "higher" plans and policies, such as the national security policy or defence strategy. To this end, the primary goal of defence equipment procurement should be to boost the capacity of the armed forces to protect the national interests against real or potential threats. All demand for new weaponry or military equipment should be examined bearing in mind its impact and its relevance to the national security policy (Chapter 11).

A national security policy helps achieve stability in the defence management process and increases predictability in long-term defence policymaking. It is essential to keep the objectives of national defence policy aligned with the resources allocated for the defence sector, and to maintain a balance between the defence sector and other sectors of the society such as health, education and human development. Legitimate reasons for defence equipment procurement include a change in the defence policy; new and emerging threats; obsolescence of existing equipment; and low stock levels arising from usage.

With the withdrawal of military and political patronage in the immediate aftermath of the Cold War, regimes in West Africa faced the challenge of intra-state armed conflict and political instability. Rebel groups and armed militias posed a veritable challenge to the state's monopoly on the use of force. This provided a threat to regime security, and a "justification" for the unregulated and unpropitious procurement of arms and defence equipment.

---

1   This chapter was adapted from the IPU-DCAF Handbook for Parliamentarians by Mr. Okey Uzoechina.

This chequered history and the attendant democratic deficit continue to pose challenges in the regulation of the flow of small arms and light weapons (SALW) in West Africa. In an attempt to curb the negative effects of SALW on the security of the region and on international peace and security, the United Nations Security Council imposed several arms embargoes on Liberia (Resolution 788 of 19 November 1992, Resolution 1343 of 7 March 2001 and Resolution 1521 of 22 December 2003), Sierra Leone (Resolution 1132 of 8 October 1997) and Côte d'Ivoire (Resolution 1572 of 15 November 2004). The general ineffectiveness of these mandatory arms embargoes clearly demonstrates the lack of transparency and accountability, and sometimes collusion, in arms deals on the demand side.

Transparency in arms procurement

In any democracy, budgetary processes in general, and arms procurement in particular, should be transparent vis-à-vis the public. From the point of view of public accountability, there should be a rational link between policy, plans, budgets and arms procurement. This is not taken for granted everywhere. Unfortunately, in most West African states parliament has a limited say in arms procurement, if any. In Ghana, Nigeria and Sierra Leone, arms and defence procurement contracts are not subject to the law on public contracting, thereby limiting oversight to internal checks only and creating room for collusion. For instance, Nigeria's Public Procurement Act 2007 regulates the monitoring and oversight of the public procurement process, including the submission of procurement audit reports to the National Assembly. Section 15(2) of the act, however, exempts its application to the procurement of special goods, works and services involving national defence or national security unless the president's express approval has first been sought and obtained.

When allocating funds or authorising a procurement operation, it is essential that the parliament checks the legality of such an operation, bearing in mind international regulations or agreements limiting production, trade or use of certain kinds of weapons, such as the Nuclear Non-Proliferation Treaty (1968), the Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction (1997), United Nations (UN) Security Council resolutions, etc. At the regional level, the Economic Community of West African States (ECOWAS) legal framework for limiting the production, trade and use of SALW has included the following instruments:

✓ The Declaration on the Moratorium on the Importation, Exportation and Manufacture of Light Weapons in ECOWAS Member States, signed in Abuja on 31 October 1998.

✓ The Code of Conduct for the Implementation of the Moratorium, adopted in Lomé on 10 December 1999.

✓ The Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (particularly Articles 3, 50 and 51), also signed in Lomé on 10 December 1999.

✓ The ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials, signed in Abuja on 14 June 2006.

Under Article 4(1) of the Convention on Small Arms, the only conditions for exemption of a state from the ban on the procurement of SALW are to meet legitimate national defence and security needs, or to participate in peace support or other operations in accordance with the decisions of the UN, African Union, ECOWAS or other regional body of which it is a member. The convention came into force in November 2009 and a 5-year Plan of Action for its implementation was adopted in March 2010 by ECOWAS ministers responsible for defence and security. There is no doubt that domestication by national parliaments will go a long way in ensuring the efficacy of the implementation arrangements, elaborated in Article 24.

Parliaments may also face difficulties in tackling the inherent complexity of calculating the cost of major defence equipment over a period of many years. This leaves post-conflict and developing countries especially vulnerable to external or internal arms suppliers who, by definition, are interested in selling their products at the best profitable price and have little concern for democratic oversight.

For these reasons, parliaments should have an interest in developing special committees or subcommittees concerned with arms and defence equipment procurement. By doing so, they can improve transparency in the arms procurement process and force the executive to be accountable to the people.

The challenge for parliaments is that governments are reluctant to release figures relating to the possession of and need to buy major conventional weapons (i.e., aircraft, armoured vehicles, artillery, guidance and radar systems, missiles and warships). To a large extent, they are even less willing to make public their holdings and transfers of smaller categories of weapons (of a calibre smaller than 100 mm), known as small arms and light weapons.

When entering into the weapons procurement process, ideally the government should work together with the parliament to ensure that an overambitious arms procurement plan does not result in a financial burden for the country in the long run. Arms procurement programmes have to be understood in the context of other public priorities. Therefore, not only military demands but also other priorities are equally valid in the decision-making process. The parliament should assess the impact and the financial burden of arms procurement on society.

> **Box 53**
>
> ## Why parliamentarians should care about arms procurement
>
> ► Public funds are involved.
>
> ► Deciding about weapons systems is not only a matter of technical expertise and security, but also about deciding whether money has to be spent on "guns or butter". If it is to be spent on "guns", then which "guns", how many and why.
>
> ► Arms procurement should not result in a financial burden on the country in the short and long run (including overall life-cycle costs).
>
> ► Parliamentary oversight should balance the costs of arms expenditure against social sector needs.
>
> ► Transparent arms procurement processes that are accountable to the parliament avoid corruption, waste and abuse of public funds.
>
> ► Parliamentary and public oversight might lead to a reduction in the danger of a regional arms procurement spiral.
>
> *Source:* Fluri, Philipp, Johnsson, Anders and Born, Hans, eds. (2003), *Parliamentary oversight of the security sector: principles, mechanisms and practices.* Handbook for parliamentarians No. 5. Geneva: IPU and DCAF.

Key challenges of defence procurement

Some challenges facing arms and defence equipment procurement include the following:

✓ Non-articulation of clear national security policy or defence strategy by which arms and defence equipment procurement needs would be assessed.

✓ Lack of transparency and secrecy in defence-related spending and the technical nature of the procurement process, which may overwhelm the ability of any existing oversight body.

✓ Lack of a coordinated procurement system within the armed forces to prevent duplication, ensure cost-effectiveness and promote interoperability and joint operations among the army, navy and air force.

✓ Patronage and sharp practice in procurement deals, such as different persons or departments being in charge of different types of defence equipment (e.g., hardware and software; main equipment and spare parts).

✓ Corruption and collusion by defence officials, often leading to contract splitting in order to evade approval, or submission of different tenders (quotes) by the same contractor even when an element of competitive tendering is insisted upon.

✓ Deflation of the contract sum in order to ensure buy-in, then subsequent inflation (review) of the sum once the contract is locked in.

Democratisation has contributed to addressing some of these challenges in the case of Nigeria. Before the interim procurement structure of June 2009, the Ministry of Defence was known to procure equipment for the armed services—the army, navy and air force—without their prior knowledge. The services were also known to commit the government financially without prior approval, and to procure equipment which was not service-oriented. There was neither coordination between the army, navy and air force chiefs nor agreement on what to acquire, the quantity and quality, or where and when to acquire them. The creation of the office of chief of defence staff in the early 1980s did not change these deficiencies because the office lacked the requisite command and control.

Do special circumstances justify confidentiality?

The principles of good governance, especially transparency, must guide every aspect of public policymaking, including those relating to arms sales or procurement. There is therefore a need to examine what special circumstances can make defence decision making an exception and justify the need for confidentiality. Reasons for confidentiality in defence procurement may include prevention of injury to national security and the conduct of international relations, and the protection of third-party commercial information.

Military confidentiality is genuinely necessary and may be justified in the interests of national security where transparency may engender intrusiveness, which may in turn increase vulnerability. However, national security interests should be clearly defined and unambiguous, and appropriately structured information should be given to parliamentary defence committees to facilitate oversight. Excessive emphasis on secrecy is not justified and may damage public confidence in the armed forces.

In defence matters, secrecy may even be stipulated by law. For instance, in Nigeria the veil of secrecy is enshrined in the Official Secrets Act 1962, which has been described as unduly militaristic. The act makes it an offence for any civil servant to divulge classified information and for anyone to receive or reproduce such information. Ironically, this veil of secrecy is often misused as a veil on corruption. The proposed Freedom of Information Bill, which seeks to lift the veil on official secrecy, has been before the National Assembly since the country's return to democracy in 1999. Although the bill supports the refusal to disclose any information which may be injurious to the defence of the country, the interests of the public in any disclosure are considered paramount.

Arms sales and procurement guidelines should be based on principles of transparency and public accountability. Reasons for secrecy in the decision-making process demanded by the recipient or the countries supplying arms should be stated explicitly. If such reasons lead to the possibility of inefficiency and corruption affecting the deal, then these risks have to be identified by both parties and measures should be defined to avoid such a prospect.

Box 54

Weak or ambiguous arms procurement policies or highly confidential procurement processes

These processes should be discouraged, as they can lead to several adverse outcomes:

► Insufficient examination of the rationale for weapons systems procurement.

► Inefficiencies in government decisions, with unhealthy consequences for national and regional security.

► Apprehension in neighbouring countries.

► Corruption in arms procurement and in all kinds of military-related procurement decisions.

► Serious damage to public confidence in the armed forces, which may as a result be discredited and subjected to unnecessary controversies.

Source: Fluri, Philipp, Johnsson, Anders and Born, Hans, eds. (2003), *Parliamentary oversight of the security sector: principles, mechanisms and practices.* Handbook for parliamentarians No. 5. Geneva: IPU and DCAF.

Comprehensive decision making on procurement

Comprehensive decision making on arms and defence equipment procurement involves a process that encompasses the perspectives of the military as well as those of society. Essentially, it involves balancing the need for security against the need for other public goods and services (health, education, justice, transport, etc.), and balancing the need for secrecy against the need for transparency and accountability. Such a process could contribute to the harmonisation of the military's perception of national security needs and the perceptions of other sectors of the society on human security needs. Although procurement decision making is heavily weighted in favour of the executive, the process creates opportunities for parliament to act as a check on executive power. Within the framework of such a process, technical, political and professional issues relating to arms procurement are given due consideration. Procurement decision making usually involves a complex hierarchical system through which military and civilian departments and agencies give advice and make recommendations to their superiors, which may then be combined to form comprehensive proposals at higher levels. Thus decisions are made as incremental components of a comprehensive security problem-solving approach.

A generic defence procurement process provided by Transparency International is encapsulated in ten stages:

✓   Government defence policy approved in the defence budget

✓   Capability gap definition

✓   Requirement definition

✓   Support requirements definition

✓   Outline project costing

✓   Tender

✓   Bid assessment and contract award

✓   Manufacture and delivery

✓   In-service phase

✓   Disposal

There are variations in country practices and smaller procurements may not go through all the stages outlined above. In the case of purchases of major weapons systems (aircraft, armoured vehicles, artillery, guidance and radar systems, missiles and warships, etc.), the decision-making process should identify and integrate methods employed for the following aspects:

✓   Threat assessment processes;

✓   Long-term concept of defence capacity-building;

✓   Identification of material need for new equipment;

✓   Budget allocation for equipment procurement;

✓   Technical quality assurance and post-procurement performance audit processes;

✓   Entire life-cycle costs, including maintenance, updates, etc.; and

✓   Assessing offers for compensation and off-set.

Parliaments are customarily involved in budget allocation and approval, and post-procurement audit processes. In much of West Africa, parliamentary involvement in procurement decision making is constrained by limited technical knowledge and lack of access to professional advice; inadequate qualitative information available to defence committees to facilitate oversight; and the perception of military supremacy in security affairs, which allows the military greater autonomy in procurement decision making. Establishing a parliamentary monitoring and reviewing process at all these stages will reduce the chances of waste, fraud or abuse creeping into the executive's decision-making system. In order to exercise effective oversight, parliaments should demand that governments keep them informed about all stages of the arms procurement process. Moreover, parliaments should have the right to decide about all procurement contracts.

Box 55

Defence procurement in selected West African states: the parliamentary oversight dimension

Ghana

Parliamentary oversight of procurement has been limited. During the presidency of Jerry Rawlings, the Parliamentary Committee on Defence and Interior seemed aware that arms and equipment (such as the G3 rifle and armoured vehicles) were being procured "under the table" but took no action. Equally, there has been no parliamentary oversight of the peacekeeping account held in New York, a source of extra-budgetary funds of some significance, even though the auditor-general was asked to audit this account in 2001.

In the case of auditing military weaponry, the refusal of the military to give the auditor-general access to military stores was brought to the attention of the Public Accounts Committee and debated in parliament. The armed forces were urged to discuss the issue with the National Security Council and the government, and to present parliament with proposals as to how far auditing of military stores should go. However, it is not certain that even this permissive posture has produced any positive results.

Nigeria

On 7 October 2002, probably aware of the impending outcome of the deliberations by the International Court of Justice (ICJ) over the disputed Bakassi Peninsula, the presidency withdrew a supplementary appropriations bill then under consideration by the National Assembly. On 10 October 2002, the ICJ passed a judgment in favour of Cameroon. While resubmitting the supplementary appropriations bill on 29 October 2002, the presidency proposed a large appropriation for defence: USD308,000 for the purchase of ammunition and military equipment; USD757,385 for upgrading ammunition depots; and USD4,813,890 for barracks rehabilitation. While passing the bill, the National Assembly simply approved the last two items and appropriated the sum of USD5,747,960 to defence. It totally declined to make any appropriations for the purchase of ammunition and military equipment. This action was taken by the National Assembly in an apparent attempt to stop the executive from any possible plans to go to war with Cameroon over the Bakassi Peninsula.

Source: Adedeji Ebo and Boubacar N'Diaye, eds. (2008), *Parliamentary Oversight of the Security Sector in West Africa: Opportunities and Challenges.* Geneva: DCAF.

What you can do as a parliamentarian

Overseeing arms procurement

► Parliamentary oversight of arms procurement needs to be legislated.

► Make sure that parliamentary oversight of the security sector is comprehensive and covers all aspects of procurement, paying careful and special attention to:

  ✓ Security needs;

  ✓ Regional political consequences, in terms of likelihood of negative reactions leading to a regional arms race;

  ✓ The burden for the budget (short- and long-term); and

  ✓ The effects on national industry in the private and public sector.

Transparency and accountability in arms procurement

► Make sure that parliament has a say in the process of arms and military equipment procurement.

► Demand that parliament or its competent committee is presented, whenever appropriate, with a detailed, up-to-date report relating to the possession and technical quality of major conventional weapons (i.e., aircraft, armoured vehicles, artillery, guidance and radar systems, missiles and warships) and smaller categories of weapons (calibre smaller than 100 mm), as well as the rationale for buying new ones.

► Make sure that parliament is presented with a long-term concept of defence capacity-building.

► Access to defence-related information, especially by parliamentary defence committees, needs to be legislated in order to improve transparency and probity and check corruption in the defence procurement process.

► Make sure that issues relating to secrecy in a procurement deal can be and are addressed by parliament or its competent committee through a legislated process that ensures accountability while maintaining military confidentiality.

Procurement impact analysis

► Analyse the consistency of the procurement plan with the security policy.

► Make sure that parliament studies and assesses the financial burden of arms procurement in comparison with other public needs and social priorities so as to prevent imbalances affecting the development and economic and social stability of the country.

► Use parliamentary procedures to prevent overambitious arms procurement decisions. Parliaments should ensure rationality in plans so as not to result in a military burden to the country in the long run.

Procurement audit

► Monitor the consistency between the defence policy and plans, and the defence budget and actual expenditure for arms and military equipment.

► Conduct a post-procurement performance audit of weapon systems, after the contract has been implemented (at least three points/stages in the weapon's life cycle).

Parliamentary committee on procurement

► Unless an arms procurement committee or subcommittee already exists, set one up, thus raising the importance of the linkage between policy planning, financial planning and audits, the defence industry and research and development.

► In this connection, request and study information on the terms of reference, procedures and outcome of similar bodies in other parliaments.

► Make sure that your parliamentary body is able to access and utilise expert advice.

Personnel management in the security sector[1]

The democratic education and attitude of the armed forces need to be reinforced so the military can be properly integrated into society and not pose a threat to democracy. In various parts of the world, experience has shown that a military that is not properly managed and democratically controlled or one that is not fully integrated into the fabric of society can pose a variety of threats to democracy, such as:

✓ Exercising unconstitutional influence or staging military coups d'état;

✓ Practising unauthorised military or commercial activities;

✓ Consuming excessively high levels of resources that are needed for other sectors of society;

✓ Misusing public funds;

✓ Engaging in corrupt behaviour (e.g., illegal roadblocks, ransoming motorists, etc.); and

✓ Violating human rights (e.g., looting, robbing, using illegal violence and rape).

Conflict and post-conflict situations

Conflict and post-conflict situations are peculiar in that security sector management and oversight bodies such as parliament and the judiciary are either non-existent or compromised. In many West African states, unconstitutional military incursion

---

1   This chapter was adapted from the IPU-DCAF Handbook for Parliamentarians by Mr. Okey Uzoechina.

into the sphere of governance has skewed the balance of civil-military relations in society. Weak and ineffective civilian control and democratic governance of the security sector have contributed to a high incidence of coups d'état and civil wars in the region. Recent events in the Republic of Guinea (December 2008) and Guinea-Bissau (November 2008 and June 2009) suggest that this trend is still far from changing. Emerging from lessons learnt, emphasis on governance of the security sector in the region is targeted at making security actors in member states of the Economic Community of West African States (ECOWAS) subject to civilian and democratic control.

At the outset of the Nigerian civil war in 1967, the federal government issued a directive on the conduct of military operations to all officers of the armed forces aimed at ensuring discipline and loyalty. Provisions of the operational code of conduct reflected the letters of Common Article 3 of the Geneva Conventions of 1949. It emphasised, inter alia, respect for the right to life and other human rights of civilian populations, especially women and children, and fair and humane treatment of wounded and disarmed soldiers. It also outlawed looting and malicious damage to property. Although the extent to which these directives were actually complied with is debatable, inculcating normative human rights standards into service codes is a sure way of regulating the conduct of security personnel and the role of the armed forces of states in armed conflict.

The often unstructured incorporation of disorderly security forces and former rebel movements into the armed forces of ECOWAS member states in post-conflict situations has created a corresponding need to professionalise the armed forces by inculcating democratic principles and human rights standards into service codes. Professionalisation and governance of the security sector mutually reinforce each other. Post-war peace agreements, such as the 1999 Lomé Accord for Sierra Leone and the 2003 Comprehensive Peace Agreement (CPA) for Liberia, cover aspects of security personnel management, including restructuring, command and control, retraining and professionalism.

The governance deficit that marks conflict and post-conflict situations often spills over to security sector personnel management. Liberia's security sector reform (SSR) agenda, as reflected in the CPA, deals with disarmament, demobilisation and reintegration of ex-combatants. It also deals with restructuring the armed forces, the national police and other security agencies. However, issues of democratic control and civilian oversight of the security sector are insufficiently covered. In 2005, SSR—under the auspices of the United States (US)—was outsourced to two private military/security companies, DynCorp International and Pacific Architects and Engineers. These private military and security companies exclusively have the task of recruiting, training and restructuring the armed forces and part of the Liberia National Police. During the process, DynCorp refused to consult or report to the Liberian parliament, citing its contractual obligation towards the US State Department. Parliamentary participation in the management of security sector personnel was therefore weakened by this external arrangement.

Mechanisms for generating a democratic disposition among personnel in the security sector

Promoting the democratic attitude of the armed forces implies creating mechanisms within the military organisation that contribute to raising awareness of and respect for democratic values and institutions, as well as human rights principles. These internal mechanisms are necessary to complement parliamentary, government and civilian control over the armed forces. The following elements can help in enhancing the democratic disposition of uniformed personnel.

Allegiance to the constitution and state institutions

Good governance includes inculcating the security sector and public service with values and ethics of obedience to the rule of law and respect for the constitution and national institutions. Soldiers and other guardians of a democratic society are to swear their oath of allegiance to the constitution and state institutions, and not to a specific political leader. Such an "impersonal" oath of allegiance symbolises that the security services are not loyal to the particular government of the day but to the constitution and the laws, which are enacted by the legitimate representatives of the people. Civilian oversight of the security sector should include awareness of the precise nature of the military oath and of what is done in order to secure its enforcement.

A well-defined internal order of the security sector

It is crucial to consolidate the legal framework relating to the internal order of the security sector from the point of view of democratic oversight. This includes:

- ✓ Delimiting the constitutional rights of the officers;
- ✓ Adopting or reviewing a conscription law, military service act and military penal code, and establishing a legal framework in agreement with the Geneva Conventions; and
- ✓ Making it a duty for personnel to disobey illegal orders.

In most states, while the constitution guarantees the rights and fundamental freedoms of all citizens, subordinate laws can limit these rights for service personnel, if required for specific military tasks. For example, Article 21 of the ECOWAS Supplementary Protocol on Democracy and Governance (2001) says that the armed and security forces personnel as citizens shall be entitled to all the rights set out in the constitution, except as may be expressly stated otherwise in their special regulations. Therefore, in principle, servicemen and women have the same rights as other citizens as they are citizens in uniform. However, applicable limitations concern freedom of speech, as service personnel have access to classified documents; freedom of movement, as far as military/security readiness is concerned; and the right to be elected to a political post. Not all democracies limit the civil rights of service personnel to the same extent.

Promoting education in key values and norms

The education of service personnel should aim at creating professional staff who are dedicated and prepared for their tasks. The education should be politically neutral and should not include political ideology and elements of propaganda. It should include courses on democracy, constitutional, international and humanitarian law, and human rights. Providing the security sector with education and training in international humanitarian law and human rights law is especially crucial for promoting democratic values in that sector. To become acquainted with international humanitarian law, members of parliament may wish to obtain the Handbook for Parliamentarians on Respect for International Humanitarian Law (Handbook 1) released in 1999 by the Inter-Parliamentary Union and the International Committee of the Red Cross (ICRC). Both the ICRC and the Office of the United Nations High Commissioner for Human Rights (OHCHR) provide technical assistance to states wishing to strengthen their capacity to secure respect for international humanitarian law and human rights law.

Providing for political neutrality and non-active involvement

The security services are to be politically neutral and therefore political parties are not allowed to campaign within the barracks. Whereas in some countries active service personnel are allowed to become members of a political party, in other countries, especially in post-communist states, military personnel are not authorised to join parties. Prescribing political neutrality and non-partisanship for security sector personnel is even more important in states with a long history of military involvement in politics. For example, in the Republic of Benin, sections 64 and 81 of the 1990 Constitution prescribe resignation for service personnel before standing for elective posts of the Office of the President or the National Assembly.

Security services as a mirror of society

In principle, all positions within the security services must be open to all citizens, regardless of gender, political affiliation, class, race or religion. The best man or woman in the best place is to be the main criterion for selection. For example, Article 1 of the Draft Supplementary Act relating to a Code of Conduct for the Armed Forces and Security Services of ECOWAS provides that personnel recruitment and management shall be conducted without discrimination as to race, gender or ethnic, regional or religious affiliation. Many states realise that the personnel of the security services, especially the police and the armed forces, should be a mirror of society at large. These states put specific policies in place in order to encourage groups in society that are under-represented within the security services to apply for jobs. Such affirmative action may also serve to address heavy gender imbalances among security sector personnel, in keeping with the spirit of UN Security Council Resolution 1325 of 2000 that promotes gender mainstreaming in peace and security. In post-conflict Sierra Leone, provision was made for the appointment of women to senior positions within the armed forces and the police.

Legalising disobedience to illegal and abusive orders

The status, scope, operations, cooperation, tasking, reporting, duties and oversight of all security services are regulated by laws. Security services do not have powers unless set down by law. Concerning the military, specific legislation, such as military personnel acts or military penal codes, specify the limits of orders that soldiers are obliged to obey. In many countries, these laws oblige each commander to observe the rule of law whenever issuing an order, limiting the commander's authority. It follows that service personnel have a duty to disobey illegal (criminal) orders; no soldier can justify his or her actions by referring to an order that commands him or her to commit a crime. Additionally, service personnel are not obliged to carry out an order if it is not duty-related or violates human dignity. This implies that service personnel themselves are always individually accountable for their actions, even when they were ordered by superiors.

The top military leadership should be encouraged to set an example and make it known publicly that undemocratic, unconstitutional or immoral orders or acts by soldiers are not allowed. This is especially important for the armed forces of former military dictatorships. A related issue is that of preventing and fighting impunity by making sure that any professional misconduct and any violations of international humanitarian law and human rights are punished by the competent administrative or judicial organ.

Establishing criteria for the appointment of top security personnel

The top positions of the security services, such as the commander-in-chief of the armed forces or the director of the intelligence services, are appointed by the cabinet or minister of defence. In some states, these senior appointments are subject to parliamentary debate and/or confirmation. For instance, by virtue of Article 50 of the Constitution of the Republic of Liberia 1986, the president is the commander-in-chief of the armed forces. Article 54(e) then provides that the president is to appoint and commission officers of the military from the rank of lieutenant or its equivalent and above, but with the advice and consent of the Senate. Though the top officials are appointed by the civilian political leadership, professional criteria are the most important in the selection process.

Civilians in top security management

Last but not least, the security services, such as the armed forces, should have civilians in top management. The main reason is that the relevant minister should be advised not only by military generals but also by civilians, in order to secure a balanced decision-making process.

Professional ethos

A professional work ethos is built on practices, regulations and policies. Service personnel should collaborate willingly with state institutions and respect the constitution; be dedicated to public service; perform their duties efficiently and effectively; and not abuse power or make improper use of public money. It is important that the professional ethos be characterised by willing compliance and not by forced compliance only. Willing compliance means that service personnel have a positive prejudice in favour of the constitution and national institutions because they have absorbed the democratic values of their society.

Many countries have adopted a code of conduct regulating the behaviour of their service personnel. In West Africa, Mali and Sierra Leone have benefited from technical assistance in developing codes of conduct for their forces. In 1997 the Malian government, in collaboration with the United Nations Development Programme (UNDP) and the OHCHR, produced the Code of Conduct for the Armed and Security Forces of Mali. The code contains provisions on human rights and international humanitarian law (IHL) standards for armed forces. It also highlights the constitutional role of the military in a democracy. The IHL Code of Conduct for the Republic of Sierra Leone Armed Forces (RSLAF) of 2006 was the result of a fruitful collaboration between the legal division of the RSLAF and the ICRC. The booklet contains rules of conduct in times of conflict; for protected persons; and permissible methods of warfare. It also contains important aspects of first aid and information on HIV/AIDS.

Box 56

Police code of conduct: relevant provisions of part XV of the Nigeria Police Regulations of 1968

353.

A police officer shall not conduct himself in such manner as to bring his private interests into conflict with his public duties or in such manner as is likely to cause a suspicion in the mind of any reasonable person that he has –

    a. allowed his private interests to come into conflict with his public duties; or

    b. used his public position for his private advantage.

357.

A police officer may not promote or encourage the raising of funds to mark public approbation of a police officer's conduct, but where such funds are spontaneously raised by persons outside the Force, they may be dedicated to public purposes and connected with the name of the police officer whose conduct has merited such proof of public esteem.

366.

1. A police officer shall, on his first appointment, disclose to the Inspector-General the particulars of any investments owned by him, whether held in his own name or in the name of other persons or otherwise held.

2. A police officer shall on making any new investment disclose the fact to the Inspector-General.

3. The Inspector-General may require any police officer at any time to submit full information of any investments held by him or by any member of his immediate family.

4. The Nigeria Police Council may call upon any police officer to divest himself of any one or all of his investments.

368.

A police officer on vacation leave or on leave prior to retirement shall continue to be bound by these Regulations and by orders applicable to his appointment, and in particular shall not accept any private employment for reward without previously obtaining the sanction of the Government.

Source: Nigeria Police Regulations, Police Code of Conduct (1968).

At the regional level, a draft Code of Conduct for the Armed Forces and Security Services of ECOWAS was approved at the 17th Meeting of the ECOWAS Defence and Security Commission in Ouagadougou in 2006 (see Box 57). It has also been endorsed by the Committee of Chiefs of Security Services at its constitutive meeting in May 2009 in Dakar, Senegal, and by the ministers responsible for security in November 2009 in Abuja, Nigeria. The code of conduct is now embedded in a Draft Supplementary Act to be adopted by the ECOWAS Council of Ministers and the Authority of Heads of State and Government; adoption as a Supplementary Act will raise the status of the document to an addendum to the ECOWAS Revised Treaty and thereby give it more force. The publication and dissemination of this operational code to security personnel in member states should commence once adopted. The lacuna in the promotion of a professional ethos among service personnel is filled by the normative Supplementary Protocol on Democracy and Good Governance 2001, Section IV of which enumerates the role of the armed forces, the police and security forces in a democracy.

Box 57

Draft Supplementary Act relating to a Code of Conduct for the Armed Forces and Security Services of ECOWAS: relevant provisions

► **Definition** Broad definition and non-exhaustive list of armed forces and security services that includes the army, air force, navy, gendarmerie, police, national guards "and other forces assigned with security" on behalf of the state.

► **Articles 2 and 13** Entrenched civilian supremacy and subordination of armed forces to democratically elected constitutional authorities.

► **Article 2** Personnel of armed forces and security services to observe strict neutrality in partisan political matters.

► **Article 6** Individual responsibility of armed forces personnel, their commanders and political or administrative authority for violations of human rights, international humanitarian law and relevant domestic laws.

► **Article 10** Recourse to force in enforcing domestic law and order must be as a last resort, with maximum restraint and minimum force. The personnel of armed forces to assist the wounded without discrimination.

► **Article 15** Personnel of armed forces and security services to enjoy, within the limits of national law, their fundamental rights and freedoms as stipulated by the constitution.

Source: Draft Supplementary Act relating to a Code of Conduct for the Armed Forces and Security Services of ECOWAS.

At the international level, the UN General Assembly endorsed the Code of Conduct for Law Enforcement Officials in 1979, setting out a reference framework for the professional ethos of service personnel of democratic societies (see Box 58). The code is of a general nature and is applicable not only to uniformed service personnel but also to all public officials working in law enforcement agencies.

Box 58

United Nations Code of Conduct for Law Enforcement Officials

Adopted by General Assembly Resolution 34/169 of 17 December 1979

► **Article 1** Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

► **Article 2** In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

► **Article 3** Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

► **Article 4** Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

► **Article 5** No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

► **Article 6** Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

► **Article 7** Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts.

► **Article 8** Law enforcement officials shall respect the law and the present code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them. Law enforcement officials who have reason to believe that a violation of the present code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

Source: United Nations Code of Conduct for Law Enforcement Officials (1979). Each article of this code of conduct includes a commentary that was not reproduced in this section. For the entire document, please see: http://www2.ohchr.org/english/law/pdf/codeofconduct.pdf.

Military jurisdiction

The requirements for military discipline are based on a number of conditions that stem from the unique nature of the military mission. For example, the military has a perspective on offences that differs from a civilian perspective. A civilian employee is not subject to criminal prosecution for walking away from a job assignment or for failing to perform that job properly. The employer may fire the employee for poor performance and refuse a recommendation for employment elsewhere but the employer does not have recourse to a criminal court. Service personnel, on the other hand, subject themselves to criminal prosecution for leaving their post or not completing an assignment according to specific standards and requirements. Such behaviour not only constitutes a dereliction of duty but also jeopardises the safety and welfare of other military personnel. Other examples of military offences that are not recognised in civilian society include fraudulent enlistment; absence without leave; missing movement; disrespect towards superior commissioned officers; mutiny; aiding the enemy; and sleeping on duty.

This issue raises a key concern about which crimes should come under military jurisdiction and which under civilian jurisdiction. As a principle, military courts should be used in a restrictive way and the jurisdiction of civilian courts should prevail as much as possible. Military jurisdiction should be limited to those crimes committed in the exercise of military functions and military codes should overlap with the civilian criminal law as little as possible.

It is important to highlight that in various countries, military courts are not part of the judiciary but are administrative tribunals in the sphere of the armed forces. This means that military judges are often not appointed through the constitutional provisions and requirements for the appointment of judges. However, it is fundamental to bear in mind that in all cases, military courts should be monitored by the judiciary. In many countries this is done through the establishment of civilian appeal courts.

Personnel management in the security sector

Working for the military is an occupation with special features, such as physical risks, regular relocations, often being apart from families, etc. Parliaments should be aware that the military is not "just another job". Proper personnel management—including proper recruitment, selection, staffing, remuneration, education and rewards, as well as deployment of military personnel in domestic law enforcement operations—is crucial to the development of a professional security sector that adheres to democratic principles and respects the rule of law and civilian supremacy.

In most West African states, parliament is not directly involved in the recruitment process for security sector personnel beyond the fixing of a manpower ceiling. For instance, the standing rules of the Senate and the House of Representatives in Nigeria provide for the defence committees to oversee the size and composition

of the armed forces. The National Assembly does not determine the welfare and training needs of the military beyond the approval of any increase in salaries and allowances. However, the National Assembly is authorised to receive petitions from service personnel, both serving and retired, and to act on them. Both the Senate and the House Committees on Defence receive petitions, conduct investigations and make necessary recommendations to the military.

Parliaments have to oversee the creation and maintenance of professional security services. They should ensure that personnel management plans are developed and implemented, leading to a democratic and professional workforce. They should further monitor whether the state behaves as a fair employer towards service personnel in terms of salary, labour conditions, allowances, pensions, etc.

The federal character principle enshrined in section 14(3) of the 1999 Constitution of the Federal Republic of Nigeria stipulates that all federal agencies shall be composed in such a manner as to ensure that there shall be no predominance of persons from a few states or a few ethnic or other sectional groups. In 2008, an attempt to introduce a similar measure in the Ghana armed forces in order to address lopsided regional and ethnic imbalances was met with stiff opposition.

However, the recruitment, selection and promotion of security personnel in both countries have had to contend with issues of a more procedural than federal character. These range from undue lobbying for candidates and the sale of fake forms to the inducement of recruitment officers. Under the respective service chiefs (chiefs of army staff, air staff and naval staff) in Nigeria, the recruitment process was adapted to online (e-recruitment) systems starting in 2007 in order to check favouritism and other inefficiencies. Comparatively, the appointment, promotion, discipline and dismissal of police officers by the independent Police Service Commission, established by an act of the National Assembly, have proved to be more transparent and efficient.

Due to the limited capacity and personnel of the police force and gendarmerie (the average police to civilian ration is 1:2,000), some West African states have repeatedly resorted to the use of military forces in domestic operations. A recurrent issue in such operations has been the abuse of human rights of civilian populations by military officers. Reports of such abuse trailed Operation Flush Out in mining areas in Ghana in 2006 and 2007, and the military campaign by a joint task force against militant groups in the Niger Delta region of Nigeria in May 2009. To guard against abuse, parliament should therefore ensure that the constitution or other legislation provides for circumstances under which domestic military deployment may be permitted. In the case of the Niger Delta, ratification of the military operation and the extension of the mandate of the joint task force by the House of Representatives came only when debate on the propriety of the operation had assumed significant dimensions.

Box 59

Personnel management: focal points for parliamentarians

Parliaments should be informed about the following points of the government's proposals concerning personnel management of the security services:

General policy issues

► Is parliament called upon to approve the personnel management policies for the security services, either as part of the yearly budget proposal or as a separate document?

► Are the personnel management policies and force structure policies realistic and affordable from the point of view of the budget and the national economy?

Strength and general conditions

► Does the parliament fix the maximum number of service personnel, such as for the armed forces, the police or intelligence services?

► Does the parliament decide upon ceilings per rank?

► Are all personnel management policies available to the public?

► Does the parliament receive all relevant information: total numbers per rank, salaries, functions, vacancies, etc.?

► Are security sector reform policies addressing the social consequences of lay-offs of service personnel?

Recruitment and selection

► Are all positions open to every citizen, women included, if so laid down by law?

► Is an open personnel recruitment system for the security services in place, as opposed to a closed recruitment system in which only specific segments of society can apply for a position?

► Are professional criteria used for the selection of candidates?

► Are there many vacancies within the security services?

► Is there a high dropout rate after the initial selection?

Staffing

► Is the leading principle that service personnel are to be recruited and promoted on the basis of merit and quality adhered to in practice?

► Is a professional periodic appraisal system in place?

► Is this system transparent, objective and fair?

► Does the security service provide for attractive and motivating career opportunities?

► Are service personnel banned from having another salaried job?

► Do leading commanders have field experience, and do they serve in peace missions abroad?

► Is the parliament or the relevant parliamentary committee consulted by the minister of defence (or other relevant ministers) in the case of high-ranking appointments, such as the commander-in-chief?

Deployment in domestic operations

Are there constitutional provisions or other legislation providing for:

► The circumstances under which domestic military deployment may be permitted?

► Public officials with authority to mandate military deployment?

► The procedures which authorised public officials must follow?

► The rules which military officers taking part in such operations must follow?

Remuneration

► Are the salaries of service personnel high enough compared with salaries of other professions, enabling the security services to compete with private companies on the labour market?

► Are salaries paid in time?

► Are service personnel rewarded on the basis of merit and quality?

► Does the real performance of service personnel influence their remuneration?

► Is the remuneration system transparent for its users and for the general public?

► What are the concerns about the retirement and pension systems?

► Related to the salaries and benefits of the persons in service, is the retirement scheme satisfactory? What do service personnel gain or lose when they retire?

Source: Fluri, Philipp, Johnsson, Anders and Born, Hans, eds. (2003), *Parliamentary oversight of the security sector: principles, mechanisms and practices.* Handbook for parliamentarians No. 5. Geneva: IPU and DCAF.

Visiting the premises of security services

Becoming thoroughly familiar with the security sector is important for all parliamentarians. Theoretical knowledge should be complemented by practical and field experience, with a view to obtaining a better understanding of the needs of security service personnel. From this perspective, parliamentary visits to the premises of the security services can be regarded as a way to develop a dialogue and build trust and understanding between political and military leaders. These visits by parliamentarians enhance their awareness of soldiers' daily problems and demonstrate to the military that the political leadership is interested in and committed to soldiers' well-being.

Box 60

The case of Nigeria

Legal authority for parliamentary visits to the premises of military and security services is derived from the general budgetary and oversight powers contained in sections 80 and 88 of the 1999 constitution, and the jurisdiction of defence and security committees spelt out in the standing orders. Such visits are conducted with the aim of exchanging opinions with military personnel to ensure judicious application of funds appropriated for the military, and to hold the minister of defence and chief of defence staff accountable when there are any lapses. Members and the clerk of the relevant defence and security committees or an ad hoc committee of investigation are usually part of the delegations. These visits take place whenever the need arises but at least three times in a legislative year. Although no special procedures are involved, the visits are conducted with the prior knowledge of the military authorities. Parliamentary visits have served to enhance civil-military relations and promote understanding and trust between the institutions. Reports of such visits may be presented before the parliament but are often presented in private due to the confidential and sensitive nature of the issues covered. Also, such reports may form the basis of summoning or compelling the attendance of any person to give evidence to a committee.

Source: Interview with Honorable Oluwole Oke, Chairman of the Committee on Defence, House of Representatives, National Assembly of the Federal Republic of Nigeria, December 2009.

In detention centres, including prisons, inmates are entirely in the hands and under the control of security personnel. This special situation makes them particularly vulnerable to all kinds of human rights abuses. Unfortunately, cases of torture and mistreatment in prisons and detention centres are widespread. These institutions should therefore be subject to special oversight and control mechanisms. A very useful tool in this regard is visits to these sites by parliamentarians and experts, with the aim of uncovering cases of mistreatment and preventing further abuses.

The Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (approved in December 2002 by the UN General Assembly) provides a mechanism for visits to detention centres. Article 4 of the protocol obliges states to open up their detention centres to visits by independent national and international experts entrusted with making recommendations to reduce the risk of ill treatment.

Needless to say, parliamentary visits to the premises of the security services, such as troop or military bases, should be coordinated with the relevant ministry (for example the ministry of defence). Unexpected or uncoordinated visits could have severe counterproductive consequences as they could be interpreted as a lack of trust in the military or bypassing the hierarchy. They could also disturb the normal functioning of the military. Further, visits should involve representatives of various political parties and be well-prepared from the substantive point of view.

The limitation of such visits is that the parliamentary committee only gets to see what the commanders of the security services want it to see. Such visits do not reveal the real nature of the problems but potentially give the military personnel the opportunity to spin the situation towards their viewpoints, particularly in the case of budget demands. This can be remedied to an extent by agreeing on three types of visits: visits recommended by the military, visits recommended by parliament and announced in advance, and visits recommended by parliament at short notice (i.e., 24 hours).

What you can do as a parliamentarian

Ensure the following:

► Military personnel swear an oath of allegiance that is to the constitution, the rule of law and the state's institutions, but not to individuals.

► Education is promoted in key values and norms of democracy, civil rights and humanitarian law, as a standard part of any military training.

► Military officers are not allowed to be members of parliament.

► Selection of new soldiers and officers is based on professional criteria.

► The duty of service personnel to disobey illegal (criminal) and abusive orders is legalised.

► The military ethos is characterised by willing compliance, supported by appropriate codes of conduct.

► The competence of the military jurisdiction is as restrictive as possible and the decisions of military courts can always be appealed before civilian criminal courts.

► The security services are held accountable, both in law and in practice, to each of the main constituent elements of the state (see earlier in this chapter for individual accountability of service personnel). The internal accountability mechanisms for the security services have to be provided by law, allowing for an internal review of alleged misconduct and public complaints, and for punishment of those responsible. Oversee that such mechanisms are applied and effective. See to it that parliaments require independent investigations and make sure that suspects are called to account.

Relations between parliament and the armed forces

► Institute a regular open-door policy for parliamentarians and ordinary citizens to visit military barracks and mingle with troops and their families.

Civil rights of service personnel

► Limit by law the civil rights of service personnel in order to ensure (military) readiness and the political neutrality of the services.

► Keep in mind that any curtailing of civil rights has to be directly linked to the unique character and tasks of the security services, i.e., the monopoly of force in society.

► Acceptance of limits on civil rights should be compensated by efficient channels to redress grievances.

Obedience

► Provide by law that service personnel, including conscripts, have the duty to disobey illegal and unethical orders and orders that contradict human rights and norms of international humanitarian law.

► Make sure that this duty is enforced by the disciplinary system within the security services.

Abuses and corruption

► Act swiftly if scandals or excesses, such as corruption and violence, happen within the security workforce.

► Make sure that appropriate in-depth inquiries are carried out and, if appropriate, sanctions are decided upon by the competent body and applied without delay.

► Enact legislation that prohibits the military and other security services personnel from being employed in second jobs or involved in commercial practices individually or as a group/organisation.

Tasks and size of the security workforce

► Make sure that the tasks assigned to the armed forces, as well as the size of the workforce, are consistent with national economic resources.

Remuneration of the security workforce

► Make sure that the salaries of service personnel are economically sustainable while at the same time as competitive as possible in the labour market and sufficient to provide a decent living.

► Make sure that the salaries are paid regularly.

► Bear in mind that inadequate salaries may render the security services unattractive and discourage qualified young potential recruits.

► Bear in mind that in a given environment an inadequate level of salaries and/or erratic payment of them may lead to the security services turning towards acts of corruption or even extortion and violence.

► The financial advantages and privileges of service personnel and their leaders should not be such as to create an entrenched interest and encourage the security services to seek to maintain political influence. They should be public knowledge, and balanced with the financial advantages and privileges offered to other government employees. The privileges should be consistent with the unique conditions and hazardous service required of armed forces in operational areas.

Visits to premises of the security services

► Push for parliamentary visits to premises of the security services (including troops deployed abroad) to be provided for by law.

► In the absence of a law providing for parliamentary delegations to visit the premises of security services, verify whether parliamentarians are nevertheless included in visits to these premises, ascertain on what basis and under what procedures, the criteria as to the selection of the parliamentarians concerned and the impact.

► Ensure that regulations are in place specifying:

  ✓ Which premises of the security services may be visited;

  ✓ Under what circumstances and conditions such visits can take place, e.g., whether visits may be arranged at all times; and

  ✓ The actual practice and frequency of parliamentary visits to national military units or bases.

► Make sure that detailed written reports on such visits are presented to parliament or the relevant committee and subjected to debate.

► Assess the impact of those visits already performed.

► Check whether your state has ratified the UN Convention against Torture and its Optional Protocol.

► Make sure that parliamentary delegations are non-partisan, comprising a fairly representative proportion of members of the majority and the opposition in parliament.

► See to it that visiting delegations, to the extent possible, are gender balanced.

► So as to avoid counterproductive effects, make sure that the parliamentary visit has been coordinated with the ministry of defence.

► Make sure that a detailed report is presented to and debated by parliament/ its competent committee(s).

► Make sure that the competent security authorities have access to the report early enough to be able to present observations.

► Make sure that the findings and recommendations of the delegation and the corresponding decision of parliament are acted upon and that the appropriateness of making them public is addressed and decided upon.

Gender and parliamentary oversight[1]

Parliamentarians are representatives of the people and are accountable to their constituencies. As women, men, boys and girls have different security needs and roles, it is the responsibility of members of parliament to ensure that these needs and roles are taken into account in oversight of the security sector. This requires gender-sensitive security policies and legislation; holding security sector institutions accountable for the integration of gender; equitable budgets; and the involvement of men and women in decision making on security and defence issues.

Importance of gender

"Gender" refers to socially constructed roles and relationships between men and women. In other words, men and women are taught certain roles and appropriate behaviours according to their sex. For instance, men are not more biologically fit than women to become parliamentarians yet they constitute a majority, 80.8 percent, of parliamentarians worldwide. In many West African countries, as in most countries around the world, this is due to cultural gender stereotypes that hinder women from entering politics. Gender roles such as these are not static, can change over time and vary widely within and across cultures.

---

[1] This chapter was written by Ms. Kristin Valasek with research assistance provided by Ms. Beatrice Mosello. The chapter draws heavily from Ilja Luciak, "Parliamentary Oversight of the Security Sector and Gender."; Peter Albrecht and Karen Barnes, "National Security Policy-Making and Gender."; and Kristin Valasek, "Security Sector Reform and Gender." from the *Gender and Security Sector Reform Toolkit.* Eds. Megan Bastick and Kristin Valasek (Geneva: DCAF, OSCE/ODIHR, UN-INSTRAW, 2008).

When it comes to security sector oversight, taking gender issues into account strengthens parliament's ability to oversee the security sector comprehensively and ensure that it meets the different security needs of different constituents.

Addressing the different security threats and needs of women, men, boys and girls

In addition to having different access to healthcare, education, decision-making power and other resources, which in turn affects their security, men and women face different forms of violence. While men are the vast majority of perpetrators and victims of small arms violence, women face much higher rates of domestic and sexual violence. For example, globally 90 percent of those killed by firearms are male and one out of every three women is a victim of gender-based violence. High rates of sexual violence against women have been reported in a number of West African countries, including Côte d'Ivoire, Guinea-Bissau, Liberia and Sierra Leone. These pervasive crimes constitute a grave threat to human as well as national security. Parliamentarians can ensure that these different security threats are addressed in legislation and budgets, and through monitoring security sector institutions.

Creating equitable security sector institutions

In order to deliver security and justice effectively, it is essential to create representative and accountable security sector institutions. Parliamentarians can play a pivotal oversight role in increasing the number of female personnel in security sector institutions and in holding these institutions accountable for gender mainstreaming. In addition, parliaments can increase prevention of and accountability for gender-based discrimination, sexual harassment and violence. From the scandals of peacekeepers involved in sexual exploitation and the high rates of sexual harassment within the armed forces to rape by prison staff, these forms of gender-based violence are criminal acts that tarnish the image and reduce the effectiveness of the security sector.

Equal access to security decision making

Involving both men and women in the process of security sector oversight leads to more effective, sustainable and comprehensive oversight. In addition, men and women as voters and citizens are impacted by decisions taken on security issues and thus should equally take part in decision making. This is in line with international, regional and national instruments and laws stating that men and women have the equal right to participate at all levels of governance and decision making (see Box 61). As women are highly underrepresented in parliaments in West Africa (see Box 65), parliamentarians can take measures to increase the representation of women as well as collaborating with women's organisations and consulting with male and female constituents.

> **Box 61**
>
> ## International and regional laws and instruments
>
> In order to comply with international, regional and national laws and instruments, security policies and laws must be gender-sensitive and both women and men should be involved in decision-making processes. Key instruments include the following:
>
> ► UN Convention on the Elimination of All Forms of Discrimination against Women (1979)
>
> ► ECOWAS Revised Treaty, Article 63 on "Women and Development" (1993)
>
> ► The Beijing Declaration and Platform for Action (1995)
>
> ► UN Security Council Resolutions 1325, 1820, 1888, 1889, 1960 on Women, Peace and Security (2000, 2008, 2009, 2010)
>
> ► African Union Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2003)
>
> ► African Union Solemn Declaration of Gender Equality in Africa (2004)
>
> ► ECOWAS Gender Policy (2004)
>
> ► ECOWAS Conflict Prevention Framework (2008)

Security policies and legislation

Parliamentarians have the ability to amend security legislation and policies—including national security strategies, peace agreements and white papers on defence and security—so that they adequately address the security needs and roles of women, men, boys and girls. In particular, four steps can be taken.

Involve men and women

✓ Discuss the draft policy with male and female constituents, for instance during town hall meetings.

✓ Call for a national consultation or dialogue on security, involving women's organisations.

✓ Hold an open debate or parliamentary hearing.

✓ Include men and women in parliamentary committees responsible for security legislation and policies.

✓ Establish/involve a parliamentary ombudsperson in order to facilitate male and female civilian involvement.

✓ Discuss draft security legislation and policies with the media to raise the awareness of security issues among the general public.

Include gender expertise

✓ Consult with gender experts, including women's organisations, academics and representatives from women/gender ministries.

✓ Hold training sessions or briefings on gender issues for parliamentarians and parliamentary staffers on relevant committees (see Box 62).

✓ Commission research on gender and security issues, such as a gender impact assessment of the draft security policy.

Include gender issues in the content

✓ Ensure that the content is in line with national, regional and international laws and instruments on gender (see Box 61).

✓ State the importance of achieving equality between men and women, and between social, religious and ethnic groups, as a matter of national security.

✓ Emphasise that gender-based violence against men, women, girls and boys is a key internal threat to security and prioritise strategies and budgetary allocation to prevent, respond to and sanction gender-based violence.

✓ Affirm the equal right of all men and women to participate in all positions within security sector institutions. Call for specific measures to increase the representation of women, including strategic targets for recruitment, retention and promotion.

✓ Declare the need to eliminate discrimination within security sector institutions and in the provision of security and justice services on the basis of religion, tribal affiliation, ethnicity, sex, language, sexual orientation or any other improper basis.

✓ Include specific provisions on discrimination, sexual harassment and other forms of gender-based violence within codes of conduct for security sector institutions.

✓ Institute mechanisms that ensure the participation of civil society, including women's organisations, in oversight of the implementation of security policies, SSR processes and security sector institutions.

Use gender-sensitive language

✓ Specify men, women, girls and boys—rather than poor people or vulnerable groups—where relevant.

✓ Use inclusive language, such as police officer not policeman, chair or chairperson not chairman, humankind not mankind.

✓ Use she/he or he/she, not he.

For instance, the Sierra Leone Government Defence White Paper (2002) refers to "servicemen and women" and states that "the Ministry of Defence together with the Republic of Sierra Leone Armed Forces (RSLAF) is committed to recruiting and retaining high calibre personnel irrespective of tribe, region, gender, religion…." Once security laws or policies have been passed, it is important to monitor and evaluate their implementation to ensure that they meet the needs of men, women, girls and boys.

Box 62

Gender and SSR training for Liberian legislators

The African Security Sector Network (ASSN), in collaboration with the Conflict, Security and Development Group (CSDG) at King's College London, developed a security sector reform (SSR) training programme for Liberian members of the Senate and House of Representatives Standing Committees on Defence and Security. The objective of this programme is to engage Liberian legislators and partners in security sector institutions and civil society in the necessity of parliamentary oversight of SSR to ensure that adopted approaches are gender-sensitive as well as accountable and transparent.

As part of this three-year programme, in July 2008 the ASSN and CSDG held an interactive four-day training seminar in the United Kingdom on "Transparent and Gender-Sensitive Security Sector Reform" for 25 Liberian legislators, security sector institution and civil society representatives. This process-driven approach is aimed at ensuring a nationally driven SSR process that guarantees participation of all. The focus on engagement with the Liberian legislators is crucial for national ownership of an inclusive SSR process, given their constitutionally mandated oversight responsibility.

The training seminar included sessions on gender-sensitive approaches to SSR and how to practically integrate gender into security sector oversight. There was also a session on international and regional approaches to gender and SSR. Interactive methodologies such as small group discussion, brainstorming and scenario-based exercises were employed to increase participants' understanding of gender issues.

Source: Interview with Eka Ikpe, Research Associate, Conflict Security and Development Group, King's College London, September 2009.

Oversight of security sector institutions

When exercising oversight over security sector institutions, parliamentarians have the ability to scrutinise them to ensure that they meet their obligations when it comes to gender issues. More specifically, parliamentarians can play a pivotal role in ensuring increased female recruitment, retention and advancement; eliminating sexual harassment, discrimination and other human rights violations; and monitoring the integration of gender issues. This can be done through the work of parliamentary committees on defence and security, through control of the budget and other oversight mechanisms.

Female recruitment, retention and advancement

In West Africa, as around the world, women are heavily underrepresented in security sector institutions, including the justice sector, armed forces, prisons, police service, intelligence service and border management (see box 63). Even where there are higher percentages of female personnel, women are often relegated to low-status administrative or other entry-level positions. However, having more representative security institutions has been shown to increase civilian trust and strengthen the ability to deliver security and justice, and is a key indicator of democratic governance.

More specifically, increased female participation is viable, necessary and operationally beneficial. Due to cultural gender roles, women often possess a vital skill-set, including communication skills and the ability to de-escalate potentially violent conflicts, widen the net of intelligence gathering, perform cordon and search of women, and assist in the aftermath of gender-based violence.

Box 63

Percentage of female personnel in the West African armed forces and police

Country	Armed forces	Police	Military component of peacekeeping operations
Benin	20.00%	6.52%	4.6% (56 out of 1,207)
Burkina Faso	1.47%	4.98%	0.75% (6 out of 794)
Cape Verde	**1.75%** in military service **3.50%** permanent military personnel	8.71%	-
Côte d'Ivoire	0.5%	11.14%	-
Gambia	N/A	N/A	3.3% (7 out of 212)
Ghana	**107** female personnel (2005)	**Between 12.05% - 15.3%**	9% (as of 2006)
Guinea	N/A	15%	9.8% (13 out of 133)
Guinea-Bissau	4.19%	11.75%	-
Liberia	3.86%	12.6%	-
Mali	N/A	11.56%	4.31% (5 out of 116 as of October 2010)
Niger	Est. 0.41% - 2%	N/A	**0.33-0.67% in ONUCI alone** (1 to 2 out of 300 as of June 2010)
Nigeria	Est. 3% - 10%	12.41%	-
Senegal	4%	Est. 5%	0% (0 out of 1,605 as of April 2010)
Sierra Leone	3.92%	16.26%	-
Togo	3.20%	6.69%	0.13% (1 out of 800 as of May 2010)

Source: UN Department of Peacekeeping Operations (2009), "Gender Statistics by Country – 31 May 2009"; Miranda Gaanderse, Jean Jacques Purusi, Kristin Valasek (2011) *Gender Survey of Security Sector Institutions in ECOWAS Countries,* Geneva: DCAF (Forthcoming).

Parliamentarians have the power to take a range of steps to increase the participation of women in security sector institutions.

- ✓ Passing resolutions calling for increased participation of women in peace and security, including higher rates of women deployed on peacekeeping missions.

- ✓ Developing laws or policies that call for specific measures to increase the recruitment, retention and advancement of women in security sector institutions, including establishing minimum strategic targets.

- ✓ Adopting laws ensuring that all positions within security sector institutions are open to women and men, including operational units.

- ✓ Requesting, and making publically available, statistical data on the number and position of women and men within security sector institutions.

- ✓ Including within defence and security white papers the establishment of an equal opportunity and/or affirmative action programme within security sector institutions. For example, mandating the establishment of an equal opportunities directorate, gender focal points and an affirmative action plan.

- ✓ Instituting yearly reports to parliament from the different security sector institutions on the implementation of their equal opportunity policies and plans.

- ✓ Approving the appointment of high-level female security sector personnel.

- ✓ Requesting an independent evaluation of recruitment, retention and advancement processes with a view to assessing the obstacles and entry-points for increased participation of women.

- ✓ Legislating the right of security sector personnel to form unions and associations, including female staff associations.

- ✓ Consulting with female staff associations in the different security sector institutions.

Eliminating sexual harassment, discrimination and other human rights violations

Preventing and responding to human rights abuses by security sector institutions and personnel are important aspects of oversight. West African security sector institutions are not free from discrimination, harassment and gender-based violence. Men and boys as well as women and girls, civilians as well as security sector personnel, can all become victims. Working to eliminate these violations is not only an obligation under international, regional and national law but creates more trusted and effective security institutions.

Parliamentarians can take positive steps towards the elimination of discrimination, harassment and human rights violations.

✓ Passing comprehensive legislation on all forms of gender-based discrimination, harassment and violence, including adequate penalties.

✓ Monitoring the implementation of international, regional and national commitments on gender-based discrimination, harassment and violence.

✓ Establishing a parliamentary inquiry or hearing, including civil society organisations.

✓ Instituting or reviewing the functioning of audit mechanisms such as an ombudsperson, human rights observers or human rights commissions.

✓ Introducing codes of conduct and other policies—such as on sexual harassment—with clear disciplinary procedures.

✓ Monitoring complaints and investigating human rights violations by security sector personnel, with a view towards ending impunity.

✓ Commissioning an independent survey on sexual harassment, discrimination and/or violence within security sector institutions.

Monitoring gender mainstreaming

Security sector institutions that integrate gender issues into their daily work are more likely to meet the security and justice needs of men, women, girls and boys. Parliamentarians can play a pivotal role in ensuring that security sector institutions integrate gender issues by taking the following steps.

✓ Calling for the development of institutional gender mainstreaming policies.

✓ Establishing gender units within security sector institutions with the capacity to support and monitor the implementation of institutional gender policies and plans. Creating a position or office, such as an ombudsperson, with special powers to externally oversee the integration of gender issues in security sector institutions.

✓ Commissioning an evaluation of the implementation of institutional gender policies or action plans.

✓ On-site visits to security sector institutions, such as armed forces barracks, to monitor the implementation of gender initiatives.

✓ Consulting with female staff associations and women's organisations.

Box 64

Equitable budgeting

Control over budgets is one of the most important ways in which parliament can influence government policies and programmes. Holding the purse strings means that parliaments can call for the integration of gender into security and defence-related budgets and procurement.

At a general level, parliamentarians can request that funding be earmarked for gender-related issues such as gender training, implementation of sexual harassment policies and the establishment of domestic violence units. Parliamentary committees can also influence procurement, for instance by insisting on the purchase of uniforms and equipment that fit women.

Gender can also be integrated throughout security-related budgets. One tool which is often used is a **gender-aware budget statement**. This statement can be developed for a specific sector, such as security. It analyses expenditures and revenues in terms of their likely impact upon men, women, girls and boys. The goal is to ensure that their needs are equally being considered and funded.

Another technique is a **gender-disaggregated beneficiary assessment**—a research technique used to ask actual or potential beneficiaries the extent to which government programmes and/or public services match their needs, wants and priorities.

In addition, after the budget is passed, it can be assessed for its impact on men and women through a **gender audit or review**.

Women in parliament

As parliament is supposed to be representative of the population it serves, the ratio of male and female parliamentarians should reflect their percentage of the population. However, the reality is that women are globally underrepresented in all parliaments, with the exception of Rwanda, and therefore specific measures are needed to increase their participation. In addition to strengthening democracy, the benefits of increasing the representation of women include having more senior female role models and strengthening women's participation in political decision making. More women in parliament may also increase the chances that women's security and justice needs and priorities will be reflected.

West African women seeking political office face many challenges, including cultural boundaries, colonial legacies, religious barriers and lack of education and funding. According to one report on women's political participation in West Africa, cultural obstacles such as resistance from husbands, families and society in general constitute the largest hindrances for women attempting to enter politics as well as for those already elected. Political party leaders have also shown a reluctance to support and nominate women for leadership positions.

Despite these obstacles, over the last decade sub-Saharan Africa has led the way with impressive increases in the number of female parliamentarians. In addition to Rwanda, which has the highest percentage of female parliamentarians in the world at 56.3 percent, the national parliaments of Angola, Burundi, Mozambique, South Africa, Tanzania and Uganda currently have over 30 percent women.

Female parliamentarians

Box 65

Percentage of female parliamentarians in West Africa

Country	% female parliamentarians as of 31 January 2011
Benin	**10.8%** (March 2003)
Burkina Faso	**15.3%** (May 2007)
Cape Verde	**18.1%** (January 2006)
Côte d'Ivoire	**8.9%** (December 2000)
Gambia	**7.5%** (January 2002)
Ghana	**8.3%** (December 2008)
Guinea	**6.0** (May 2008) [Parliament dissolved in 2008]
Guinea-Bissau	**10.0%** (November 2008)
Liberia	Lower House: **12.5%** (October 2005)
	Upper House: **16.7%** (October 2005)
Mali	**10.2%** (July 2007)
Niger	Not available
Nigeria	Lower House: **7.0%** (April 2007)
	Upper House: **8.3%** (April 2007)
Senegal	Lower House: **22.7%** (June 2007)
	Upper House: **40.0%** (August 2007)
Sierra Leone	**13.2%** (August 2007)
Togo	**11.1%** (October 2007)

Source: Inter-Parliamentary Union (2011), "Women in national parliaments," see http://www.ipu.org/wmn-e/classif.htm.

In West Africa, women are largely underrepresented within parliaments (see Box 65). According to the Inter-Parliamentary Union, as of 31 January 2011 the world average percentage of female parliamentarians stood at 19.2 percent. Senegal stands out as having a higher than average percentage of women with 22.7 percent in the Lower House and 40 percent in the Upper House. However the rest of West Africa falls below the world average, with Guinea at the lowest with 6 percent women.

Certain West African countries are taking measures to increase the number of female parliamentarians. Quotas are often the most immediate and successful tools for increasing the number of women in elected office. On 16 April 2009, Burkina Faso passed a quota law mandating that political parties include 30 percent women on all political party candidate lists. The law states that political parties with over 30 percent women will receive financial support but parties that do not meet this quota will have their funding slashed by 50 percent. The aim of the law is to reduce inequality through promoting women's full participation in public life.

Additional measures may be necessary in order to create an equitable parliament:

✓ Constitutional or electoral quotas, such as in Burkina Faso, Liberia and Niger.

✓ Party quotas, where political parties voluntarily determine that they will nominate a certain percentage of men or women or have party lists where every other candidate is a man and then a woman. Certain parties have instituted quotas in Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal and Sierra Leone.

✓ Providing support, including funding, training and mentoring, for female parliamentary candidates.

✓ Providing incentives to political parties to nominate women for office.

✓ Collaborating with women's organisations and national women's movements to support the candidacy of female parliamentarians and increase women's political participation in general.

✓ Working with the media to raise awareness on gender issues, including increasing the profile of female parliamentarians as role models.

Even after being elected to office, female parliamentarians in Africa face disproportionate challenges that deter their effectiveness, such as a lack of appropriate skills and training, language barriers, lack of respect and collaboration from some male parliamentarians, lack of constituencies beyond those provided by their political party and lack of independent funding and patronage sources. Therefore, continued support to female parliamentarians is vital.

Box 66

Senegalese women in parliament

Senegal has the highest percentage of female parliamentarians in West Africa. Currently, there are 33 female parliamentarians out of a total of 150 in the National Assembly of Senegal.

Many different factors have contributed to this high percentage, including economic development, the spread of formal education and a reformist president supportive of women's issues. More specifically, quotas have played a large role in increasing the number of female parliamentarians. In 2002, 14 political parties agreed to reserve 30 percent of their lists for female candidates. Then, in 2007, a bill calling for gender parity on the proportional representation lists of political parties, introduced by President Abdoulaye Wade, was overwhelmingly passed in parliament.

Together, these factors have contributed to women's entry into national electoral politics in Senegal. This is despite the challenges of socio-religious norms—many Muslim leaders have not been very supportive of women gaining access to the realm of politics. Even though Senegal is a secular state, Islamic institutions and leaders play an important role in Senegalese politics.

Despite the higher participation rate, Senegalese female parliamentarians still lack critical support in making their voices heard in the National Assembly. Due to the patron-client political system in Senegal, women are generally elected because of their party affiliation and some lack the necessary professional training. For instance, a study in 2001 highlights that most female delegates do not contribute to parliamentary debates. Thus additional support to female parliamentarians to strengthen their skills is a current priority.

Source: Lucy Creevey (2006), "Senegal: Contending with Religious Constraints" in Gretchen Bauer and Hannah E. Britton, eds., *Women in African Parliaments.* London: Lynne Rienner Publishers, 151–169.

Women in parliamentary defence and security committees

Even where there is high percentage of women in parliament, they are rarely members of defence and security parliamentary committees, which play a crucial role in security sector oversight. Additional measures are therefore needed to include more women in committees with decision-making power on security issues, such as:

✓ Parliamentary quotas for committee representation.

✓ A formal or informal policy of increasing the gender balance in committees.

✓ Security and defence training for female parliamentarians so that they are able to participate constructively in security sector oversight.

✓ Lobbying for more women on defence and security committees, including senior positions such as chair.

Women/gender parliamentarian caucuses

Establishing women or gender caucuses across party lines is an effective way for female parliamentarians to influence security sector oversight. Providing strength in numbers, these caucuses can provide a platform to:

✓ Lobby other parliamentarians to influence security policies, legislation and budgets.

✓ Serve as a watchdog on the implementation of gender initiatives within the security sector.

✓ Raise awareness among constituents about the different security needs and roles of men, women, girls and boys, including through the media and with traditional and religious leaders.

✓ Lobby, together with women's organisations, for political parties to increase women's participation in office through quotas or other measures.

✓ Form a regional network of female parliamentarians and exchange good practices.

✓ Provide support, including mentoring and training, to female parliamentarians to strengthen their skills in security sector oversight.

Parliamentary women's caucuses currently exist in Burkina Faso, Ghana, Liberia, Mali, Niger, Senegal, Sierra Leone and the Pan-African Parliament.

Collaborating with women's organisations

West African parliaments, especially in post-conflict countries, lack full and sustained engagement with civil society organisations. However, in order to strengthen the legitimacy of parliamentarians it is essential to reach out to constituents and civil society. On gender issues, women's organisations can be a strong ally in the push for comprehensive oversight of the security sector.

Collaboration with women's organisations, gender researchers and experts, and regional and international organisations—such as the ECOWAS Gender Development Centre—can provide parliaments with information, advice and political support on gender and security oversight issues. Mechanisms for interaction include consultations, public hearings, commissioning research, joint campaigns and advocacy. Women's organisations can also provide support to female parliamentarians. For instance, the Canadian non-governmental organisation Parliamentary Centre supports the African Network for the Promotion of Women in Parliament. In 2006, the network organised a videoconference for parliamentarians in francophone West Africa to discuss challenges facing female parliamentarians and tools needed to improve gender equality in the legislature.

What you can do as a parliamentarian

► Actively engage with parliamentarians from other ECOWAS countries to learn from their experiences on integrating gender into security sector oversight.

► Request briefings and training for parliamentarians and parliamentary staffers on gender issues, including as they relate to security sector oversight.

Security policies and laws

► Involve men and women when developing security policies and legislation, including male and female constituents.

► Include gender experts, such as women's organisations, academics and representatives from women/gender ministries, when developing security policies and legislation.

► Include gender issues in the content and review the draft to ensure that it is in line with national, regional and international laws and instruments on gender and security.

► Use gender-sensitive language.

Oversight of security sector institutions

► Undertake initiatives to increase the recruitment, retention and advancement of women within security sector institutions.

► Eliminate discrimination within security sector institutions and in the provision of security and justice services on the basis of religion, tribal affiliation, ethnicity, sex, language, sexual orientation or any other improper basis.

► Adopt measures to eliminate sexual harassment, discrimination and human rights violations perpetrated by security sector personnel towards civilians and co-workers.

► Monitor gender mainstreaming within security sector institutions, including the implementation of institutional gender policies and plans.

► Enforce equitable budgeting and procurement to meet the needs of women and men.

Equitable access to decision making

► Take action to increase the number of women in parliament, including calling for electoral and party quotas.

► Lobby to increase the number of women on defence and security committees.

► Involve women/gender caucuses on security sector oversight issues.

► Collaborate with women's organisations, female security sector staff associations and other civil society organisations.

Other oversight institutions

The audit of security-related national budgetary expenses[1]

Parliament and the national audit office

Parliament's responsibility for the defence and security budget is far from discharged once it is adopted. Parliament has to invoke its oversight and audit functions, keeping in mind that the presentation of fully audited accounts to parliament is part of the democratic process. The auditing process should entail both the auditing of figures and the auditing of performance. The accounts and annual reports of the security services are an important source for parliaments to assess how money was spent in the previous fiscal year.

In its oversight functions, parliament should be assisted by an independent watchdog, a national audit office (sometimes referred to as the auditor general, National Audit Office or the Budget Office in different West African states). This office should be established by the constitution as an institution independent of the executive, legislative and judicial branches. Even where parliamentary budget and public accounts committees exist, it is still important to have an independent audit institution. Independence will improve professionalism and credibility, and remove the possibility of undue influence and politicisation of the audit process. Parliament should therefore make sure that the auditor general:

✓ Is appointed by it—or at least consented to or confirmed by a majority vote— and has a clear term of office;

✓ Has the legal and practical means and resources to perform his/her mission independently; and

---

1 This chapter was adapted from the IPU-DCAF Handbook for Parliamentarians by Mr. Okey Uzoechina.

✓   Has the independent authority to report to parliament and its budget committee on any matter of expenditure at any time.

In Nigeria, although the Public Accounts Committees of the Senate and the House of Representatives draw some of their professional support staff from independent oversight institutions such as the Economic and Financial Crimes Commission and the Independent Corrupt Practices Commission, the proposal to establish a legislative budget research office as an independent support structure to the National Assembly bodes well for the future of budgetary audit in the country. Part of its function will be the monitoring and evaluation of government budgetary performance. Civil society organisations are also an important and independent source of information on government performance, especially at the grassroots level. Civil society organisations (CSOs) with a capacity to conduct "value for money" auditing may have significant impact on governance and oversight debates and societal attitudes, thus contributing to the effectiveness of the democratic control of the security sector.

Parliament should see to it that judicial sanctions are provided for by law and applied in cases of corruption and mismanagement of state resources by officials and the political body. Parliament should also ensure that remedies are applied in cases of breach.

Box 67

The Auditor General

"Regardless of whether it falls under the executive, the legislature or the judiciary, it is imperative for the audit office to be completely independent and truly autonomous. It should also have adequate resources to accomplish its mission. Its function is threefold.

Financial oversight

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

Legal oversight

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

> **Ensuring proper use of public funds**
>
> A modern audit office which functions in the interest of good governance should ensure the proper use of public funds on the basis of three criteria:
>
> ► value for money: ensures that the resources used were put to optimal use, both qualitatively and quantitatively;
>
> ► effective: measures to what extent objectives and aims were met;
>
> ► efficient: measures whether the resources used were used optimally to obtain the results obtained.
>
> This *a posteriori* oversight is conducted on the initiative of the audit office or at the request of parliament."
>
> *Source:* Inter-Parliamentary Union (2002), *General Report of the IPU Seminar on Parliament and the Budgetary Process, Including from a Gender Perspective.* Bamako, Mali, November 2001. Geneva: IPU.

Case study: Ghana Audit Service

Independence

The Ghana Audit Service (GAS) was established legally as the supreme audit institution of the country, bound only by the 1992 Constitution and the law. The Audit Service Act of 2000 further enhances the mandate of GAS. The auditor general of Ghana is the head of the service.

The conditions of service of the auditor general that ensure independence include:

✓ A special procedure for appointment;

✓ Fixed tenure;

✓ Control over resources/budget;

✓ Independence to frame work plans;

✓ Competence to decide on the appointment of the entire staff of GAS; and

✓ Competence to publish audit reports and an annual activity report.

The act particularly guarantees that in the performance of his/her functions, the auditor general shall not be subject to the direction or control of any other person or authority. S/he also has the power to disallow any item of expenditure that is contrary to the law.

The auditor general or any person appointed by him/her shall, upon examination of the accounts of a body or institution, express his/her opinion as to whether the accounts fairly present the financial information in accordance with applicable statutory provisions, stated accounting policies of the government and generally accepted accounting standards, and that they are essentially consistent with those of the preceding year.

Effectiveness

The service exists to promote good governance—transparency and accountability—in the public financial management system by auditing the management of public resources in accordance with recognised international auditing standards and by reporting to parliament. Its mission is to deliver professional and cost-effective auditing services.

The GAS headquarters is in Accra, where 40 percent of its over 1,000 employees work. In addition, the service has ten regional offices and, within the regions, 98 district offices. Five deputy auditors general work under the direction of the auditor general; 23 assistant auditors general head the regional offices; and most of the 61 directors are responsible for the district offices.

The World Bank's 2007 External Review of Public Financial Management commended GAS for continuing to show progress in the clearing of a backlog of audit arrears and for submitting annual reports to parliament in compliance with statutory deadlines of 30 June each year.

Powers of investigation

The auditor general's powers are limited to the national level. The public accounts of Ghana and of all public offices, public corporations or any other body or organisation established by an act of parliament shall be audited and reported on by the auditor general to the parliament within six months after the end of each financial year. The auditor general may, in addition to the audit of public accounts (compliance, financial and performance audits), carry out special audits or reviews as s/he considers necessary and shall submit reports on these audits or reviews to parliament.

The auditor general examines public and other government accounts and ascertains whether, in his/her opinion:

✓ The accounts have been properly kept;

✓ All public monies have been fully accounted for, and rules and procedures applicable are sufficient to ensure an effective check on the assessment, collection and proper allocation of the revenue;

✓ Monies have been expended for the purposes for which they were appropriated and the expenditures have been made as authorised;

✓ Essential records are maintained and the rules and procedures applied are sufficient to safeguard and control public property; and

✓ Programmes and activities have been undertaken with due regard to economy, efficiency and effectiveness in relation to the resources utilised and results achieved.

Access to classified information

The auditor general or any person authorised or appointed for the purpose by the auditor general shall have access to all books, records, returns and other documents, including documents in electronic form, relating to or relevant to those accounts. Internal auditors of any public institution or body must submit copies of all reports issued as a result of internal audit work to the auditor general. The public accounts of Ghana and of all persons and institutions should be kept in such form as the auditor general shall approve and shall be subject to his/her review.

Auditing the security budget in practice

Auditing the security budget is a rather complex process for parliament, involving an analysis of audited reports regarding matters directly related to security and issues indirectly related to it, e.g., trade, industry, communications and money transfers. The main challenge may consist of establishing links between apparently unrelated activities.

In practice, the ministries that are key with regard to security—traditionally defence, interior, trade and industry, and more recently communications and finance—should regularly present to parliament fully documented reports on how they spend the money allocated to them. The parliamentary procedures used may include departmental annual reports, review of each item of appropriation by parliamentary committees, audited annual accounts of each ministry and specific debates on each department within parliament. Monitoring performance may also extend to visits to troops, military or civilian premises and offices.

Ideally, the audit process should enable the parliament to evaluate whether the budgetary cycle has respected legality, efficiency in expenditure and effectiveness in attaining the set objectives.

Box 68

The role of the United Kingdom (UK) National Audit Office in parliamentary oversight of the security sector

Established as an independent body in 1983 and headed by the comptroller and auditor general (C&AG), the UK National Audit Office (NAO) reports to parliament on the spending of central government money. The NAO conducts financial audits and reports on the value for money obtained.

► **Financial audit**

By law, the C&AG and the NAO are responsible for auditing the accounts of all government departments and agencies and reporting the results to parliament. As with other auditors, the C&AG is required to form an opinion on the accounts as to whether they are free from material misstatements. The C&AG is also required to confirm that the transactions in the accounts have appropriate parliamentary authority. If the NAO identifies material misstatements, the C&AG will issue a qualified opinion. Where there are no material errors or irregularities in the accounts, the C&AG may nonetheless prepare a report to parliament on other significant matters. Such reports may be considered by the Committee of Public Accounts of the House of Commons.

► **Value for money audit**

Around 50 reports are presented to parliament each year by the C&AG on the value for money government departments and other public bodies have obtained with their resources. The NAO examines and reports on the economy, efficiency and effectiveness of public spending. While the reports can reveal poor performance or highlight good practice, they also focus on making recommendations to help achieve beneficial change. The NAO believes that by implementing all the recommendations that it has made over the last three years, the government has saved £1.4 billion. The defence value for money reports have recently covered such diverse subjects as helicopter logistics, combat identification, overhaul and repair of land equipment, stock reductions and the redevelopment of the Ministry of Defence's main building. The NAO also reports on the progress of the 30 biggest acquisition projects.

► **Relations with parliament and the cycle of accountability**

Relations with parliament, in particular with its Committee of Public Accounts, are central to its work. The C&AG is, by statute, an officer of the House of Commons and all his/her main work is presented to parliament. In this way, a cycle of accountability operates. Once public money has been spent by a central government body, the C&AG is free to report to parliament on the regularity, propriety and value for money with which this has been done. The Committee of Public Accounts can take evidence on this report from the most senior official in that public body and can then make recommendations to which the government must respond. Additionally, the NAO responds to over 400 queries from individual members of parliament on issues affecting public spending.

Source: Tom McDonald, Senior Auditor, Defence, National Audit Office, UK, 2002.

Essential elements of audit offices

An audit office is one of the most important instruments for parliamentary oversight. It should possess the following characteristics in order to be effective:

✓ The statutory audit authority reports to the parliamentary public accounts committee, which should be different from the budget committee.

✓ It should have access to classified documents to understand decisions but must not make public reference to such documents.

✓ It should have multidisciplinary capacities, with expertise in the security sector, defence management and technical, financial and legal aspects.

Box 69

The Nigerian parliament and budget control

Section 80(1–4) of the Constitution of the Federal Republic of Nigeria, 1999, empowers the National Assembly (NASS) to control the budget of the federation by approving all budget estimates before they become law. To that end, NASS has the power to obtain and access budget documents at any time. NASS can also review and amend the defence and security budget as well as approve or reject supplementary defence budget proposals. Apart from the establishment of the consolidated revenue fund and the powers vested in NASS for its control, the constitution also provides for the authorisation of the annual budget by NASS (Section 81[1–2]).

Further authority is given to the National Assembly in the control and allocation of funds through the provisions contained in the standing orders of both chambers of NASS. Article 97(4)1(a) of the standing rules of the Senate provides for the establishment and functions of the Public Accounts Committee (PAC) as a special committee.

Section 85 (1–2) of the constitution provides for the office of the Auditor General of the Federation (AGF). Section 86 further provides the office of the AGF with autonomy. The appointment of the AGF shall be made by the president upon recommendation of the Federal Civil Service Commission, subject to confirmation by the Senate. Similarly, the AGF shall not be removed from office before his/her retiring age as prescribed by law. Such removal can only be effected by the president acting on advice by a two-thirds majority of the Senate.

PAC and the AGF work together to maintain accountability, probity and transparency in the public sector. The committee gives support and added effectiveness to the efforts of the AGF.

The main function of PAC is to discuss the annual report on the accounts of the government of the federation as presented by the office of the AGF. After making comments on the financial report submitted to the government by the Accountant General of the Federation (ACGF), the AGF will send his/her comments to the plenary of the NASS. The plenary will refer the report to PAC for comments. Each ministry and extra-ministerial department has a file at the PAC division of the office of the AGF, containing observations made by PAC on audit reports. PAC has the powers to invite the auditor in charge of any given ministry to explain and the eventual decision of PAC prevails.

As to membership, in the Senate PAC has ten members of staff, headed by a deputy director, who is not an accountant. Other staff serving PAC are sourced from NASS, the offices of the AGF and ACGF, the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices Commission (ICPC). The staff from the ICPC and EFCC are accountants, and together they embark on the exercise of auditing government ministries and extra-ministerial departments after every dissatisfactory public hearing on the finances of such ministries and departments. Although PAC relies on staff from the executive branch to conduct its oversight functions of auditing accounts, it does not regard that as a limitation since the three arms of government are expected to cooperate. To enhance checks and balances, PAC in both the Senate and the House of Representatives is headed by members of the opposition party: the All Nigeria Peoples Party in the Senate and the Alliance for Democracy in the House of Representatives.

Source: Adedeji Ebo and Boubacar N'Diaye (2008), *Parliamentary Oversight of the Security Sector in West Africa: Opportunities and Challenges.* Geneva: DCAF, 182–190.

What you can do as a parliamentarian

Effective independent auditing

► Make sure that the establishment of a supreme audit institution is provided for in the constitution or in legislation, outlining:

  ✓ The nature and scope of the relations between the national audit institution and the parliament;

  ✓ The necessary degree of independence of the national audit institution and of its members and officials, as well as its financial independence; and

  ✓ That the parliament should review and monitor the government's responses and measures following the reports made by the audit office and the parliamentary public accounts committee.

► Check whether the principles contained in the Lima Declaration of Guidelines on Auditing Precepts, to be found on the website of the International Organisation of Supreme Audit Institutions (INTOSAI) at www.intosai.org/blueline/upload/limadeklaren.pdf, are reflected in your national legislation and practices. All West African states are members of INTOSAI.

Legality audit, regularity audit and performance audit

► See to it that the national audit institution covers these three aspects when it comes to security issues.

► Make sure that, even if the audit process of expenditure relating to security takes place ex post facto, parliament draws all the necessary lessons and takes them into account at the time of committing fresh funds in that field.

► Most audit reports are limited to auditing financial questions. The statutory audit authority should be able to conduct performance audits of specific projects in detail, or use consultants for independent evaluation if the organisation is handicapped in its own expertise.

► The statutory audit authority should also audit the functioning of the financial departments of the security services.

The role of civil society and the media[1]

The security sector has become increasingly large and complex and represents a growing challenge for parliaments as they often lack the resources and specialised staff required to oversee the sector in an efficient manner. As a result, numerous bodies have emerged to complement parliament's role, though parliament retains the main responsibility to hold the government accountable. Both civil society and the media are able to contribute to parliamentary scrutiny of the security sector within the framework shaped by parliament.

Civil society

The term "civil society" refers to autonomous organisations that lie between the state institutions on the one hand and the private life of individuals and communities on the other. It comprises a large spectrum of voluntary associations and social movements, i.e., a broad range of organisations and groups representing different social, political and economic interests and types of activity. This chapter will consider why civil society should play a role in ensuring accountability of the security sector, what this role includes and how civil society contributes to parliamentary oversight.

Civil society and democracy

Civil society is both important to, and an expression of, the process of democratisation and plays a strong and increasingly important role in the functioning of established democracies. It actively reminds its political leaders that there are a multiplicity of competing demands and interests to be taken into account when deciding upon

---

1   This chapter was written by Dr. Kossi Agokla, Mr. Auwal Ibrahim Musa and Mr. Egghead Odewale.

public expenditures and state policies. A vibrant civil society is a basic requirement for democracy and has the potential to provide a counterweight to the power of the state, to resist authoritarianism and, due to its pluralistic nature, to ensure that the state is not the instrument of a few interests or select groups.

Civil society and the security sector

Groups within civil society, such as academic institutions, think tanks, human rights non-governmental organisations (NGOs) and policy-focused NGOs, can actively strive to influence decisions and policies with regard to the security sector. Governments can encourage the participation of NGOs in public debate about national security, the armed forces, policing and intelligence. Such debates further enhance the transparency and accountability of government.

The role of civil society organisations (CSOs) in national security decision making

Advocacy through dialogue and campaigning, networking and joint activities. The aim is to articulate and aggregate policy alternatives and point out their merits or otherwise.

Agenda-setting through mediation, research, training, peacemaking and peacebuilding, suggestions of policy alternatives, critiques of options and mobilisation of stakeholders behind people-centred ideas.

Information management, collaborating with security agents by providing critical information useful for effective law enforcement. For example, torture is rampant in some developing states due partly to the failure of intelligence.

Resource mobilisation, mobilising human and material resources to complement the efforts of security agencies, particularly in periods of emergency.

Ensuring accountability as whistle-blowers and gatekeepers, ensuring openness, accountability and transparency in the management of resources of the security sector. CSOs can compel state apparatuses to prosecute cases of corruption.

Specific role and input of NGOs and research institutes with regard to the security sector

NGOs are generally private non-profit organisations that aim to represent social aspirations and interests on a range of specific topics. Research institutes may either be NGOs or may have links to government, for example through state funding.

NGOs and research institutes can strengthen democratic and parliamentary oversight of the security sector by:

✓ Disseminating independent analysis and information on the security sector, military affairs and defence issues to the parliament, the media and the public;

✓ Monitoring and encouraging respect for the rule of law and human rights within the security sector;

✓ Placing security issues that are important for society on the political agenda;

✓ Contributing to parliamentary competence and capacity-building by providing training courses and seminars;

✓ Providing an alternative expert point of view on government security policy, defence budgets, procurement and resource options, fostering public debate and formulating possible policy options; and

✓ Providing feedback on national security policy decisions and the way in which they are implemented.

Box 70

Civil society in West Africa: a practical illustration of the role and the importance of civil society organisations

Interventions by civil society organisations in West Africa illustrate the broad range of roles NGOs and research institutes can play in the oversight of the security sector.

In past decades, the armed and security forces were the only players invested with the authority by government to keep overall peace and security. In the late 1980s, there was a significant shift in the nature of conflicts. Armed conflicts were waged less at the inter-state level and consisted increasingly of an escalation of internal disputes taking place among people living on the same land or sharing common national values and aspirations. The use of small arms and light weapons (SALW) emerged as a dramatic and staggering reality. These conflicts placed CSOs in a position to assume various roles regarding conflict prevention, de-escalation of violence, conflict resolution, rehabilitation and reconciliation. Many civil society groups in West Africa were formed in this context, with the goal of mobilising and monitoring mass movements promoting democracy in the overwhelming military and one-party systems that characterised the region. The rise in civil activism helped to break down the military and other armed groups' stronghold on security systems and opened a process for democratic change. Since then, CSOs and the media have been taking on a greater role, often serving as important sources of public opinion, civilian expertise and technical assistance on matters of peace and security, and assuming greater responsibility in post-conflict reconstruction.

Women associations in Sierra Leone

In 1994, women's associations in Sierra Leone provided critical support to the peace process and were actively involved in the transition of their country towards democracy. Groups of women from Freetown endeavoured to get the rebels and military to the negotiating table by initiating sensitisation campaigns in villages and hamlets in order to convince the belligerents to hand over their weapons. In spite of the difficulties they were confronted with, these associations managed to mobilise broad support in favour of democratic elections among the trade unions, teachers' associations, traditional groups and other associations representing civil society.

Some CSOs supporting ECOWAS

CSOs progressively understood that the key to supporting lasting peace and sustainable safety in the region is to generate a "prevention and peace culture" and to exercise a tough control on SALW trafficking. This resulted in the establishment in late 1990s of the West Africa Network for Peacebuilding (WANEP) and the West Africa Action Network on Small Arms (WAANSA).

A memorandum of understanding was signed in 2002 between the Economic Community of West African States (ECOWAS) and WANEP. One of the purposes of this agreement was to establish a connection between WANEP's WARN programme—an early warning mechanism—and the ECOWAS early warning system, established by the ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, and Resolution, Peacekeeping and Security of 1999. The ECOWAS Early Warning Network (ECOWARN) has become operational and is an integral part of the West African peacebuilding preventive programme. Four Observation and Monitoring Zones covering the 15 member states collect reports from the field and submit these reports to the Observation and Monitoring Centre (Early Warning Directorate) at the ECOWAS Commission. The system aims to monitor early signs of potential conflict, rising violence and threats, and humanitarian disasters.

WAANSA, the International Action Network on Small Arms (IANSA) partner in West Africa, was established in May 2002 in Accra, Ghana. It is a network of more than 50 organisations working to prevent the proliferation of small arms in the region. WAANSA works towards reducing demand for SALW in partnership with national commissions, the ECOWAS Small Arms Control Programme and the ECOWAS Small Arms Unit, and it provides coordination to all bodies that work on small arms issues. In June 2006, ECOWAS member states signed the Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials under the aegis of WAANSA's advocacy and technical assistance. According to this legally binding convention, the purchase of SALW by a member state is subject to a regime of exemption by the ECOWAS Commission.

Other networks

Many other West African CSOs, such as the Pan African Strategic and Policy Research Group, the West African Civil Society Forum, and the African Assembly for the Defence of Human Rights are also considered vital partners in regional security policy formulation and implementation.

The creation of the African Security Sector Network in 2003 in Al Mina, Ghana and the activities which the network has initiated or supported since have aimed at improving security sector governance in Africa. This pan-African network is made up of expert practitioners and academics, and regional and local CSOs specialising in security sector reform and governance throughout the continent. It partners with the African Union (AU), ECOWAS and international NGOs to further the objective of security governance in Africa.

The West Africa Network on Security and Democratic Governance (WANSED) was formed in 2005 as a specialised regional network of think tanks and NGOs dedicated to security and defence. One of its objectives is to conduct relevant research to support ECOWAS strategic planning and policy formulation. Another example of an African network-based approach to research that has been successful in terms of producing tangible outputs is the African Human Security Initiative, with WANEP as an active member. It critically analyses the performance of key African governments in respect of human security issues and benchmarks performance indicators against the commitments made by African leaders on human security issues at past AU heads of state meetings.

Based on: UNREC (2008), *Capacity building on practical disarmament and peacebuilding in West Africa, Training Manual,* Lomé; Marc Malan (2005), "Harnessing CSO Research Capability in service of African Conflict Prevention Strategies," KAIPTC Paper No. 10.

The media

Free media and freedom of speech are key components of democracy. Independent media generally help the public and their political representatives in the task of informed decision making. They contribute to overseeing the actions of the three branches of the state and may influence the content and quality of the issues raised in public debate, which influences the government, businesses, academia and civil society. Box 71 gives an example of the serious problems that can be encountered by journalists who try to criticise their governments. Ensuring the security of journalists is a sine qua non for freedom of the press.

Box 71

The Norbert Zongo Case, Burkina Faso

Four men employed by François Compaoré, presidential adviser and brother of President Blaise Compaoré, were arrested by members of the military at the beginning of December 1997 on suspicion of stealing money. They were held for several weeks at the Conseil de l'Entente, which serves as barracks for the presidential guard. During their detention, the four men were interrogated and tortured by members of the presidential guard. David Ouedraogo died as a result on 18 January 1998 in the infirmary of the office of the president. Norbert Zongo, publisher of the weekly L'Indépendant and a specialist in investigative journalism, decided to probe David Ouedraogo's death. He questioned and challenged why a case of theft was handed over to the presidential guard, which had no authority in judicial investigations. The story made the front page of almost all the last 15 issues of the weekly paper, exposing Zongo to numerous threats.... On 13 December 1998, a burnt-out vehicle was discovered around seven kilometers from Sapouy (100 kilometers south of Ouagadougou), containing the charred bodies of Norbert Zongo, Blaise Ilboudo and Ernest Yembi Zongo....

The post-mortem investigation showed that all four had been shot dead at point-blank range. Faced with unprecedented rallies throughout civil society in the country for the truth to be uncovered, the government set up an independent commission of inquiry by decree on 18 December 1998, amended by decree on 7 January 1999. This commission, which was given wide-ranging powers, was tasked with "every investigation that could lead to finding the cause of death of the occupants of the four-wheel drive vehicle number 11 J 6485 BF on 13 December 1998, on the road from Ouagadougou (Kadiogo province) to Sapouy (Ziro province), including the journalist Norbert Zongo." Interviews, ballistic tests and fire experts led the commission to conclude that "Norbert Zongo and his companions were the victims of a criminal attack," which could be described as murder. The inquiry commission found that "the methods deployed and (at least three vehicles, two types of weapon including a Valtro gun, generally used by the armed forces and the police), the setting up of an ambush all showed that nothing had been left to chance. Everything pointed to a minutely prepared and planned operation. It was murder." In its search for those responsible and after following several leads, the commission found that the "most plausible conclusion was that the murder of Norbert Zongo, on 13 December 1998, was linked to his journalistic activities as publisher of L'Indépendant."

Source: Reporters Without Borders (2003), Investigation: *Emmanuelle Duverger,* 7–10 December 2003.

In many West African countries the media are not always independent of government institutions. Some media outfits are owned by the state and operate more or less as parastatal agencies. They are therefore prone to misuse for propaganda purposes by the government and politicians. Where they are not counterbalanced by independent and privately-owned outfits, the media certainly cannot enhance transparency and democratic oversight of the security sector.

With the advent of the internet, however, the potential for public access to official information is wide. There has been a general trend over the past decade towards greater transparency, public accountability and accessibility of official information in West Africa. This trend should be encouraged as it contributes to a more informed citizenry, higher quality of public debate on important policy issues and, ultimately, better governance. The internet also has the drawback of being utilisable by extremist groups with an undemocratic agenda. In some recent conflicts, other news media such as radio stations have provided a platform for extremist groups and have helped to create a climate of hatred between different groups in society.

In West Africa, a well-governed security sector is an essential precondition for democratisation and socio-political development. The concept of security sector reform (SSR) aims at reducing security deficits, while at the same time enhancing civilian supervision over the security sector. However, SSR in West Africa and public oversight over the security sector are sometimes a very sensitive issue. The role of the media in dealing with these developments will be a challenging matter in upcoming years.

Collecting and disseminating information on security-related issues

From a democratic and good governance perspective, the media have the right to gather and disseminate information on security-related matters in the public interest and have a corresponding responsibility to provide news that meets standards of truth, accuracy and fairness.

The media can thus help the government and parliament to explain their decisions and policies to citizens who have the right to be informed and to participate knowledgeably in the political process. For example, the media can contribute to the public's right to know by disseminating information about those who hold public office in the security field; the kind of security policy adopted; the deployment of troops abroad; military doctrine; procurement and treaties and other agreements on which it is based; the actors involved; security challenges ahead; and relevant debates. However, the media can also be subject to imposed or self-imposed censorship when confidential information is involved.

Legislation on the media and security-related issues

The principle of freedom of press is enshrined in Article 19 of the Universal Declaration of Human Rights, which states:

"Everyone has the right to freedom of opinion and expression: this right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

While no internationally agreed guidelines exist as to the parameters of this freedom of expression, it should be noted that this international principle is stated in unrestricted terms, without any reference whatsoever to possible generic restrictions related to security issues.

In West Africa, although recent years have seen improvements in the media's relationship to security institutions, the interaction between journalists and the security sector is still prone to tension. One of the most important obstacles is the differences in structures and conflicting values between media and the security sector. In particular, military institutions, ministries of defence, intelligence agencies and international organisations devoted to security are extensively based on a hierarchical structure embedded in conservative values. This traditional system contributes to making the security actors particularly closed to any form of control coming from outsiders. By contrast, journalists demand openness and transparency. Thus the world of media responds to opposite criteria, notably a high degree of self-regulation and fragmentation. It can be said that journalists' investigations over security issues still prove difficult in the region, since the closed nature of the security sector presents an obstacle for investigative reporting on security.

Box 72

Legislation on freedom of the press in selected West African states

The Gambia

The Gambia's private media face severe restrictions, with radio stations and newspapers having to pay large licence fees. A commission with wide-ranging powers, from issuing licences to jailing journalists, was set up under a 2002 media law. It was seen by critics as a threat to press freedom. Further legislation introduced in late 2004 provided jail terms for journalists found guilty of libel or sedition. Deyda Hydara, one of the media law's leading critics and the editor of the private newspaper The Point, was shot dead days after the law was passed. "There is an absolute intolerance of any form of criticism," media rights organisation Reporters Without Borders said in its 2008 report. State-run Radio Gambia broadcasts tightly controlled news, which is also relayed by private radio stations. Radio France Internationale is available via an FM relay. The government operates the only national television station.

Togo

Since the late 1990s, there has been a proliferation of privately owned media outlets. There are dozens of commercial and community radio stations and weekly newspapers, as well as a handful of private TV stations. However, many private media firms have shaky finances and lag behind their state-owned counterparts in terms of advertising revenue. The radio is the most popular medium, particularly in rural areas. Some international radios are available in the capital (BBC, RFI, etc.). The internet is poorly developed and the few cyber cafes have slow connectivity. The main TV station is government-owned Television Togolaise, the only daily newspaper is government-owned Togo-Presse, and some private radio stations are associated with the ruling Rassemblement du Peuple Togolais. The constitution provides for freedom of the press and the government tries to follow this in practice. After an amendment to the 2002 media law, press offences cannot be punished by imprisonment.

Nigeria

Nigeria's media scene is one of the most vibrant in Africa. State-run radio and TV services reach virtually all parts of the country and operate at federal and regional levels. The radio is the key source of information for many Nigerians. International broadcasters, including the BBC, are widely listened to. Rediffusions of foreign radio stations were banned in 2004. There are more than 100 national and local newspapers and publications, some of which are state-owned. The lively private press is often critical of the government. Press freedom improved under former President Obasanjo but restrictive decrees remain. The Freedom of Information Bill has remained on the floor of the National Assembly and undergone several modifications since 1999. To attenuate controversies and alleviate the fears of the political class, the Journalism Practice enhancement Bill of 2008 and the Nigerian Press and Practice of Journalism Council Bill of 2009, which seek to enhance professionalism and discipline of the media, were proposed but have yet to be passed into law. Media rights body Reporters Without Borders says Nigeria is often a violent place for the press, with journalists suffering beatings, unfair arrests and police raids.

Senegal

Senegal has traditionally enjoyed one of the most unrestricted press climates in the region. Radio is an influential medium. Commercial and community stations have multiplied since the 1990s. There are nearly 20 daily newspapers. Foreign publications circulate freely and multichannel pay TV is readily available. BBC World Service and Radio France Internationale are available on FM in Dakar. Yet in summer 2008, amid rising tension between the government and private media, Paris-based Reporters Without Borders expressed concern

over "police violence" against journalists and raids on newspaper offices. The government accused journalists of supporting the opposition. The constitution guarantees media freedom and the government does not practise censorship but self-censorship arises from laws that prohibit reports that discredit the state, incite disorder or disseminate "false news". Nevertheless, the private media frequently criticise the government.

Source: BBC News Country Profiles, see: http://news.bbc.co.uk/2/hi/africa/ country_profiles/.

In a nutshell, the current situation of freedom of speech in West African countries is still far from the theoretical model of good governance of the security sector, as most of them, if not all, are in a transitional democracy. Notwithstanding the improvements that have taken place over recent years, there are still several obstacles to overcome before the media can be independent. The road towards an objective press adopting an independent and impartial attitude vis-à-vis the main political parties is a challenge of major concern to West African journalism.

Parliament communicating with the public on security issues

Democratic oversight can only be effective as a principle of good governance if the public is aware of major issues open to debate at a parliamentary level.

The effectiveness of public communication on security issues is dependent upon the wealth and accuracy of the information released to the public by both government and parliament. The parliament should take a special interest in the public having the necessary level and quality of information to be able to understand both the current state of affairs and the outcome of the decision-making process in parliament.

Making documentation accessible to the public

One effective way for parliament to secure public information is, in cooperation with the government or alone, to make available to the public a variety of information on security-related issues in the form of documents and/or through its website.

Box 73

Parliamentary websites

As of May 2002, 244 parliamentary chambers exist in 180 countries (64 parliaments are bicameral). The Inter-Parliamentary Union (IPU) is aware of 165 parliamentary websites in 128 countries (individual chambers in some bicameral parliaments maintain separate websites). The "Guidelines for the content and structure of parliamentary websites," adopted by the IPU Council in May 2000, are accessible on the IPU website: www.ipu.org.

In West Africa, the ECOWAS Parliament has a website at www.parl.ecowas. int/.

Country	Website of parliament
Benin	www.assembleebenin.org/
Burkina Faso	www.an.bf/
Côte d'Ivoire	www.anci.ci/
Gambia	www.nationalassembly.gm/
Ghana	www.parliament.gh/
Guinea	
Guinea-Bissau	www.anpguinebissau.org/
Cape Verde	www.parlamento.cv/
Liberia	
Mali	www.assemblee-nationale.insti.ml/
Mauritania	www.mauritania.mr/assemblee/
Niger	www.assemblee.ne/
Nigeria	www.nass.gov.ng/
Senegal	www.assemblee-nationale.sn/ www.gouv.sn/institutions/assemblee.html
Sierra Leone	www.sl-parliament.org/ http://parliamentsl.org/
Togo	www.assemblee-nationale.tg/

Examples of information on security sector issues that could be released to the public, preferably in public-friendly versions, are given below.

✓ Documents of strategic importance, such as the regional and national security policies.

✓ The defence budget (not including secret funds).

✓ Press releases about all major debates, decisions, motions, laws, etc. in parliament concerning the security sector.

✓ Minutes of all parliamentary (committee) meetings and debates on security issues (except meetings held in private); these should include reports on the scope and terms of reference of such closed hearings.

✓ Publications related to parliamentary inquiries into regional security issues.

✓ Annual parliamentary reports or reviews on the functioning of all regional security services.

✓ Reports by the ombudsman or the auditor general concerning the security sector; the ombudsman may not be allowed to table reports of some special investigations but would be asked to submit them to select committees; the government should table any action taken upon the ombudsman's or auditor's reports to the parliament.

✓ Information on multilateral and bilateral agreements.

✓ Information on how individual parliamentarians or political factions in parliament voted on security issues (such as the budget, joining international alliances, conscription issues, procurement).

✓ All security-related legislation (including freedom of information laws) and bills before the parliament.

Facilitating public involvement in parliamentary work

One-way information (from parliament or government to the public) is not sufficient. Parliament should give the public the possibility of communicating with it on security issues. A two-way communication or dialogue is important because:

✓ It ensures participation and permanent oversight from the citizen's side;

✓ It increases the public's confidence in the functioning of the parliament;

✓ It offers a potential check on maladministration (for example through the parliamentary ombudsman); and

✓ It secures public support and legitimacy for legislation and government policies, and hence democratic stability.

Two-way communication could be enhanced by parliamentary information, hearings and monitoring, news services, television panel discussions and tailor-made news mailers to committee members provided by the parliamentary research service, etc.

Mechanisms for promoting effective and continuous dialogue between parliaments and the media and CSOs

As interlocutors for citizens, CSOs and the media in West Africa have made significant progress in engaging parliaments and making appreciable contributions to legislative performance. The interventions have been mainly by reporting on debates, resolutions and other developments in parliament, the provision of research information and documentation, proposing bills and advocating for legislation or amendment of existing legislations, community feed-in and feedback, facilitation of dialogue with constituents, training for parliamentarians and legislative staff, and participation in public hearings. These engagements are often episodic encounters, ad hoc, circuitous and occasional sessions of workshops/seminars, and retreats with limited effects.

There is a need for CSOs and the media to adopt a more consistent and coherent approach that will focus exclusively on parliaments in order to consolidate their interventions and translate them into a sustainable and systematic process of engagement. This new approach requires permanent mechanisms for civil society presence and media advocacy, and a platform for continuous dialogue in parliament. This can only be achieved through a combination of the twin principles of institutionalisation and legitimisation. Parliament should aim to adopt the following mechanisms in order to promote effective and continuous dialogue between the media/CSOs and parliaments.

✓ Establish parliamentary committees on CSOs, as already exist for the media in some West African parliaments. The committees would identify active and vibrant CSOs and networks working in various areas of national life (peace and security, governance, media, gender, anti-corruption, community development). This list must be reviewed from time to time to ensure dynamism and inclusion.

✓ Mainstream CSOs and the media into parliamentary oversight functions. Specific CSOs and media representatives should be recommended to support the work of the respective committees. The CSOs and media will bring in their networks and expertise to aid the work of the committee.

✓ Mobilise media and CSO participation in public hearings. The CSOs will harness their expertise and grassroots presence to ensure quality and broad based input into proposed laws or factual evidence to make public hearings truly participatory and inclusive. The committee should also ensure that relevant information needed for media/CSO input is accessed in a timely manner, giving time for a well-researched and insightful response.

✓ Incorporate CSOs into representation. The committee can also classify CSOs according to their geopolitical spread and create a mandatory CSO desk in the constituency offices of parliamentarians. They may then attach identified organisations to these offices to work with an aide selected by each parliamentarian. Community-based CSOs would provide effective two-way

communication between the constituents and the parliamentarian and offer objective support against that of a legislative aide, who is a loyalist. They can also facilitate town hall meetings or similar grassroots interaction that will ensure accountability.

✓ Establish a media/CSO-parliamentary liaison office. This office, which may double as the office of the proposed committee, will ensure effective communication and serve as a documentation centre and a clearing house of information between CSOs and parliament. It will also serve as a collation centre for field reports from CSO desk officers in various constituencies and will be encouraged to provide comprehensive periodic shadow reports of community projects and activities.

On the basis of the progress achieved through these mechanisms, effort could be made to enact more concrete legal frameworks to make them irreversible and a permanent feature of parliamentary assignment. This would improve the media/ CSO contribution to parliament and promote democracy and good governance.

Box 74

The ECOWAS Parliament and the media

Openness and transparency is a "golden principle" for the ECOWAS Parliament.

Rule 79: Transparency of Parliament's Activities

1. Parliament shall ensure the utmost transparency of its activities.

2. Debates in parliament shall be public. Parliament may decide, however, with a show of hands and without debate to meet in Closed Session, if such a request is made by the chairman, a parliamentary group or ten representatives present at the sitting.

Rule 80: Public Access to Documents of Parliament

The necessary measures shall be adopted by parliament on a proposal from the bureau to ensure that the public has access to parliament's documents.

Rule 81: Confidentiality

On the basis of a proposal from the committee responsible, and without prejudice to Rules 38 [Committees of Enquiry] and 40 [Non-Attached Representatives] above, parliament shall adopt criteria for the definition of confidential information and documents.

Source: ECOWAS Parliament Rules of Procedures (September 2008).

Public participation is important for the long-term democratic stability of a system. Degrees of participation vary from country to country. Some parliaments allow the public to attend committee meetings. This can be of great importance for NGO activities or for individuals who are interested in the law-making process. Even if such participation does not give persons attending committee meetings the right to intervene, their mere presence is already valuable.

What you can do as a parliamentarian

Input to the security policy by non-institutional actors

► Make sure that mechanisms are in place to enable parliament to engage in continuous dialogue with the media and civil society so as to maximally benefit from their input in parliament's work regarding security and security-related issues.

► To that end, if appropriate, promote the adoption of legislation allowing competent institutions, NGOs and the media to contribute to the work of the parliamentary committee(s) that addresses security and security-related issues.

Public awareness

► Make sure that parliament has an active public relations policy with regard to its decisions affecting security and its decision-making process in that field.

► Increase transparency of parliamentary work and in particular committees' work regarding security and security-related issues.

The nexus between security and freedom of the press

► Make sure that freedom of the press is upheld in law and in practice with regard to security issues, and that any limitations imposed do not breach international human rights principles.

► Ensure that appropriate freedom of information legislation is in place.

Bibliography

The ECOWAS Parliament and the Geneva Centre for the Democratic Control of Armed Forces agreed on the need for a concise and accessible guide that would be used as an operational tool to reinforce security sector oversight in West Africa. For this purpose, references and sources used in preparing this guide have been grouped together in the present bibliography.

Books and articles

Aboagye, Festus and Rupiya, Martin (2005), "Enhancing post-Conflict Democratic Governance through effective Security Sector Reform in Liberia," in Festus Aboagye and Alhaji M.S. Bah, eds., *A Tortuous Road to Peace: The Dynamics of Regional, UN and International Humanitarian Interventions in Liberia*. Pretoria: ISS, 249–280.

Addo, Prosper (2006), *Cross-border Criminal Activities in West Africa: Options for Effective Responses*. Accra: KAIPTC, Paper No. 12.

Africa, Sandy and Kwadjo, Johnny (2009), "Changing Intelligence Dynamics in Africa," the Global Facilitation Network for Security Sector Reform (GFN-SSR) and the African Security Sector Network (ASSN). Available @ www.ssrnetwork.net/publications/gfn_ssr_publications.php.

Alao, Abiodun (2007), *Natural Resources and Conflict in Africa: The Tragedy of Endowment*. New York: University of Rochester Press.

Albrecht, Peter and Barnes, Karen (2008), "National Security Policy-Making and Gender," in Megan Bastick and Kristin Valasek, eds., *Gender and Security Sector Reform Toolkit*. Geneva: DCAF, OSCE/ODIHR, UN-INSTRAW.

Albrecht, Peter and Jackson, Paul (2009), *Security System Transformation in Sierra Leone*, 1997–2007. GFN-SSR and International Alert. Available @ http://www.ssrnetwork.net/documents/Publications/SierraLeoneBook/Security%20System%20Transformation%20in%20Sierra%20Leone,%201997-2007.pdf.

Alemika, E.O. and Chukwuma, I.C, eds. (2005) *Crime and Policing in Nigeria: Challenges and Options*. Lagos: CLEEN and Network on Police Reform in Nigeria.

Alemika, E.O. and Chukwuma, I.C., eds. (2003), *Civilian Oversight and Accountability of Police in Nigeria*. Lagos: CLEEN and Police Service Commission.

AlertNet (2007), "Misery Stalks a Niger Delta City," Available @ http://www. sudanvisiondaily.com/modules.php?name=News&file=print&sid=24809

Ameller, Michel, ed. (1966), Parliaments: *A Comparative Study of the Structure and Functioning of Representative Institutions in 55 Countries*. Geneva: Inter-Parliamentary Union.

Amnesty International and DCAF (2009), *International Police Standards: 10 Basic Human Rights Standards for Law Enforcement Officials*. Geneva: DCAF.

Aning, Kwesi (2004), "Investing in peace and security in Africa: The case of ECOWAS," Conflict, Security and Development, Vol. 4, No. 3, 533–542.

Aning, Kwesi (2005), "Military Imports and Sustainable Development: Case Study Analysis—Ghana," paper prepared for Project Ploughshares. Available @ http://allafrica.com/download/resource/main/main/idatcs/00010208:3a9e8 d3c4b4e360b8546ea500dae6beb.pdf.

Aning, Kwesi and Bah Sarjoh (2009), *ECOWAS and Conflict Prevention in West Africa: Confronting the Triple Threats.* New York: Center on International Cooperation.

Aning, Kwesi and Lartey, Ernest (2009), *Parliamentary Oversight of the Security Sector: Lessons from Ghana.* New York: Center on International Cooperation.

Aning, Kwesi, "Are There Emerging West African Criminal Networks? The Case of Ghana," Global Crime, 8 (3), 193–212.

Ballentine, Karen (2003), "Beyond Greed and Grievance: Reconsidering the Economic Dynamics of Armed Conflict," in Karen Ballentine and Jake Sherman, *The Political Economy of Armed Conflict—Beyond Greed and Grievance*. London: Lynne Rienner.

Bastick, Megan (2008), I*ntegrating Gender in Post-Conflict Security Sector Reform.* Policy Paper No. 29. Geneva: DCAF.

Bastick, Megan, Grimm, Karin and Kunz, Rahel (2007), *Sexual Violence in Armed Conflict: global overview and implications for the security sector*. Geneva: DCAF.

Bauer, Gretchen and Britton, Hannah, (2006), "Women in African Parliaments: A Continental Shift?" in Gretchen Bauer and Hannah E. Britton, eds., *Women in African Parliaments.* London: Lynne Rienner Publishers.

Bellina Elena (2006), "Introduction," in Elena Bellina and Paola Bonifazoa, eds., *State of Exception: Cultural Responses to the Rhetoric of Fear.* United Kingdom: Cambridge Scholars Press, ix.

Bendix, Daniel and Stanley, Ruth (2008), *Security Sector Reform in Africa: The Promise and the Practice of a New Donor Approach.* ACCORD Occasional Paper, 3 (2).

Bolaji, Kehinde (2009) "The Guinea Bissau Debacle: Implications for Regional Security and Nigeria's Leadership Role in West Africa", Africa Strategic Review 2 (1), 123-139.

Bryden, Alan, N'Diaye, Boubacar and Olonisakin 'Funmi, eds. (2005), *Security Sector Governance in West Africa: Turning Principles into Practice.* DCAF Policy Paper No 8. Geneva: DCAF.

Bryden, Alan, N'Diaye, Boubacar and Olonisakin 'Funmi, eds. (2008), *Challenges of Security Sector Governance in West Africa.* Geneva: DCAF/LIT Verlag.

Buzan, Barry (1983), *People, States and Fears: The National Security Problem in International Relations.* London: Harvester Wheatsheaf.

Collier, Paul (2007), *The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About It.* Oxford: OUP.

Creevey, Lucy (2006), "Senegal: Contending with Religious Constraints," in Gretchen Bauer and Hannah E. Britton, eds., *Women in African Parliaments.* London: Lynne Rienner Publishers, 151–169.

DCAF (2006), *Parliament's Role in Defence Budgeting.* DCAF Backgrounder. Geneva: DCAF.

DCAF (2006), *Parliament's Role in Defence Procurement.* DCAF Backgrounder. Geneva: DCAF.

DCAF (2006), *Parliamentary Committees on Defence and Security.* DCAF Backgrounder. Geneva: DCAF.

de Andrés, Amado Philip (2008), *West Africa Under Attack: Drugs, Organized Crime and Terrorism as the New Threats to Global Security.* Madrid: UNISCI Discussion Papers No. 16.

de Soysa, Indra (2000), "The Resource Curse: Are Civil Wars Driven by Rapacity or Paucity?" in Mats Berdal and David Malone, eds., *Greed and Grievance: Economic Agendas in Civil Wars.* London: Lynne Rienner, 113–131.

DFID (2000), *Security Sector Reform and the Management of Military Expenditure: High Risks for Donors, High Returns for Development,* Report of an International Symposium Sponsored by the UK Department for International Development. London: DFID.

Ebo, Adedeji (2007), "International Organisations and Security Sector Governance: Towards a Common ECOWAS Agenda," in David Law, ed., *Intergovernmental Organisations and Security Sector Reform*. DCAF Yearbook 2007. Geneva: DCAF/LIT Verlag, 157–178.

Ebo, Adedeji (2007), *Towards a Common ECOWAS Agenda on Security Sector Reform.* DCAF Policy Paper No. 23. Geneva: DCAF.

Ebo, Adedeji and N'Diaye, Boubacar, eds. (2008), *Parliamentary Oversight of the Security Sector in West Africa: Opportunities and Challenges*. Geneva: DCAF.

Ellis, Stephen (2009), "West Africa's International Drug Trade", *African Affairs* 108/431, 171-196.

Evans, Gareth (1993), *Co-Operating for Peace: The Global Agenda for the 1990's and Beyond.* St Leonards, NSW: Allen and Unwin.

Fluri, Philipp and Hadzic, Miroslav, eds. (2004), *Sourcebook on Security sector Reform: Collection of Papers*. Geneva/Belgrade: DCAF and the Centre for Civil-Military Relations.

Fluri, Philipp, Johnsson, Anders and Born, Hans, eds. (2003), *Parliamentary oversight of the security sector: principles, mechanisms and practices.* Geneva: IPU and DCAF.

Fruchart, Damien, et al. (2007), *United Nations Arms Embargoes: Their Impact on Arms Flows and Target Behaviour*. Solna: SIPRI and Uppsala University.

Gaanderse, Miranda, Purusi, Jean Jacques, and Valasek, Kristin (2011), *Gender Survey of Security Sector Institutions in ECOWAS Countries*, Geneva: DCAF (Forthcoming).

Gamba, Virginia and Cornwell, Richard (2000), "Arms, Elites, and Resources in Angolan Civil War," in Mats Berdal and David Malone, eds., *Greed and Grievance: Economic Agenda's in Civil Wars.* London: Lynne Rienner.

Gbla, Osman (2006), "Security sector reform under international tutelage in Sierra Leone," *International Peacekeeping*, 13 (1), 78–93.

George, Paul (2002), "Defence Expenditures in the 1990s: Budget and Fiscal Policy Issues for Developing Countries," *International Conference on Converting Defence Resources to Human Development*, Bonn, 9–11 November 1997. Available @ http://www.bicc.de/general/events/devcon/george/html.

GIABA (2008), *Annual Report of the Inter-Governmental Action Group against Money Laundering in West Africa, 2008*. Available @ http://www.giaba.org/media/A_reports/GIAB-%20Rapport%20annuel%20ang%20ok[1].pdf

Gupta, Sanjeev, de Mello, Luiz and Sharan, Raju (2000), *Corruption and Military Spending.* IMF Working Paper, WP/00/23. Available @ http://www.imf.org/external/pubs/ft/wp/2000/wp0023.pdf.

Hirsch, John (2001), "War in Sierra Leone," Survival, 43 (3), 145–162.

Human Rights Watch (2004), "Human Rights Overview, Nigeria, January 2004." Available @ http://hrw.org/english/docs/2004/01/21/nigeri6976.htm.

Huq, Aziz Z (2006), "Democratic Norms, Human Rights and States of Emergency: Lessons from the Experience of Four Countries," in *Democracy, Conflict and Human Security: Further Reading* (Volume 2). Stockholm: IDEA. Available @ http://www.idea.int/publications/dchs/upload/dchs_vol2_sec4_1.pdf

Hutchful, Eboe, ed. (2009), *Security Sector Reform Provisions in Peace Agreements: Main Report.* GFN-SSR and African Security Sector Network.

Ikelegbe, Augustine (2005), "The Economy of Conflict in the Oil Rich Niger Delta Region of Nigeria," *Nordic Journal of African Studies*, 14 (2), 216.

International Crisis Group (2006), "The Swamps of Insurgency: Nigeria's Delta Unrest," *Africa Report*, No. 115.

International Crisis Group (2009), *Liberia: Uneven Progress in Security Sector Reform. Africa Report* No. 148. Available @ http://www.crisisgroup.org/library/documents/africa/west_africa/148_liberia_uneven_progress_in_security_sector_reform.pdf.

International Crisis Group (2010), *CrisisWatch* No. 79, 4; *CrisisWatch* No. 80, 5.

International Institute for Democracy and Electoral Assistance (2005), "Women stopped by cultural obstacles from entering politics in West Africa." Available @ http://www.idea.int/gender/quota_workshop_westafrica.cfm.

Inter-Parliamentary Union (2000), *General Report of the IPU Seminar on Parliament and the Budgetary Process, Including from a Gender Perspective*, Nairobi, May 2000. Geneva: IPU.

Inter-Parliamentary Union (2002), *General Report of the IPU Seminar on Parliament and the Budgetary Process, Including from a Gender Perspective*. Bamako, Mali, November 2001. Geneva: IPU.

Inter-Parliamentary Union (2009), "Women in National Parliaments," Available @ http://www.ipu.org/wmn-e/classif.htm.

Inter-Parliamentary Union, UNDP, World Bank and UNIFEM (2004), *Parliament, the Budget and Gender.* Handbook for Parliamentarians No. 6. France: IPU.

Ismail, Olawale (2008), "Enabling Local Ownership: Participation and Capacity-Building in SSR," in Donais, Timothy, ed., *Local Ownership and Security Sector Reform*. DCAF Yearbook 2008. Geneva: DCAF/LIT Verlag, 127–145.

Jensen, Nathan and Wantchekon, Leonard (2004), "Resource Wealth and Political Regimes in Africa," *Comparative Political Studies*, 37, 816–841.

Lar, Jimam (2009), The ECOWAS SSR Agenda in West Africa: *Looking Beyond Normative Frameworks.* KAIPTC Occasional Paper No. 24. Accra: KAIPTC.

le Billon, Philippe (2001), "The Political Ecology of War: Natural Resources and Armed Conflicts," *Political Geography* 20 (5), 561–584.

le Billon, Philippe (2005), "The Resource Curse," *Adelphi Papers*, 45 (373), 11–27.

le Billon, Philippe (2007), "Geographies of War: Perspectives on 'Resource Wars'," *Geography Compass*, 1 (2), 163–182.

Leigh, Ian and Born, Hans (2008), *Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel*. Warsaw: OSCE/ODIHR and DCAF.

Luciak, Ilja (2008), "Parliamentary Oversight of the Security Sector and Gender," in Megan Bastick and Kristin Valasek, eds., *Gender and Security Sector Reform Toolkit*. Geneva: DCAF, OSCE/ODIHR, UN-INSTRAW.

Maconachie, Roy and Binns, Tony (2007), "Beyond the resource curse? Diamond mining, development and post-conflict reconstruction in Sierra Leone," *Resource Policy* 32, 104–115.

Malan, Mark (1999), *The OAU and African Subregional Organisations: A Closer Look at the peace pyramid.* ISS Occasional Paper 36. Pretoria: ISS.

Malan, Mark (2008), *Security Sector Reform in Liberia: Mixed Results from Humble Beginnings.* Strategic Studies Institute Monograph. Available @ http://www.strategicstudiesinstitute.army.mil/pdffiles/pub855.pdf.

McNamee, Terence, ed. (2007), T*he African Military in the 21st Century.* Report of the 2007 Tswalu Dialogue. London: RUSI Whitehall Report 4-07.

Murray, Senan (2007) "The Shadowy Militants in Nigeria's Delta," http://news.bbc.co.uk/2/hi/africa/6644097.stm

Musah, Abdel-Fatau (2009), *West Africa: Governance and Security in a Changing Region.* New York: International Peace Institute.

N'Diaye, Boubacar (2001), *The Challenge of Institutionalizing Civilian Control.* Lanham: Lexington Book.

N'Diaye, Boubacar, Abdoulaye, Saine, and Mathurin Houngnikpo (2005), *Not Yet Democracy: West Africa's Slow Farewell to Authoritarianism.* Durham: Carolina Academic Press.

National Democratic Institute (2009), "Women gain political ground in Burkina Faso," http://www.ndi.org/node/15289.

National Democratic Institute (2000), *Strengthening Legislative Capacity in Legislative-Executive Relations.* Legislative Research Series Paper #6. Washington, DC: NDI.

OECD (2007), *OECD DAC Handbook on Security System Reform: Supporting Security and Justice.* Paris: OECD.

Olonisakin, 'Funmi (2007), *Peacekeeping in Sierra Leone: The Story of UNAMSIL.* London: Lynne Rienner Publishers.

Omitoogun, Wuyi and Hutchful, Eboe (2006), *Budgeting for the Military Sector in Africa: The Processes and Mechanisms of Control.* New York: OUP and SIPRI.

Omonobi, Kingsley (2009), "JTF links seized plane with arms to militants", *Vanguard,* 21 June 2009.

Pantev, Plamen, ed. (2005), *Civil-Military Relations and Democratic Control of the security Sector: A Handbook for Military Officers, Servicemen and Servicewomen of the Security and Intelligence Agencies, and for Civilian Politicians and Security Experts.* Sofia: ProCon Ltd.

Paul, James (2003), "Oil Companies in Iraq: A Century of Rivalry and War". Available @ http://www.globalpolicy.org/component/content/article/185/40586.html

Pelizzo, Riccardo and Stapenhurst, Rick (2004), *Tools for Legislative Oversight: An Empirical Investigation.* World Bank Policy Research Working Paper 3388. Washington, DC: The World Bank.

Pugh, Michael and Cooper, Neil (2004), *War Economies in a Regional Context.* Colorado: Lynne Rienner.

Reno, William (1995), *Corruption and State Politics in Sierra Leone.* Cambridge: Cambridge University Press.

Report of the Hansard Society Commission on Parliamentary Scrutiny (2001). United Kingdom.

Ross, Michael (2003), "Oil, Drugs and Diamonds: The Varying Roles of Natural Resources in Civil War," in Karen Ballentine and Jake Sherman, eds., *The Political Economy of Armed Conflict—Beyond Greed and Grievance.* London: Lynne Rienner, 47–67.

Ross, Michael (2004), "What Do We Know About Natural Resources and Civil War?" Journal of Peace Research, 41 (3), 337–356.

Sahel and West Africa Club and OECD (2006), H*uman Security in West Africa: Challenges, Synergies and Action for a Regional Agenda*. Volume 2, Working Documents. Available @ http://www.oecd.org/dataoecd/57/31/38522363.pdf.

Sherman, Jake (2009), *Strengthening Security sector Governance in West Africa.* New York: Center on International Cooperation.

Simma, Bruno, ed. (1994), *Charter of the United Nations: A Commentary.* New York: Oxford University Press.

Singh, Ravinder (2004), *Parliamentary oversight of arms procurement processes: limitations and opportunities.* Stockholm: Centre for Pacific Asia Studies, Stockholm University.

Singh, Ravinder, ed. (1998), *Arms Procurement Decision Making, Volume 1: China, India, Israel, Japan, South Korea and Thailand.* New York: OUP and SIPRI.

SIPRI (2002), *Armaments, Disarmament and International Security: SIPRI Yearbook 2002.* Solna: Oxford University Press and SIPRI.

Small Arms Survey (2001), *Small Arms Survey 2001: Profiling the Problem.* Oxford: Oxford University Press.

Stapenhurst, Rick (2004), *The Legislature and the Budget*. Washington, DC: The World Bank.

Stapenhurst, Rick and Johnson, John (2008), "Legislative Budget Offices: International Experience," in Rick Stapenhurst, et al., *Legislative Oversight and Budgeting: A World Perspective.* Washington, DC: The World Bank, 141–158.

Starkey, Kate and van Meny, Andri (2000), "Defence Budget Transparency on the Internet," *Information & Security*, Vol. 5.

Stewart, Frances and FitzGerald, Valpy (2001), *War and Underdevelopment, Vol. 1: The Economic and Social Consequences of Conflict.* New York: OUP.

Transparency International (2008), *Addressing corruption and building integrity in defence establishments.* Berlin: TI Working Papers #2/2007.

Tshitereke, Clarence (2004), "Accountability and Oversight: The Role of Parliament in Arms Transfer," in Len Le Roux, et al., *Guarding the Guardians: Parliamentary Oversight and Civil-Military Relations: The Challenges for SADC*. Pretoria: ISS, 69–83.

UN Development Fund for Women (2003), *Not a Minute More: Ending Violence Against Women*. New York: UNIFEM.

United Nations (2001), International Covenant on Civil and Political Rights: General Comment No. 29, States of Emergency (Article 4), CCPR/C/21/Rev.1/Add.11, adopted at the 1950th meeting of the Committee on Civil and Political Rights, on 24 July 2001.

United Nations (2002), *Women, Peace and Security*. Study submitted by the Secretary-General pursuant to Security Council Resolution 1325 (2000). New York: United Nations.

United Nations Office for West Africa (2004), *Security Sector Reform and Conflict Prevention in West Africa: Challenges and Opportunities*. Background Paper. Available @ http://www.un.org/unowa/unowa/studies/ssrbkgd.pdf.

United Nations Security Council (2007), *Report of the Secretary-General on Cross-border issues in West Africa*, S/2007/143, 13 March 2007.

UNODC (2005), *Transnational Organized Crime in the West African Region*. New York: United Nations.

UNODC (2009), *Human Trafficking, A Crime that Shames Us All: 2008 Global Report on Trafficking in Persons.* Available @ http://www.unodc.org/documents/Global_Report_on_TIP.pdf.

UNODC (2009), *Transnational Trafficking and the Rule of Law in West Africa: A Threat Assessment*. Vienna: UNODC, 15-72.

UNREC (2008), *Capacity building on practical disarmament and peace building in West Africa.* Training Manual.

Valasek, Kristin (2008), "Security Sector Reform and Gender," in Megan Bastick and Kristin Valasek, eds., *Gender and Security Sector Reform Toolkit*. Geneva: DCAF, OSCE/ODIHR, UN-INSTRAW.

van Eekelen, Willem (2005), *The Parliamentary Dimension of Defence Procurement: Requirements, Production, Cooperation and Acquisition*. DCAF Occasional Paper No. 5. Geneva: DCAF.

Wezeman, Pieter (2009), *Arms Transfers to Central, North and West Africa.* Solna: SIPRI Background Paper.

World Health Organization (2001), *Small Arms and Global Health.* Geneva: WHO.

Yamamoto, Hironori (2007), *Tools for parliamentary oversight: a comparative study of 88 national parliaments.* Geneva: IPU.

Zabadi, Istifanus and Onuoha, Freedom (2010), "State of West Africa: A Survey of Security Landscape", Nigerian Army Quarterly Journal, 5 (3), 304-324.

Other selected internet resources

African Union
www.africa-union.org

Bonn International Centre for Conversion
www.bicc.de

Central Intelligence Agency - The World Factbook
https://www.cia.gov/library/publications/the-world-factbook/

Economic Community of West African States
www.ecowas.int

Inter-Parliamentary Union (IPU)
www.ipu.org

IPU PARLINE database
www.ipu.org/parline-e/parlinesearch.asp

Transparency International
www.transparency.org

United Nations (UN)
www.un.org

UN Office for Disarmament Affairs
www.un.org/disarmament

UN High Commissioner for Human Rights
www.ohchr.org

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

DCAF is an international foundation whose mission is to assist interested states and non state institutions in promoting good governance of the security sector. To this end, the Centre promotes appropriate norms at the international and national levels, and disseminates good practices and relevant policy recommendations in line with democratic principles. DCAF also provides in-country advisory support and practical assistance programmes to interested parties. DCAF is a neutral and independent organisation that works with local partners in the countries of its operations and supports local ownership of reforms. DCAF can rely on the expertise of 58 governments represented in its Foundation Council and on its International Advisory Board comprising some 50 renowned experts. The Centre has established partnerships and concluded cooperative agreements with several international and regional organisations, inter-parliamentary assemblies, and with a number of research institutes.

Visit us at: www.dcaf.ch.
Geneva Centre for the Democratic Control of Armed Forces
Rue de Chantepoulet 11
PO Box 1360
CH-1211 Geneva 1
Switzerland
Tel: +41 22 741 77 00
Fax: +41 22 741 77 05
E-mail: info@dcaf.ch