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Preface

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Every day brings news of fast-paced developments in international security. These are issues that matter the most, for they may affect the very physical being of people caught in the whirlwind of conflict and violence. At some point in time one feels compelled to pause and reflect – simply to make sense of the roots of (in)security and attempt to envisage ways, in which peace might be found in greater supply than war.

In this vein, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) has decided to assess the progress made in pursuing security sector reform around the world. Behind this concept lie ideas, norms and policies having as their common denominator establishment or improvement of democratic governance of the security sector. Thanks to such items on the reform agenda as civilian and democratic control of the security sector, transparency, accountability, the rule of law, as well as a policy-making process which considers the views of civil society and the perspectives of individuals – more stability and peace may follow both within a country's borders and internationally.

To take part in the examination of the challenges on the road to imprvoed security sector governance, DCAF has assembled a team of its own experts, as well as specialists from partner institutions. They have been asked in particular to air their opinions on the likely directions the reform of the security sector will take in the near future, judged in large part on the basis of events in international security that have transpired in recent years. Their contributions are reflected in the pages of the book.

We intend to produce the results of our reflections on security sector governance on an annual basis – in addition to all the publications resulting from DCAF's research and operational projects. We hope that in this way DCAF might showcase its own contribution to security policy advocacy. We may say that we have covered a lot of ground in generating and promoting norms helpful in improving security sector governance. But a lot more still

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needs to be done. It is hoped that the challenges in security sector governance brought to light here will serve as yardstick helping us, at DCAF and international community at large, proceed in reinforcing the fabric of democratic governance.

Without the efforts of a number of people we would not have succeeded in carrying this project to this stage. In particular, Rafal Domisiewicz, the Assitant Editor, provided invaluable intellectual, editorial and organisational assistance. Eden Cole, Martin Noble, Ingrid Thorburn and Wendy Robinson greatly facilitated our work by proof-reading and editing the manuscript or parts of it. Veit D. Hopf of LIT Verlag steered us through the publication process with patience and encouragement. We would like to thank all of them and to express our special gratitude to the contributors of this book who did a wonderful job in meeting the great many demands the editors made on them.

PART I

INTRODUCTION

Chapter 1

Making Sense of Security Sector Governance

Heiner Hänggi

Introduction

The war in Iraq in spring 2003 was a further indication of the 're-securitisation' of international relations triggered by the terrorist attacks of September 11, 2001. This re-securitisation put an end to a decade in which international relations were by and large dominated by economic interests and, to a lesser extent, by democratisation concerns. Although, the new (or renewed) primacy of security will be of a rather different nature as compared to the Cold War period – despite the US-led return to the use of military force in Afghanistan and Iraq – because it will be shaped by the agenda of mainly non-military security issues. Nonetheless, traditional security concerns will remain important, and in particular the proliferation of weapons of mass destruction, though in a different context. International terrorism and issues related to transnational crime have already moved to the top of the agenda, and, in the long run, as the underlying causes of terrorism are increasingly addressed, other new security issues associated with human security and economic security will probably become more important: thereby revalorising the governance and economic dimensions of international politics.

The new primacy of security notwithstanding, governance issues will move to the core of international relations, for three main reasons. Firstly, states with poor or malign governance such as 'failed states', rogue states' or, as in the case of Taliban-era Afghanistan, 'hijacked states' are increasingly perceived as security threats of a global scope because they offer prime breeding grounds for international terrorism. The ways and means of promoting good governance in such states, whether before or after conflict, will become a most contentious issue. The case of Iraq illustrates

the magnitude of the challenge of (re-)building the state and the much bigger challenge of democratising it. Secondly, 'new terrorism' appears to be driven by a radical ideology of anti-globalisation, directed against fundamentally Western values such as human rights, liberal democracy, the market economy, and open, pluralistic societies. Western countries and their allies will have to find ways and means of fighting against terrorism without compromising the normative foundations of their societies and without falling into the trap of making the 'clash of civilizations' a self-fulfilling prophecy. Thirdly, the primacy of security concerns risks being used as a pretext for legitimatising arbitrary or 'unholy' alliances with coalition partners whose policies are at odds with democratic governance or have an ambiguous track record in terms of fighting terrorism. Such alliances tend to produce double standards in the promotion of values and, consequently, undermine both the legitimacy of the fight against terrorism and the opportunity to enhance governance. In short, the great challenge of post-9/11 international relations will be to strike a new balance between security concerns, which have taken primacy, and governance/values concerns, which risk being compromised. The underlying assumption of the essays in this volume is that security issues will increasingly be approached from a governance perspective and that, in this context, the internal dimension of security governance – security sector governance – is an issue whose rapidly growing importance has not yet been duly recognised. This chapter sets out to introduce security sector governance as a broad framework for the analysis of emerging problems and challenges that are discussed in the following chapters.

Security Governance

Since the end of the Cold War, the bases and modalities of security and governance, both within and between states and societies, have been rapidly evolving. In parallel, the 'interconnectedness', and sometimes interdependencies, between security and governance are progressively becoming better understood. Whilst nowadays the notions of security and governance are part of both the academic and policy discourses, the same could not be said of 'security governance' which is still a concept at its formative stage.[1] In order to conceptualise security governance, it is necessary to specify what is meant by its two component terms: 'security' and 'governance'.

For much of the Cold War period, 'security' has been understood in terms of national security, which was largely defined in militarised terms. This did not preclude the acceptance of broader concepts such as common and cooperative security, but these were clearly linked to national security concerns in the politico-military field.[2] The post-bipolar world, however, has been marked by a substantive widening and deepening of this traditional concept in both the academic and the policy discourses on security (see Table 1.1). On the one hand, it was increasingly noted that security might be endangered by more than military threats alone, which led to the inclusion of political, economic, societal and environmental aspects.[3] In the meantime, non-military issues have put down roots on the international security agenda though some scholars have criticised the 'securitisation' of non-military issues, and disagreements still exist about the importance of the non-military aspects of security as compared to the military ones as illustrated by the events of 9/11 and its aftermath.

Table 1.1   The widening and deepening of the concept of security

Scope ('widening') Level ('deepening')	Military security issues	Non-military or new security issues			
		Political	Economic	Societal	Environ-mental
System	International security				
State	National (external and internal) security				
Sub-state	Societal security				
Individual	Human Security				

On the other hand, there is a growing recognition that in the age of globalisation and with the proliferation of internal wars and 'failed states', individuals and collectivities other than the state could and, indeed, should be the object of security. Following this view, security issues should not be addressed on the traditional national and international levels alone, but take into account the security concerns of individuals and groups. This led to the emergence of alternative security concepts such as 'human security' and 'societal security'.[4] The concept of human security in particular has gained much recognition in the international policy arena. Though still an ill-defined concept, it covers a wide range of problems such as anti-personnel landmines, small arms and light weapons, violations of human rights and international humanitarian law, child soldiers, international terrorism and

transnational organised crime as well as, in its wider notion, all aspects of human development such as economic, food, health and environmental insecurity.[5] What makes these problems 'new' or 'non-traditional' security issues is not that they are truly novel phenomena but rather that they are explicitly characterised and treated as security concerns – in other words: that they are 'securitised'.

The concept of 'governance' is quite a recent one which has come into use in the context of globalisation, reflecting the fragmentation of political authority among public and private actors on multiple levels of governance – national, sub-national and international – which accompanies globalisation. In its basic notion, governance refers to the structures and processes whereby a social organisation – from the family to corporate business to international institutions – steers itself, ranging from centralised control to self-regulation.[6] Put simply, governance is 'the capacity to get things done'.[7] A more restrictive definition of governance brings politics into the equation. Accordingly, governance 'denotes the structures and processes which enable a set of public and private actors to coordinate their independent needs and interests through the making and implementation of binding policy decisions in the absence of a central political authority'.[8] This definition covers a wide range of phenomena such as the introduction of self-government at the local or sectoral level, the outsourcing of central government functions to the private sectors, the privatisation of security in established democracies and warlordism in 'failed states', the increasing network-type of cooperation between governments, international institutions and private actors as well as the post-conflict reconstruction and governance of states and other entities under the auspices of international institutions.

At the state and sub-state level, governance is mostly exercised by governments – hence governance *by* governments – except for 'weak states' or 'failed states' where the government is forced to share powers with other actors, be it international institutions, foreign powers, armed rebel forces or criminal organisations.

At the level of the international system, in the absence of a world government, governance takes the form of governance *with* (multiple) governments by way of rule-based cooperation between governments, international institutions as well as transnational actors such as corporate business and non-government organisations. If social behaviour in a global issue-area such as Internet governance is steered by 'private regulations', one may even speak of governance *without* governments, but which is still rather the exception.[9] Thus, governance is more encompassing than

government; it helps to grapple with the complex reality of the contemporary world in which governments are still the central actors in domestic and international affairs though they increasingly are seen to share authority with non-state actors on multiple levels of interaction (see Table 1.2).

Table 1.2   The multi-level, multi-actor concept of governance

Actors Level	International Institutions	Governments	Private actors
System	Global / International / Regional Governance		
State	National / Domestic Governance		
Sub-state	Local Governance		

If the widened and deepened concept of security is combined with the multi-actor, multi-level concept of governance, one may expect to arrive at an understanding of security governance which is devoid of any analytical utility. However, this will not be the case if we accept the perspective that every issue-area, including military and non-military security, is subject to certain systems of governance characterised by more or less fragmented political authority whether it be on the sub-state, state or international level. Consequently, it is the context of security governance which matters most.

At the level of the international system, security governance refers to the 'security architectures' on the global and regional levels. Measured by the degree of fragmentation of authority in security policy-making, Europe is certainly the world region which has witnessed the strongest transformation of the security system in terms of a development from government to governance. Not only have national governments and international institutions such as the Organisation for Security and Cooperation in Europe (OSCE), the North Atlantic Treaty Organisation (NATO) and the European Union (EU) expanded their security functions in the post-Cold War period, but also a variety of private actors, ranging from charities to private security companies, have emerged in local, regional and trans-regional security.[10] A fragmentation of authority in the security realm could also be observed in Western and Central Africa where, due to widespread internal conflicts, private and sub-state actors as well as external forces have increased their involvement in security governance, though more often than not by way of aggravating already poor governance. In the Middle East, South Asia and Northeast Asia, on the other hand, security governance appears to be characterised by the absence of regional security arrangements and the

central role of governments in security affairs which does not come as a surprise given the predominance of inter-state conflicts in these regions.

At the state level, security governance refers to the organisation and the management of the security sector.[11] The security sector includes all the bodies whose main responsibilities is the protection of the state and its constituent communities – ranging from the core structures such as armed forces, police and intelligence agencies to those institutions that formulate, implement and oversee internal and external security policy (see below). Apparently, security governance at the state level can be good or poor. The implementation of democratic control of the security forces would most probably fall into the former category, whereas military rule, unchecked and unaccountable security forces and their instrumentalisation for buttressing regime security would fall into the latter one.[12] In the emerging literature on the subject, under the entry for the study of security governance at the state level, this is generally referred to as 'security sector governance'. Thus, in this book, security governance will be understood as security governance at the international level whereas security sector governance will be used for security governance in the individual state (see Table 1.3).

Table 1.3   The concept of security governance

Actors Level	International Institutions	Governments	Private actors
System (Global, international, regional)	Security governance		
State (national)	Security sector governance		

Security Sector Governance

Security sector governance combines the concepts of 'security' and 'governance' at the state level. Thus, it is essentially a state-centric concept but one which shares with the concept of human security a concern for the welfare and safety of individuals, groups and society, which more often than not suffer most from a poorly governed security sector (see Chapters Three, Seven and Eight). Furthermore, though primarily addressing domestic issues, security sector governance is viewed as being of growing importance for international peace and security (see Chapter Four).[13] From a *governance perspective*, security sector governance covers that public sector which is

responsible for the exercise of the state monopoly of coercive power and has traditionally been a key feature of the modern nation-state. One may therefore expect that the shift from government to governance has generally been rather modest in the security sector. Yet, governments increasingly face governance challenges in the security sector, which may range from the need to rebalance security and liberty in the context of the post-9/11 fight against terrorism (see Chapter Two) and deficiencies in the accountability of the use of national armed forces under the auspices of international institutions[14] to transforming the security sector in response to international demand or domestic pressures (see Chapters Three, Five and Nine). From a *security perspective*, security sector governance reflects the broad notion of security because it does not cover the military alone, but acknowledges the importance and in some countries the predominant role of non-military security forces. Indeed, governments increasingly face security challenges in governance sectors which have not been viewed as relevant from a traditional security perspective. This may include the relevance of border security in the aftermath of 9/11 (see Chapter Two) and in the context of EU enlargement (see Chapter Three), of domestic intelligence and aviation security in the fight against terrorism (see Chapter Two) and of police and other internal security forces as impediments to democratic reform in Middle Eastern countries (see Chapter Nine).

If security and governance are contested concepts, so must be security sector governance. Even a consensus on the definition of what should be governed, the 'security sector', is still lacking though there seems to be a certain convergence around a narrow and a broad notion of the term. For the former stands the Development Assistance Committee (DAC) of the Organisation for Economic Co-operation and Development (OECD) which, in 2000, put forward a widely used definition, founding the security sector on two pillars: (a) the security forces and (b) the relevant civilian bodies and processes needed to manage them, which encompass: 'state institutions which have a formal mandate to ensure the safety of the state and its citizens against acts of violence and coercion (e.g. the armed forces, the police and paramilitary forces, the intelligence services and similar bodies; judicial and penal institutions) and elected and duly appointed civil authorities responsible for control and oversight (e.g. Parliament, the Executive, the Defence Ministry, etc.)'.[15] This definition is premised upon a state-centric view of security and state's monopoly over the legitimate means of coercion.

However, the aforementioned shift from government to governance in security affairs, which applies to established democracies as well as to

'failed states', calls for a broader understanding of the security sector because non-statutory security forces such as guerrilla armies and private security companies more often than not play an important role in security sector governance. This is taken into account in the definition put forward by the Human Development Report 2002, published by the United Nations Development Programme (UNDP). Accordingly, the security sector comprises five categories of actors with the first two representing the aforementioned narrow definition:

1. *Organisations authorised to use force*: armed forces, police, paramilitary forces, gendarmeries, intelligence services (military and civilian), secret services, coast guards, border guards, customs authorities, reserve and local security units (civil defence forces, national guards, presidential guards, militias);

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

3. *Justice and law enforcement institutions*: judiciary, justice ministries, prisons, criminal investigation and prosecution services, human rights commissions and ombudspersons, correctional services, customary and traditional justice systems;

4. *Non-statutory security forces*: liberation armies, guerrilla armies, private bodyguard units, private security companies, political party militias; and,

5. *Non-statutory civil society groups*: professional groups, the media, research organisations, advocacy organisations, religious organisations, non-governmental organisations, community groups.[16]

The level of involvement by the actors mentioned in these five categories differs widely from country to country depending on the political system. On a general level, one could assume that the greater the

involvement by non-statutory security forces (category four) and the lesser that by non-statutory civil society actors (category five), the poorer the governance of the security sector in question.

This brings us to the normative dimension of security sector governance, which is closely linked to the concept of 'good governance'. Good governance has become a primary concept of development policy in the 1990s, which was, and still is, used by international donors as a means to improve the effectiveness and efficiency of the provision of public services in recipient countries (see Chapter Eight). There are almost as many definitions as international institutions who have adopted the good governance concept.[17] However, in 2000, the UN Commission on Human Rights adopted a resolution which seems to come quite close to what could be a common denominator by identifying five key attributes of good governance: (1) transparency; (2) responsibility; (3) accountability; (4) participation; and (5) responsiveness (to the needs of the people).[18] Of these, accountability, transparency and participation are generally viewed as key requirements of good governance. Political accountability means that governments are accountable to the sovereign, i.e. the people in democracies, and thus presupposes the existence of mechanisms to call individuals and institutions to account for decisions or actions. Transparency of the decision-making and implementation process is a crucial precondition for effective accountability. It means that information is freely available and directly accessible to those who will be affected by decisions or actions. Participation, another key requirement of good governance, can be either direct or through legitimate intermediary institutions or representatives. It needs to be informed and organised, which calls for freedom of association and expression as well as an organised civil society.[19]

From this, it is not entirely clear what distinguishes good governance of the security sector from democratic governance. In terms of substance, the concept of good governance seems to be go beyond the minimal definition of democratic governance, which tends to emphasise the regular holding of free and fair elections. From a formal perspective, however, the concept of good governance appears to fall short of the requirement of a democratic system of government. In the following, security sector governance is discussed in the context of the evolving right to democratic governance.

Democratic Governance of the Security Sector

Since the end of the Cold War, the right to democracy or democratic governance has gradually evolved as part of customary international law though its universal applicability is not as broadly accepted internationally as other human rights.[20] The Vienna Declaration and Programme of Action adopted by the 1993 World Conference on Human Rights established democracy as a critical aspect of human rights and called upon the international community to 'support the strengthening and promoting of democracy […] in the entire world'. After the 1993 Vienna Declaration, the UN Commission on Human Rights took 'perhaps the most dramatic step in embedding democracy into human rights law'.[21] In 1999, it adopted Resolution 1999/57 on 'Promotion of the Right to Democracy', which speaks of the 'right of democratic governance' and lists a number of its aspects, including 'transparent and accountable governmental institutions'. This was followed in 2000 by Resolution 2000/47, entitled 'Promoting and consolidating democracy', which calls upon States 'to strengthen democracy through good governance', *inter alia* by 'improving the transparency of public institutions and policy-making procedures and enhancing accountability of public officials'. The Commission on Human Rights Resolution 2000/47 provided the foundations of Resolution 55/96, entitled 'Promoting and consolidating democracy', which was adopted by the UN General Assembly in December 2000. Beyond the UN system, a number of regional organisations have adopted similar documents calling for the promotion, strengthening, or defence of democracy and laying out a wide variety of norms, standards and mechanisms of collective action. Commitment to democratic norms and standards has in some cases long been, and in other cases in recent years become, a condition for membership in regional organisations in the Euro-Atlantic area (Council of Europe, EU, NATO, OSCE) and in the Americas.[22]

Yet, these norms and standards on democratic governance include little or no specific reference to democratic governance of the security sector, though they apply to public governance in general. Amongst the few documents referring to good governance of the security sector, is the aforementioned UN General Assembly Resolution 55/96 which calls for 'ensuring that the military remains accountable to the democratically elected civilian government' in the context of strengthening the rule of law.[23] In its Human Development Report 2002, the UNDP makes a strong case for 'democratizing security to prevent conflict and build peace'. Referring to the

democratic peace thesis, which posits that democracies do not go to war against each other, the report stresses the crucial role of democratic control of the military, police and other security forces for human development and human security; furthermore, it lays out a set of principles for democratic governance in the security sector. [24]

Standards on democratic governance of the security sector have been set outside the UN system by a number of transregional and regional organisations. At the first Ministerial Conference of the *Community of Democracies* in Warsaw, Poland in June 2000, more than 110 governments endorsed the Warsaw Declaration, committing themselves to a core set of democratic principles and practices to support one another in meeting democratic objectives. The establishment and preservation of 'civilian, democratic control over the military' was mentioned as one of the 'core democratic principles and practices'.[25] At its inaugural conference in October 2001, the *Club of Madrid*, comprising, apart from Spain, 24 emerging democracies in Africa, Latin America and Eastern Europe, issued a closing statement which emphasized, *inter alia*, the need for 'civilian control over the military and defence policy, and a clear separation of the armed forces from police bodies and functions'.[26]

The principle of democratic governance of the security sector has been articulated as a political standard by a number of regional organisations and fora such as OSCE, NATO, EU, the Council of Europe and the Interamerican Summit process (see Table 1.4). The OSCE has gone the furthest so far with the adoption in 1994 of the Code of Conduct on Politico-Military Aspects of Security, which contains the most innovative provisions on 'the democratic political control of military, paramilitary and internal security forces as well as intelligence services and the police to'(see Chapter Four).[27] NATO's Partnership for Peace (PfP) programme made 'democratic control of defence forces' a *sine qua non* of membership.[28] The European Parliament, on the occasion of its endorsement of the 'Copenhagen Criteria' on accession, specified in the 'Agenda 2000' resolution that the candidate countries are required to establish 'legal accountability of police, military and secret services […] and acceptance of the principle of conscientious objection to military service' (see Chapter Five). In the case of Turkey, the EU had insisted that it would not open talks on accession until Turkey met the 'Copenhagen criteria' including the political reforms required, particularly the exclusion of the military from interference in political decision (see Chapter Nine).[29]

Table 1.4: Norms and standards on democratic governance of the security sector

Organisation	Norm/Standard	Source
UNCHR	'Ensuring that the military remains accountable to the democratically elected civilian government'	Resolution 2000/47 (2000)
UN General Assembly	'Ensuring that the military remains accountable to the democratically elected civilian government'	Resolution 55/96 (2000)
UNDP	Democratic civil control of the military, police and other security forces (report enumerates principles of democratic governance in the security sector)	Human Development Report (2002)
OSCE	'The democratic political control of military, paramilitary and internal security forces as well as of intelligence services and the police' (specified by a detailed set of provisions)	Code of Conduct on Politico-Military Aspects of Security (1994)
Council of Europe (Parliamentary Assembly)	'Control of internal security services in Council of Europe member States'	Recommendation 1402 (1999)
NATO Partnership for Peace (PfP)	'Ensuring democratic control of defence forces' (one of five objectives, specified in the PfP Programme)	Framework Document (1994)
EU (European Parliament)	Specifying the 'Copenhagen Criteria' for accession to include: 'legal accountability of police, military and secret services […] and acceptance of the principle of conscientious objection to military service'	Agenda 2000, § 9
Summit of the Americas	'The constitutional subordination of armed forces and security forces to the legally constituted authorities of our states is fundamental to democracy'	Quebec Plan of Action (2001)
Community of Democracies	'That civilian, democratic control over the military be established and preserved'	Warsaw Declaration (2000)
Club of Madrid	'Civilian control over the military and defence policy, and a clear separation of the armed forces from police bodies and functions'	Closing Statement (2001)

In 1999, the Parliamentary Assembly of the Council of Europe passed a Recommendation on 'Control of internal security services in Council of

Europe member States' (see Chapter Four), and in February 2003, a Motion for a recommendation on the 'Democratic oversight of the security sector in member States' has been tabled by a group of 41 members of the Assembly.[30] Finally, beyond Europe, the Summit of the Americas has reaffirmed that the 'constitutional subordination of armed forces and security forces to the legally constituted authorities of our states is fundamental to democracy'.[31] The OSCE Code of Conduct, adopted as a 'politically binding' instrument, is the only document which elaborates on the substance of democratic governance of the security sector. In its sections VII and VIII, it establishes the basic components of a democratic control of armed forces regimes, which include:

- The primacy at all times of democratic constitutional civilian power over military power;
- The subjection of armed forces to the norms and prescriptions of international humanitarian law;
- The respect of the human rights and fundamental freedoms of the armed forces personnel; and,
- The commensurability of the domestic use of force with the needs of enforcement and prohibition of the use of force aimed at restricting peaceful and lawful exercise of human rights or at depriving people of their individual or collective identity (see Chapter Four).[32]

In spite of the lack of clear-cut definitions and taking into account that there is no single model for democratic governance of the security sector, a set of general principles and 'best practices' can be identified. Based on a document published in 2000 by the UK Department for International Development, the Human Development Report 2002 summarises the key principles of democratic governance in the security sector as follows:

- Ultimate authority on key security matters must rest with elected representatives;
- Security organisations should operate in accord with international and constitutional law and respect human rights;
- Information about security planning and resources must be widely available, both within government and to the public. Security must be managed using a comprehensive, disciplined approach. This means that security forces should be subject to the same principles of public sector management as other parts of government, with adjustments for

confidentiality appropriate to national security;

- Civil-military relations must be based on a well-articulated hierarchy of authority between civil authorities and defence forces, on the mutual rights and obligations of civil authorities and defence forces, and on a relationship with civil society based on transparency and respect for human rights;
- Civil authorities need to have the capacity to exercise political control over the operations and financing of security forces;
- Civil society must have the means and capacity to monitor security forces and provide constructive input into the political debate on security policy;
- Security personnel must be trained to discharge their duty professionally and should reflect the diversity of their societies – including women and minorities; and,
- Policy-makers must place a high priority on fostering regional and local peace.[33]

From an institutional perspective, democratic governance of the security sector would include the following 'best practices':

1. *A constitutional and legal framework*, which constitutes the separation of powers (between government, parliaments and justice courts) and clearly defines the tasks, rights and obligations of the security sector within the institutional checks and balances;

2. *Civilian control* and management of the security sector by the government (civilian control over the Ministry of Defense, other security-related Ministries and the military establishment as a whole, with civilian defense and interior ministers and civil servants having key policy and managing roles and with a clear division of professional responsibility between civilians and the military);

3. *Parliamentary control* and oversight of the security sector (powers such as approval of defense and related budgets, security-related laws, security strategy and planning, security sector restructuring, weapons procurement, deployment of troops for internal emergency situations and abroad, ratification of international agreements on security issues; instruments such as defense committees, hearings, inquiries and investigations, mandating reports, etc.);

4.   *Judicial control* in the sense that the security sector is subject to the civilian justice system, too, and that there are no specialised courts (e.g. military justice courts) outside the civil courts; and,

5.   A kind of '*public control*' of the security sector through the existence of a security community representing civil society (political parties, NGOs, independent media, specialised think tanks and university institutions, etc.) and nurturing an informed national debate on security issues.[34]

This body of political norms and widely recognised principles and practices effectively constitute an ideal-type of security sector governance, which, at present, no country anywhere in the world is able to match in their entirety.[35] Though there are no universally accepted models, let alone definitive solutions, civilian supremacy and legislative accountability (or civilian and parliamentary control) of the security sector are widely recognised as being the most crucial elements of the concept of democratic governance of the security sector.

Security Sector Reform

If democratic security sector governance as laid out above defines the objective that is desirable (but hardly ever met), then security sector reform would be the means of meeting, or coming closer to meeting this objective.[36] It has to be noted that achieving democratic governance of the security sector through security sector reform is more than the institutionalisation of laws and practices; it is a social process that may take a long, complex and uneven path. What is more, it differs from country to country in the sense that the evolving needs and any special conditions of each country will heavily influence the pattern of progress. Just like democracy itself, it is an ongoing process in which no society will ever achieve perfection.

Security sector reform is defined by the OECD DAC as the 'transformation of this sector so that it is managed and operates in a manner that is more consistent with democratic norms, the rule of law including well functioning and just judicial and prison systems, and sound principles of governance'.[37] This definition contains two normative elements: the importance of ensuring democratic and civilian control of the security sector on the one hand, and developing effectiveness and efficiency in the security

sector on the other.[38] In other words: the crux of the (democratic) security sector governance challenge is to develop both effective oversight mechanisms and affordable security bodies capable of providing security for the state and its citizens on the basis of democratic governance.[39] The challenge of providing both security and democratic governance is not easy to meet, even for established democracies (see Chapter Two), not to speak of consolidating democracies, transition countries and post-conflict countries (see Chapters Three, Five and Eight). One can only imagine how difficult this must be in a region like the Middle East which suffers from both a democratic and security deficit (see Chapter Nine). In operational terms, security sector reform covers a wide range of activities, which can be grouped into four broad categories, with the first two reflecting the aforementioned two sides of the security sector governance dilemma:[40]

1. *The strengthening of democratic control over security institutions by the state and civil societ*y (e.g. enhancing the oversight capacity of legislators through training and provision of knowledgeable and independent experts in security issues; managing public sector reviews of military expenditures; capacity-building of civil society groups addressing security sector issues, etc.).

2. *The professionalisation of the security forces* (e.g. assistance programmes designed to train soldiers and policemen on democratic accountability, human rights, international humanitarian law, ethnic sensitivity, gender issues; promoting community policing; upgrading of military or police equipment; drawing up professional codes of military, police and intelligence conduct, etc.).

3. *Demilitarisation and peace-building* (e.g. programmes on disarmament: reduction in the availability of small arms and light weapons on post-conflict societies; demobilisation: disbanding of armed groups and promotion of reconciliation; re-integration: reinsertion of armed combatants into civilian activities; strengthening regional security measures).

4. *Strengthening the rule of law* (in order to establish a strong independent legal framework that provides critical civil-democratic oversight through law reform programmes, capacity-building for the judiciary, establishing an independent judiciary, etc.).

Challenges of Security Sector Governance

Security sector reform as a means of enhancing security sector governance is a recurrent theme in this book, which is divided into two parts. The first part deals with security sector governance within the Euro-Atlantic framework. It starts with an account of what is probably the largest security sector transformation project currently underway in the world, i.e. the US 'Homeland Security' reforms that have been initiated in response to the terrorist attacks of 9/11 and may lead to a harmonisation of security sector governance at least among Transatlantic nations, if not more widely (see Chapter Two).

The three chapters that follow illustrate the important role of external actors in setting and diffusing international norms of democratic security sector governance into domestic practices, which may result in the implementation of security sector reform. International institutions such as NATO and the EU offer significant incentives and consequently have the potential to encourage reform in the security sectors of states aspiring to gain membership (see Chapter Three). However, once a state has been admitted within NATO and/or the EU there are apparently few constraining incentives to ensure sustainable improvements in the democratic governance of the security sector. One, albeit modest, constraining incentive may be those provisions of the OSCE Code of Conduct on Politico-Military Aspects of Security (1994), which established the benchmark for democratic political control of the security sector for the whole Euro-Atlantic area. Accordingly, the compliance record of all OSCE member States is subject to regular scrutiny (see Chapter Four). The first part of this book ends with a case study on the transfer of security sector governance norms which Euro-Atlantic security institutions such as OSCE, NATO and the EU sought to extend across South East Europe (see Chapter Five). Based on the results of a regional self-assessment project, this chapter attempts to assess the success and failure of the attempt to use security sector reform as a vehicle for norms transfer to the region.

The second part comprises four essays on security sector governance in a global context. It begins with an study on a very sensitive and often neglected aspect of security sector governance: the civilian and democratic control of nuclear weapons in those states which qualify as recognised or *de facto* nuclear weapons states (Chapter Six). This is followed by a study on how security sector reform aiming at the improvement of security sector governance could contribute to the reduction of gender-based violence,

which affects mainly women in the context of wars and other forms of insecurity (Chapter Seven). The second part concludes with an analysis of the emergence of the security sector reform concept in the context of development cooperation (Chapter Eight) and its application to the wider Middle East region which, in the post-9/11 and post-Iraq war atmosphere, may offer a few new opportunities for, but far more constraints on the improvement of security sector governance (Chapter Nine). The book concludes with a review of the challenges of security sector governance based on the findings of the previous chapters.

Notes

[1] See Krahmann, E., 'Conceptualizing Security Governance', *Cooperation and Conflict* vol. 38, no. 1 (2003), pp. 5-26.; Krahmann, E., *The Emergence of Security Governance in Post-Cold War Europe*, Working Paper 36/01 (ESRC 'One Europe or Several?' Programme, University of Sussex: Brighton, 2001); Tanner, F., 'Security Governance: The difficult task of security democratization in the Mediterranean', unpublished conference paper (Geneva Centre for Security Policy: Geneva, 15 November 2002).

[2] Traditional security issues are often divided into two distinct categories – 'hard security' and 'soft security' with the former referring to military aspects and the latter including political and diplomatic approaches such as confidence-building measures, preventive diplomacy, peace support operations, arms control, disarmament and non-proliferation of weapons of mass destruction. See Shin, D.- I., and Segal, G., 'Getting Serious about Asia-Europe Security Cooperation', *Survival* vol. 39, no. 1 (Spring 1997), pp. 138-155.

[3] See Buzan, B., *People, States and Fear: An Agenda for Internatioanl Secrurity Studies in the Post Cold War Era*, 2nd edition (Harvester/Wheatsheaf: London, 1991).

[4] See Buzan, B., Waever, O., de Wilde, J., *Security: A New Framework for Analysis* (Lynne Rienner: London, 1998).

[5] For an overview on the concept of human security see Chapter Seven. For the broad notion of human security see <http://www.humansecurity-chs.org> For the narrower notion of human security see <http://www.humansecuritynetwork.org>.

[6] Rosenau, J.N., 'Governance in a Globalizing World', Held, D., and McGrew, A., (eds.), *The Global Transformations Reader*, (Polity: Cambridge, 2000), pp. 181-190.

[7] Czempiel, E.O., 'Governance and Democratization', Rosenau, J.N. (ed.), *Governance without Government. Order and Change in World Politics* (Cambridge University Press: Cambridge, 1992), pp. 250-271 (250).

[8] Krahmann, 'Conceptualizing', p. 11.

[9] Brühl, T., Rittberger, V., 'From international to global governance: Actors, collective-decision-making, and the United Nations in the world of the twenty-first century', in Rittberger, V., (ed), *Global Governance and the United Nations System*, (United Nations University: Tokyo, 2000), pp. 1-47 (4-7).

[10] Krahmann, 'Conceptualizing', p. 10.

[11] Tanner, 'Security', pp. 5-7.

[12] United Nations Development Programme (UNDP), *Human Development Report 2002: Deepening democracy in a fragmented world*, (Oxford University Press: Oxford, 2002), pp. 85-100.

[13] See also UNDP, *Human Development Report 2002*, pp. 85-100; Hänggi, H. (ed.) *Practical Confidence-Building Measures: Does Good Governance of the Security Sector Matter?*, Working Paper no. 107 (Geneva Centre for the Democratic Control of Armed Forces: Geneva, January 2003).

[14] Born, H., and Hänggi, H. (eds.), *The 'Double Democratic Deficit': Parliamentary Accountability and the Use of Force Under International Auspices* (Ashgate: Aldershot, forthcoming).

[15] Informal DAC Task Force on Conflict, Peace and Development Co-operation, *Security Issues and Development Co-operation: A Conceptual Framework for Enhancing Policy Coherence* (Organisation for Economic Co-operation and Development [OECD]: Paris, 2000), p. 8.

[16] UNDP, *Human Development Report 2002*, p. 87. For a definition encompassing the first four component parts see Hendrickson, D. and Karkoszka, A., 'The challenges of security sector reform', *SIPRI Yearbook 2002: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 2002), p. 179; for a definition encompassing the first three component parts see Hendrickson, D., *A Review of Security-Sector Reform*, Working paper no. 1 (Conflict, Security and Development Group, Centre for Defence Studies, King's College London: London, Sep. 1999), p. 29.

[17] According to the OECD-DAC, '[G]ood governance always includes the following core elements: people-centred, equity, accountability, transparency, participation and consultation I planning and decision-making, effective and efficient public sector management, and civil society involvement'. According to the Asian Development Bank, good governance relies 'on four basic elements of good governance: (i) accountability, (ii) participation, (iii) predictability, and (iv) transparency', document available at:
 <http://www.adb.org/Documents/Policies/Governance/gov200.asp?p=policies>. According to the UN Economic and Social Commission for Asia and the Pacific, '[G]ood governance has 8 major characteristics. It is participatory, consensus oriented, accountable transparent, responsive, effective and efficient, equitable and inclusive an follows the rule Of law', document available at: <http://www.unescap.org/huset/gg/governance,htm>. According to the EU, '[F]ive principles underpin good openness. Participation, accountability, effectiveness and coherence'. Commission of the European Communities, *European Governance A White Paper*, Brussels, 25.7.2001 (COM)2001 428final.

[18] UNCHR Resolution 2000/64.

[19] See UN Economic and Social Commission for Asia and the Pacific, document available at: <http://www.unescap.org/huset/gg/governance,htm>.

[20] Rich, R., 'Bringing Democracy into International Law', *Journal of Democracy*, vol. 12, no. 3 (July 2001), pp. 20-34.

[21] Rich, 'Bringing', p. 24

[22] For an overview see Rich, 'Bringing', pp. 27-29. See also Chapters Three, Four and Seven and Biason, L., 'A Collection of International Norms and Criteria: A Reference Tool', in

Germann, W., and Edmunds, T., *Towards Security Sector Reform in Post Cold War Europe: A Framework for Assessment* (Nomos: Baden-Baden, forthcoming).

[23] This phrase is drawn from the UN Commission on Human Rights Resolution 2000/47 on 'Promoting and consolidating democracy'.

[24] UNDP, *Human Development Report 2002*, pp. 85-100.

[25] *Towards a Community of Democracies*, Ministerial Conference, Warsaw, (27 June, 2000).

[26] *Closing Statement of the Organizers of the Conference on Democratic Transition and Consolidation,* Madrid, (27 October 2001), para. 2.

[27] Quoted from Ghébali, Y.-V., *The OSCE Code of Conduct on Politico-Military Aspects of Security (3 December 1994): A Paragraph-by-Paragraph Commentary on Sections VII and VIII (Democratic Control and Use of Armed Forces)*, DCAF Document no. 3 (Geneva Centre for the Democratic Control of Armed Forces: Geneva, March 2003), p. 17.

[28] *Partnership For Peace Framework Document*, (10 January 1994), available at: <http://www.nato.int/docu/basictxt/b940110b.htm>.

[29] See also 'EU backs Turkish curbs on power of military', *Financial Times*, (30 July 2003).

[30] This Motion explicitly refers to the work of the Geneva Centre for the Democratic Control of Armed Forces. See Parliamentary Assembly of the Council of Europe, Doc. 9712, (13 February 2003) (Motion for a recommendation).

[31] Declaration of Quebec City, (22 April 2001), available at: < http://www.americas canada.org/eventsummit/declarations/declara-e.asp>.

[32] See also Ghébali, *The OSCE Code of Conduct*.

[33] UNDP, *Human Development Report 2002*, p. 90. See also UK Department for International Development, *Security Sector Reform and the Management of Military Expenditure*, p. 46.

[34] Hänggi, *Practical Confidence Building Measures*, p. 9-10.

[35] Ball, N., Fayemi, J.K., Olonisakin, F., Williams, R., *Governance in the Security Sector* (forthcoming), p. 6.

[36] For an oversview see: Winkler, T., *Managing Change: The Reform and Democratic Control of the Security Sector and International Order*, DCAF Occasional Paper, no. 1 (October 2002).

[37] Informal DCAF Task Force, (2000), p. 8.

[38] See Edmunds, T., *Security Sector Reform: Concepts and Implementation*, DCAF Working Papers, no. 3, Geneva Centre for the Democratic Control of Armed Forces: Geneva, 2001, p. 2.

[39] Ball, N., *Enhancing Security Sector Governance: A Conceptual Framework for UNDP*, unpublished paper, 9 October 2002, pp. ii and 5.

[40] Clingendael, International Alert and Saferworld, *Towards a Better Practice Framework in Security Sector Reform: Broadening the Debate*, Occasional SSR paper No. 1 (Clingendael, International Alert, Saferworld: The Hague, London, August 2002), pp.3-4; See also UNDP, 2002, pp. 90-98.

PART II

SECURITY SECTOR GOVERNANCE
IN A EURO-ATLANTIC CONTEXT

Chapter 2

US 'Homeland Security' Reforms in the Aftermath of 9/11

Jonathan Stevenson

Introduction

The 11 September attacks on the World Trade Center and the Pentagon prompted a drastic shift in the United States' conception of national security. For the first time since 1814, the American heartland was massively attacked. The vulnerability of its people, transportation networks and economic lifelines was exposed. No longer were oceans a buffer against attack, and no longer was military superiority sufficient to deter it. It also became clear that al-Qaeda's transnational threat is different in kind from the more limited one posed by, say, the Irish Republican Army or even Hamas. Unlike those 'old' ethno-nationalist or ideological terrorist groups, al-Qaeda has no interest in bargaining – therefore no incentive to limit violence – and seeks to cripple the US and its allies by inflicting mass casualties, potentially with weapons of mass destruction (WMD). Al-Qaeda's complaints have been transformed into religious absolutes and cannot be tamed or controlled through political compromise or conflict resolution.[1] These realisations dictated a sustained preoccupation with consequences rather than probabilities. In addition to maintaining the capacity to respond to identifiable threats, preferably before they are carried out, the United States government determined that it now had to minimise vulnerabilities to ill-defined and non-specific threats. In other words, putative notions such as the 'defence of the realm' against well-understood threats – relevant during the Cold War and earlier – were replaced by the more robust and comprehensive concept of 'homeland security'. Reflecting this new concern, in his State of the Union address on 29 January 2002, President George W. Bush stated that the United States' 'first priority' was 'the security of our nation', and announced that the new budget would 'protect our homeland'.

Thus, homeland security became an express and discrete dimension of the US security sector. This chapter elaborates various aspects of US homeland security, including military power, law-enforcement weaknesses, domestic intelligence priorities, bureaucratic reforms, and substantive measures designed to minimise vulnerabilities. The upshot of the analysis presented here is that while the Bush administration seeks comprehensive security, the US has a long way to go in meeting that declared objective. Furthermore, while there are differences between the US and other governments, terrorism concerns are likely to bring about greater harmonisation of security sector governance at least among Western nations.

Military Power and Homeland Security

The military campaign in Afghanistan was an important element of the US-led counter-terrorism campaign. Like operations can pre-empt terrorism if American intelligence has clues about pending attempts that may originate from overseas or, as in Iraq, prevent a hostile regime from developing or acquiring WMD that it might provide to non-state groups like al-Qaeda. But the opportunities for such actions are likely to be rare. Thus, military power has only limited relevance to homeland security. There are, however, three special areas in which military power will affect homeland security.

First, and most importantly, the 11 September attacks highlighted the importance of air supremacy in US airspace. After 43 years of defending against external aerospace threats to North American air sovereignty, on 11 September the mission of North American Air Defense Command (NORAD) – originally created to provide early warning of airborne nuclear attacks – expanded to include defence against a domestic airborne threat under Operation Noble Eagle. After this initial air-defence response immediately following the 11 September attacks, the Department of Defense (DoD) moved swiftly to transform NORAD into an interoperable, interagency force consisting of active military and National Guard units, US and Canadian military aircraft and US Navy ships, with streamlined rules of engagement for hostile acts over domestic airspace. Its standing alert posture increased from 20 fighters at seven bases to over 100 aircraft at 26 (and later, 30) bases, and operational tempo was raised significantly. Whereas Air National Guard fighters were conducting about 80 per cent of the air-patrol missions, active Air Combat Command tactical aircraft were also involved in establishing orbits in case other hijacked aircraft showed up in the Federal

Aviation Administration (FAA) system. Also deployed were Atlantic fleet ships operating in support of NORAD. Under NORAD's new remit, rules of engagement for interdicting hijacked commercial airliners were streamlined, giving regional commanders the authority to approve shoot-downs if time did not permit the president or other senior leaders to be contacted.

Secondly, missile defence (MD) is a fundamental element of homeland security, and remains an important part of the Bush administration's security agenda. The 11 September attacks, however, fuelled arguments advanced mainly by Democrats that asymmetrical threats were more salient than those from ballistic (or cruise) missiles and that homeland-defence areas other than MD therefore merited a greater share of resources. Reinforcing this point was a Central Intelligence Agency (CIA) National Intelligence Estimate, released on 10 January 2002, indicating that the United States was more likely to sustain a terrorist attack with weapons of mass destruction (WMD) by way of ships, trucks or airplanes than an attack by a foreign state using long-range ballistic missiles. Yet the mass-casualty intent revealed by 11 September suggests that terrorists themselves may try to acquire missiles even though they present operational and cost disadvantages, and the missile threat from rogue states has not disappeared. Thus, the Bush administration has made clear its intention to begin deployment of a basic missile-defence system, and budget disputes in Congress have centred on allocations for missile defence versus homeland counter-terrorism measures. Against the massive increase for homeland security in the administration's Financial Year (FY) 2003 budget, the missile defence allowance merely held steady at USD 8.1 billion, but for FY 2004 increased 12 per cent to USD 9.1 billion against a 9 per cent rise for homeland security. This tension is likely to continue.

Thirdly, reserve units may be used to guard especially vulnerable elements of critical infrastructure. For example, National Guard units have been more heavily used to help secure the country's 103 nuclear power plants, and may assist the Federal Emergency Management Agency (FEMA) and other agencies in handling terrorism-related civil emergencies. By 16 January 2002, 70,180 reservists from all 50 states, the District of Columbia, and Puerto Rico had been mobilised. More generally, on 26 October the Department of Defense announced plans to consolidate homeland security responsibilities and review operational planning for homeland security through the Chairman of the Joint Chiefs of Staff, the Joint Staff and the unified commands. Finally, in April 2002 the biennial revision to the unified command plan yielded a new unified command – US Northern Command –

consolidating military homeland defence and civil support responsibilities under a single US-based commander-in-chief. The plan became effective on 1 October 2002.

Post-11 September Homeland Security Reforms

Most aspects of homeland security, however, are not among the Pentagon's core competencies, and the United States' historical aversion to using military forces at home limits its potential homeland security role.[2] Indeed, the three areas mentioned in the previous section are quite circumscribed. US governance of internal security has not been substantially militarised. Domestic intelligence and law-enforcement remain the preserves of civilian federal agencies. That said, the role of the federal government in internal security matters has significantly expanded. To help develop and coordinate myriad non-military components of homeland security, on 20 September 2001 Bush appointed Governor Tom Ridge of Pennsylvania to be the Director of Homeland Security. He and his Office of Homeland Security, based in the White House, were tasked with crafting a 'coordinated, integrated, and comprehensive national strategy' to combat terrorism. This called for a mammoth partnership among over 40 federal agencies, the 50 states, and thousands of local jurisdictions, and the harmonisation of a wide range of professionals including emergency managers, doctors, public health officials, police officers and firefighters.

Responding to President Bush's formal proposal of a new cabinet-level department responsible for homeland security, Congress deemed the formation of this partnership sufficiently daunting to warrant the creation of the Department of Homeland Security (DHS), with an annual budget of $37.5bn, in early 2003. The reorganisation of the US security sector will constitute the largest government restructuring since that required by the National Security Act of 1947, which resulted in the establishment of the CIA, the National Security Council (NSC) and the DoD itself. Achieving the objectives of the DHS's enabling legislation will not be easy or fast. They include establishing a national strategy for assessing threats; a new analytic domestic intelligence capability housed at the DHS; a system for disseminating intelligence about threats, trends, and available assistance among state and local officials; coordinating federal, state and local emergency capabilities; fixing training and readiness standards for state and local officials; harmonising private and public medical capabilities;

enhancing public health surveillance systems; and ensuring that a surge capacity for the medical system is at hand.

Border Security and 'Forward' Measures

The most daunting domestic challenge is posed by the porous nature of America's borders and transportation networks, juxtaposed with the lack of redundancy and physical vulnerability of the nation's critical infrastructure. Constructed primarily to serve commercial interests, networks and infrastructure are designed to facilitate travel and trade rather than security. Further, the pressure of globalisation and an ever-increasing volume and velocity of trade have overwhelmed the capacities of US border security.

It is difficult to overstate the challenge. With 9 million square kilometres (km) of ocean, 152,900km of shoreline, 8,000km of inter-coastal waterways, and 14,500km of land borders, the points of entry to US territory are practically limitless. Some 3,700 terminals in 301 ports of entry stretch the capacity of the federal government to maintain control over outside access, to which the virtually uninterrupted volume of illegal narcotics attests. Some 127 million cars, 11.5 million trucks, 11.6 million shipping containers, 2.2 million railroad cars, 829,000 planes and 211,000 ships also passed through US borders in 2000. Most of this traffic was concentrated in just a few ports and crossings. Over USD 8.8 billion worth of goods are processed daily at US entry points nationwide, a container every 20 seconds at major US ports. Border agencies were able to examine only 2 per cent of the cargo that came into the country as of late 2001. In October 2001, an al-Qaeda suspect was discovered inside a container bound for Canada from Italy that had originated from Egypt. Long before 11 September, US authorities raised concerns that nuclear bomb components could be smuggled into the country in a container.

In 2000, almost half a billion people crossed US borders. Owing to friendly relations between the US and Canada, the abundance of cross-border trade, and the traditional absence of transnational threats to the US originating from Canada, the US-Canada border had been the longest undefended border in the world. On 11 September, the US Border Patrol had only 126 posts and 334 agents covering the 7,200km border between US and Canada, where even existing border stations are secured by only an orange cone when the customs agent or border patrolman is off duty. Most of its 9,000 agents have been assigned to stop illegal immigrants – which number 275,000 annually, between 6 and 11 million in total – from crossing the

3,220km Mexican border. The Immigration and Naturalization Service (INS) processed 160,000 deportations in 2000, but there are another 300,000 'absconders' who were ordered deported and never left. That year the United States issued 67,742 visas to persons wishing to visit from Saudi Arabia alone; more than half overstayed those visas, but only five were deported. As of early 2002, the INS had only 2,000 agents available for interior border and immigration enforcement.

While the pre-11 September policy preoccupations with drugs and illegal immigration may not precisely match counter-terrorism priorities, and the border agencies clearly require more and better trained staff and bigger budgets, border-security problems are to a significant extent organisational. Responsibility for border control is distributed among several agencies. The US Customs Service, the Food and Drug Administration, the Department of Agriculture and the Environmental Protection Agency inspect cargo. INS, which includes the US Border Patrol, oversees the flow of people into and out of the United States, while the Department of State issues visas authorising their entry and duration of stay. The US Coast Guard is responsible for inspecting ships and securing ports. Their activities were not centrally coordinated, and most of these agencies reported to different executive departments of the federal government. Moreover, each agency has remits in addition to homeland security, and none has regarded security as its core mission. Although some progress was made in integrating separate agencies' information systems during the 1990s, on 11 September they did not have fully interoperable databases and communications networks. Data-sharing among them has been rendered difficult by outmoded equipment, Congress's cumulative budgetary neglect and legal barriers. Consequently, while the Coast Guard could identify a ship with a suspect history, Customs might have had some knowledge of a hazardous cargo on a converging tanker, and the INS would have possessed a few clues about the crew on each vessel, no one agency was likely to command all this information, and no front-line inspector is likely to have ready access to relevant CIA or Federal Bureau of Investigation (FBI) intelligence.

The large-scale statutory overhaul of the homeland security system and consolidation of security functions under the DHS is intended to produce better data-sharing and other improvements in agency practices and procedures. But substantial improvements were made well before the DHS plans crystallised. In the immigration sphere alone, sensible substantive measures taken or contemplated since 11 September include: more rigorous checking of passports on departure; investing immigration and transportation

security officials with law-enforcement status; giving INS inspectors access to lists of those ineligible to enter the US and electronic access to consular visa application information; requiring airlines to provide the INS electronically with passenger information in advance of arrival; widening the use of biometric identifying data, already in use on secure green cards and 'laser visas'; implementing automated entry–exit data systems for non-immigrant flyers; and establishing a comprehensive monitoring system for international students. Nationwide, safeguards for issuing key forms of identification, such as drivers' licences and birth certificates, could be strengthened.

The 2003 budget authorises funds for several thousand new caseworkers and Border Patrol agents. Some USD 380 million was also allocated for a comprehensive entry–exit system and a target date of September 2004 was set for establishing a computerised program that would track hundreds of millions of border crossings a year. But many experts question the feasibility of both developing such a capability and meeting the deadline and point to the profound effect that a truly comprehensive system could have on the pace of commerce. Advanced biometric identification procedures for visa applicants are under study, as are magnetic swipe-cards, bar-coded vehicle stickers and cards read by radio antennas. Some ethnic profiling and greater scrutiny of visa applicants are occurring. Considerable effort is also being made to track foreign students, although many American universities are uncomfortable serving as monitors.

Given the substantial global dimension of the US economy – the volume of US international trade, in terms of dollars and containers, has doubled since 1990 and is set to double again between 2001 and 2005 – bilateral and multilateral cooperation is also required to meet homeland security needs. The diplomatic task of winning such cooperation may be eased by the security improvements that it will offer the other countries involved. The US Coast Guard is advocating 'Maritime Domain Awareness', whereby agencies and private industry pool information on inbound ships, cargos, crews and passengers from multiple jurisdictions. Since the US–Canada border is the most porous, it has drawn the closest and most immediate attention. In an accord signed on 3 December 2001, the US agreed to integrate Canadian officials into its new Foreign Terrorist Tracking Task Force, to develop joint units to assess information on incoming passengers; and to increase immigration-control personnel assigned to Canada. Another promising approach is to encourage industry via tax credits and 'fast pass' benefits to promote better security at loading docks, ports and

warehouses. In April 2002, for example, seven large companies – Ford Motor Co., General Motors Co., DaimlerChrysler AG, BP America, Motorola Inc., Sara Lee Corp. and Target Corp. – initiated a charter risk-management programme, the Customs-Trade Partnership Against Terrorism (CTPAT), whereby company shipments over the US–Canadian border are voluntarily subject to government-approved security procedures and supply data is provided in advance to the US Customs Service by computer in exchange for expedited treatment, aided by electronic transponders, for company trucks at the border.[3] Other possible safeguards include background checks on shipping personnel and crews and an automated database to identify and track shipping and provide updated manifests before entry.

Furthermore, Washington is gently exploiting its leverage over international transportation and commercial networks to enlist the aid of Asian and European allies to attain 'point-of-origin' cargo security. The primary task is to establish common standards for physical security, reporting and information-sharing for operators, conveyances and cargo, and a multilateral system for enforcing compliance with those standards. Particular measures under consideration include: requiring containers to be loaded in electronically monitored, security-sanitised facilities; affixing global-positioning system transponders and electronic tags to trucks and containers to facilitate tracking; installing theft- and tamper-resistant seals on containers; mandating background checks for personnel processing cargo or vehicles; instituting the use of biometric travel identity cards; and establishing inter-agency data links from point of departure to point of entry. As of November 2002, under its Container Security Initiative the US had secured permission from Belgium, France, Germany, Italy and the Netherlands to deploy specially trained US Customs Service officials at the ports of Rotterdam, Antwerp, Le Havre, Hamburg, Bremerhaven, Genoa and La Spezia to monitor shipping manifests and inspect cargo bound for the US.[4]

Intelligence – General Considerations

Warnings gleaned from intelligence are by nature ambiguous, since intelligence analysts deal in uncertainties and probabilities. Thus, the 11 September attacks cannot be laid solely at the door of the intelligence community but rather reflect a security failure writ large.[5] Nevertheless, the attacks did reveal flaws in the US intelligence system that affected homeland

security. The main problem is that while the US intelligence agencies are capable of gathering massive quantities of raw data, they are less adept at processing it and developing an in-depth analytic understanding of an increasingly complex and borderless world. As of late 2001, collection consumed 85 per cent of the USD 30 billion intelligence budget, but only 10 per cent of the 'take' was processed. Organisational inefficiencies and inter-agency competition are partly to blame, but there are two more salient deficiencies.

First, there has been a severe shortage of intelligence officers with the linguistic, operational and analytic skills needed to assess attitudes in Arab countries and the intentions of their governments. Much of the problem results from a counter-intelligence culture of mistrust, however, and therefore will be difficult to remedy quickly. The 11 September attacks also prompted calls from some quarters for the United States to energise its human intelligence capabilities. These were severely compromised in the wake of the discovery of senior CIA counter-intelligence officer Aldrich Ames's treason in 1994, when agent-recruitment and other operational restrictions were imposed and several unfortunate appointments in the CIA's Directorate of Operations were made.[6] Since the cultural differences between Western intelligence officers and al-Qaeda terrorists are particularly sharp, and the latter's level of fanaticism is extraordinarily high, effective penetration of al-Qaeda cells remains a daunting task even for unrestricted covert intelligence operations. On the other hand, the fact that a number of Western individuals – such as John Walker Lindh – joined the Taliban suggests that 'humint' may have greater potential to infiltrate Islamic terrorist networks than US officials had previously thought.

Secondly, imbalances exist between strategic intelligence – which is most relevant to homeland security – and support for military operations. But almost 85 per cent of the intelligence budget falls within the purview of the Secretary of Defense and, given the inertia of vested bureaucratic interests, will likely stay there. This allocation will tend to perpetuate the imbalance. A number of reforms will undoubtedly emerge from ongoing Congressional hearings, and the NSC is trying to provide better guidance to the CIA and the domestic intelligence organs. Despite an increase in resources, however, priorities among strategic needs, military requirements and domestic security demands have yet to be firmly established.

Law Enforcement and Domestic Intelligence

Two other important fronts in the global war on terrorism are law enforcement and domestic intelligence. Both the FBI and its parent Department of Justice have been subject to severe criticism for being unprepared in the aftermath of the 11 September terrorist attacks. To its credit, the FBI immediately swung into action after the attack, sending nearly 4,000 agents into the field on the biggest manhunt since the 1950s. Within days, the FBI had compiled impressive (if belated) dossiers on each of the 19 hijackers of 11 September, and was able to track down their identities, finances, addresses and photographs. It also arrested and detained up to 1,500 potential suspects over the next three months, most of whom were of Middle Eastern origin. About 725 people were detained on immigration violations, but only 100 were charged with criminal offences. Fewer than 30 have been linked to al-Qaeda. But the Bureau was very slow to respond to the anthrax attacks via the US mail that occurred in October and November and killed five people and infected at least 13 others.

The demand for domestic intelligence by the United States government has become much higher since the 11 September attacks. In confronting a 'virtual' clandestine enemy intent on infiltration and on staging mass-casualty attacks, there is no doubt that better advance warning mechanisms are needed. These require more leeway in gathering domestic intelligence than that permitted by conventional criminal justice constraints such as the requirement of 'probable cause' that a crime has been committed. The excessive legal circumspection of the FBI's National Security Law Unit about disseminating intelligence on one of the actual hijackers to law-enforcement personnel and about searching suspected '20th hijacker' Zacarias Moussaoui's laptop computer are among the factors that explain the lack of pre-11 September counter-terrorism measures. Prior to the attacks, the FBI also had indications – recorded in the infamous 'Phoenix memorandum' of August 2001 – that foreign students had signed up for jet simulator training and had little interest in learning about landing. Acting on such information went against the grain of a reactive law-enforcement culture sensitised to social concerns about preserving civil liberties and freedom of action. Recognition of such shortcomings – documented in a joint Congressional report issued in September 2002 – has fuelled major federal initiatives to broaden the range of information to which the government is permitted access and to render the intelligence bureaucracy more efficient.

Government access to domestic information on terrorist threats has been governed primarily by the Foreign Intelligence Surveillance Act (FISA), enacted in 1978. For judicial authorisation (i.e. a warrant) to conduct surveillance on a non-US citizen for intelligence-gathering purposes, the FISA requires a showing of probable cause that the target of surveillance is merely a foreign agent (as opposed to a criminal), but curtails the disclosure of any information thereby obtained to law-enforcement officers with arrest powers. The two key initiatives that have emerged since 11 September for augmenting government access to domestic information are (a) the USA PATRIOT Act, a statute enacted in October 2001, and (b) the Defense Advanced Research Project Agency (DARPA)'s Total Information Awareness (TIA) research programme, administered by DARPA's Information Awareness Office (IAO).[7]

(a)   The USA Patriot Act

The USA Patriot Act expands the range of information that FISA surveillance can cover and easing its dissemination among federal, state and local law-enforcement agencies. Due to political pressure from left-wing liberals and right-wing libertarians, the legislation was less intrusive than expected. While the dark immediate post-11 September mood – public as well as official – augured substantial curtailments of civil liberties, the new powers are not as extensive as some legal and political analysts had anticipated. For example, law-enforcement access to the content of emails remains restricted. Nevertheless, many left-wing liberals and right-wing libertarians consider the law too sweeping. It substantially dismantles the regulatory barrier between domestic and foreign intelligence erected in the late 1970s in the wake of the post-Watergate Church Committee investigations of intelligence abuses.[8] The new law strengthened capabilities in several key areas, including:

- *Surveillance* Court oversight for wiretaps, email tracing, voicemail retrieval and tracking web-surfing has been reduced; the FBI may subpoena business records and computer records from internet service providers (ISPs) 'to protect against international terrorism or clandestine intelligence activities'; and law-enforcement agencies may use 'roving wiretaps' (allowing investigators to listen to all the phones a suspect uses). This provision is not permanent, but rather subject to a 'sunset provision' whereby it must be reviewed and explicitly re-

approved by Congress after four years. Federal law-enforcement agencies are permanently empowered to conduct secret searches and need only notify the owner of searched premises after a 'reasonable time'.

- *Search warrants* Federal investigators may obtain nationwide warrants to trace more effectively terrorists who are moving through multiple jurisdictions.
- *Detention* Non-citizen terrorist suspects and immigration law violators can be detained for up to seven days for questioning without a hearing. Aliens who are certified to be threats to national security can be detained indefinitely, and those who raise funds for terrorist organisations can be deported.
- *Restricted access* Access of non-immigrant aliens to biological and chemical agents may be restricted.
- *Money-laundering* US banks can now be ordered to determine sources of suspicious accounts, the Treasury can now apply sanctions against uncooperative countries or banks; and US banks are prohibited from dealing with unregulated offshore 'shell' banks.
- *Information sharing* Information obtained in grand jury proceedings can also be released to US law-enforcement, intelligence and immigration organisations, and domestic law-enforcement agencies and foreign intelligence agencies are now allowed to share information.
- *Criminal penalties* Penalties for aiding, abetting or committing acts of terrorism have been made more severe. Terrorism against mass transit networks was added to the list of federal crimes.

(b)   Total Information Awareness (TIA)

The TIA programme has a number of different aspects. The most controversial one aims to implement state-of-the-art supercomputing and data-mining capabilities so as to enable the government to identify terrorists by detecting patterns of activity based on recorded information commercially or otherwise publicly recorded (telecommunications, credit-card purchases, web-surfing, email etc.) and track their movements in near-real time.[9] TIA's framework for exploiting this transactional information has come under heavy fire in Congress and from elements of the political left and right, on grounds that it would impermissibly infringe on individual privacy and civil liberties.[10] Adding fuel to the fire is the reputation of IAO Director John

Poindexter, who was implicated in the Iran-*Contra* scandal while he was President Ronald Reagan's National Security Advisor.

Some degree of privacy protection, however, is built into the system. The computer program employed would initially exclude names and other personal data from the transactions that it captured. If a suspicious transaction or series of transactions were detected, the names and personal details of those involved could be obtained only if a judge or other legal authority approved an application by the intelligence analyst seeking that information showing sufficient justification for its disclosure. TIA would almost certainly improve intelligence warning and counter-terrorism enforcement. But, even assuming a high degree of accuracy, anything less than 100 per cent will also mean numerous unwarranted invasions of privacy and a smaller number of unfair persecutions. On 23 January 2003, the Senate voted to halt the TIA programme within 60 days of the law's enactment, subject to resumption if the DoD submits a comprehensive report demonstrating that the threat and prospective effectiveness of the programme justify its costs and its impact on privacy and liberty. Certainly this is a reasonable substantive and political requirement. But even if the provocative transactional-exploitation component of TIA cannot be defended, TIA also encompasses analytic techniques for improving inter-agency intelligence coordination and collaborative intelligence-based decision-making that do not affect individual privacy or liberty. It would be imprudent to 'throw out the baby with the bathwater' by discarding the entire programme on the basis of the transactional aspect's unsustainability or Adm. Poindexter's reputation.

Balancing theProtection of Civil Liberties against Security Concerns

On balance, the American public and Congress have shown more wariness about the erosion of civil liberties in the name of counter-terrorism than might have been expected immediately after the 11 September attacks. The Bush administration itself has appeared somewhat less concerned about civil liberties. It has pressured Congress – as of mid-2003, unavailingly – for the removal of the FISA requirement that government officers seeking wiretaps without probable cause that a crime is being committed demonstrate a foreign connection. In May 2003, the Senate voted 90 to 4 in favour of new authority allowing law-enforcement agencies to apply FISA to 'lone wolf' suspects who have no uncovered connections to known terrorist groups, but only on condition that the Senate Judiciary Committee agreed to drop efforts

to make the surveillance provisions of the USA PATRIOT Act permanent (i.e. not subject to 'sunset' review). Nevertheless, the post-11 September emphasis on vulnerability does appear to have shifted authority for national security towards the executive branch of government and away from the legislative branch (and the judiciary). The creation of an executive cabinet-level department – the DHS – devoted to homeland security, to which Congress has delegated substantial legislative responsibility for internal security matters, is the most vivid manifestation of this reality. Notably, many DHS functions are exempt from the public scrutiny normally accorded to government activities under the Freedom-of-Information Act.

Further, it appears that US federal authorities have yet to strike a satisfactory balance between more effective counter-terrorism and adequate protection of individual rights. The long-term detention at the US military base in Guantanamo Bay, Cuba, of over 600 persons captured mainly in Afghanistan, and the dispensation of trying them in military tribunals with looser procedural protections and evidentiary standards than courts that would try US citizens, is perhaps the most conspicuous example. Neither the courts nor Congress have articulated a clear and principled definition of 'battlefield detainees' – the US Department of Justice's designation for those being held – who do not qualify as prisoners of war, or a method of bringing them to justice that responds to the concerns of human-rights groups. In the post-11 September domestic law-enforcement alert, over 1,600 people were detained, often based on information falling short of putative legal standards. Other controversial measures include 'Operation Liberty Shield', whereby the INS detains asylum-seekers – without possibility of parole pending the adjudication of their cases – from countries where terrorist organisations have been active. Broadly speaking, more critical Congressional oversight of the executive-branch agencies responsible for implementing US security policies and practices may be needed to better balance the protection of civil liberties against national security concerns. The circumspection that Congress has shown with respect to the TIA programme, however, suggests that the executive-legislative balance may be shifting back towards equilibrium.

Whither US Domestic Intelligence?

Bureaucratically, the DHS has substantial responsibility for threat and vulnerability assessments. The DHS, however, has been accorded no domestic intelligence-collection authority, and will therefore be dependent

on whatever agency has such authority for the strategic assessments of threats within the US. At present, that authority remains with the FBI. Yet the Bureau is considered the primary culprit in the pre-11 September failures. Accordingly, calls for a new American agency for domestic intelligence collection have become increasingly serious and urgent.[11] These hinge on the observation that the Bureau, in incorporating law-enforcement and domestic intelligence functions under one roof, is constrained in performing the latter function by an entrenched organisational culture geared towards gathering evidence required to build judicially sustainable cases rather than the broader range of intelligence required to prevent terrorist operations from occurring. Thus, a new agency would be more akin to European domestic-intelligence arms like the United Kingdom's Security Service, also known as MI5, which has no enforcement or other sanctioning authority. The boldest and most comprehensive recommendation has come from the Congressionally authorised Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, chaired by former Governor of Virginia James S. Gilmore, III. Under the Gilmore Panel's proposal – contained in its Fourth Annual Report, issued on 15 December 2002 – the new agency would be bureaucratically independent of any cabinet department and would be known as the 'National Counter-terrorism Center' (NCTC). It would be responsible for collecting intelligence on international terrorist activities inside the US and analysing information on international terrorists threatening attacks against the US. The NCTC would address several key problems with existing arrangements for gathering domestic intelligence, including: (1) the risk of duplication and bureaucratic 'stove-piping'; (2) the FBI's law-enforcement organisational culture, oriented towards punishing rather than preventing attacks; and (3) the possibility that broadening the FBI's domestic intelligence-collection mandate could appear to or in fact create a 'secret police'.

To solve the first problem, the NCTC would further have authority to impose direct intelligence-collection requirements on other elements of the intelligence community such as the Central Intelligence Agency (CIA) and the National Security Agency. This would enable the NCTC to become a single source for terrorism-related domestic intelligence. Vesting the same power in the extant FBI, of course, would theoretically make the FBI a single source as well. The Gilmore Panel concluded, however, that this would perpetuate the second and third problems. The Commission was not unanimous on these points. Notably, Governor Gilmore himself favoured maintaining domestic intelligence authority in the FBI. Panel member James

Greenleaf, a former FBI official, expressly dissented from the Commission's overall recommendation, approving only of the fusion of analytic capabilities in a single new agency. He argued that insofar as the FBI customarily heeded civil liberties a consequence of its dual role as law-enforcer and intelligence collector, an FBI that continued in that role would be less apt than a fully empowered NCTC to become a 'secret police'. Under the Gilmore Panel's proposal, however, the NCTC's collection activities would remain subject to the FISA and the US Attorney-General's guidelines for terrorism investigations. Primary legal oversight would shift from DOJ to a new Policy and Program Steering Committee consisting of the Director of Central Intelligence, the Attorney-General and the new DHS Secretary, with more focused secondary supervision by the intelligence committee in each house of Congress.

Since the DHS will be mainly a consumer rather than a collector of intelligence, the challenge of integrating its relationship with existing intelligence agencies will be especially stiff. Adding the task of coordinating the institutional relationship between two new bureaucracies seems gratuitous. Further, the recent Senate vote on the TIA demonstrates the acute sensitivity of a broad range of Americans to the trade-off between good intelligence and compromised protection of privacy and civil liberties. The American public is likely to require assurances that civil liberties are being protected. While the NCTC, as conceived, would incorporate considerable protections, it would be less likely to inspire confidence than an extant agency with a seasoned supervisory and law-enforcement regime. It may, therefore, make more sense to re-orient and liberate a pre-existing law-enforcement agency used to close DOJ oversight and equipped to wed intelligence readily with enforcement efforts, rather than creating an entirely new agency and having to graft onto it oversight procedures and inter-agency liaison protocols. In any event, Attorney-General John Ashcroft opposes the creation of a new agency, and is likely to hold sway over Congress.

MI5 has been mentioned as a model for a standalone US domestic intelligence agency. In countering Northern Irish terrorism, which the British government has approached as an essentially criminal problem since 1976, MI5 has been the lead agency in a central body for collating and coordinating intelligence from all relevant sources, including the Royal Ulster Constabulary (RUC)'s Special Branch, its Scotland Yard counterpart and army intelligence.[12] From that position, MI5 has exercised control over intelligence-driven counter-terrorist operations. This special arrangement,

however, effectively accorded MI5 a key role in oversight law-enforcement – the execution of which remained the RUC's responsibility – by lowering the institutional barriers between intelligence-collection and law-enforcement. Thus, MI5's counter-terrorism function in Northern Ireland may argue more for retaining the FBI's dual responsibility than creating a new domestic intelligence agency. In addition, segregating the FBI's functions into separate agencies would not preclude, and might amplify, turf wars about overlapping law-enforcement and intelligence missions, which afflicted MI5 and Scotland Yard. Moreover, MI5 itself appears to have been no more, and probably less, alert to an acute domestic Islamic terrorist threat than was the FBI before 11 September. The disaggregation of the FBI's current intelligence and law-enforcement functions could well thicken the wall between law-enforcement and intelligence between the FBI and the CIA that contributed to the 11 September failures. The FBI has strong motivation to establish a better counter-terrorism and intelligence orientation, and appears to be making some progress.

Since 11 September, the FBI has made arrests leading to charges against 200 suspected terrorists and rolled up several apparent terrorist cells in the US. In this light, a new domestic intelligence agency may be unnecessary, and a riskier proposition than the mo re conservative approach of supporting the FBI's retention of domestic intelligence-gathering capabilities, now enhanced, as well as law-enforcement powers. That is also politically the most likely result.

In any event, in early 2003, acting on a presidential initiative aimed at further closing the gap between foreign and domestic intelligence related to terrorism, the Director of Central Intelligence (DCI) formed the Terrorist Threat Integration Center (TTIC) from elements of the DHS, the FBI's Counterterrorism Division, the DCI's Counterterrorism Center and the Department of Defense. With access to the full range of raw and polished intelligence, the TTIC is tasked to optimise the use of information on terrorist threats, expertise and capabilities to conduct analysis and refine intelligence collection; to create a bureaucratic structure that ensures robust inter-agency intelligence-sharing; to integrate foreign and domestic intelligence on terrorist threats to generate comprehensive threat assessments; and to present those assessments to the national political leadership. The TTIC will also continuously maintain and update a database of known and suspected terrorist that will be accessible to federal, state and local authorities. The creation of the TTIC may soften calls for a separate domestic intelligence agency.

Aviation security

The most glaring of the multiple security failures on 11 September was in the aviation sphere. It is easy to see why. The number of commercial airline flights in the United States has doubled in the past two decades, stretching the capacities of existing facilities. There are a total of 25,000 flights a day in the United States, involving almost 650 million passengers a year. Before 11 September, security took a back seat to efficiency. The Transportation Department's 'red teams' would routinely enter restricted areas without any badges, and would be challenged only 25 percent of the time. Similarly, the watchdog Government Accounting Office (GAO) frequently skirted around security screens, and successfully planted weapons on planes at US airports. Although there was a special security screening system in place on 11 September, and nine of the 19 hijackers were singled out, all were ultimately allowed to board airplanes. In 2002, US airports were expected to lose USD 2–3 billion in revenues while having to spend at least USD 1 billion to meet new security requirements. Operational disruptions and increased fines due to a 'zero-tolerance' policy towards security violations imposed additional costs. Between October 2001 and April 2002, nearly 2,500 flights were delayed or cancelled and 156 terminal or concourse evacuations had occurred.

In recognition of these realities, Bush signed the Aviation and Transportation Security Act on 19 November 2001. This measure created a Transportation Security Administration (TSA) to strengthen airport security. The US government has assumed responsibility for personnel and baggage screening at airports, establishing minimum citizenship, education, training and security standards (including criminal background checks) for 31,000 screeners to be employed at the nation's 429 commercial airports. Airlines now have beefed up access security for their own facilities, and fortified cockpit doors, which are to stay locked for the duration of flights. The government also has reinvigorated its 1970s-era 'sky marshal' programme, placing an armed law-enforcement officer on some flights. The TSA provides funding for creating a fully professional air marshal service and increasing the marshals' presence on domestic flights. On the ground, airport authorities have started to enforce parking restrictions more rigorously, to perform random intensive identification checks on any individuals present on airport grounds and to require those standing in security lines to be holding airline tickets in their hands.

The most substantial changes to pre-11 September practices that the

new law mandates involve luggage and passenger screening. Under the US hub-and-spoke logistical network for air travel, which entails close coordination of connecting flights and finely tuned air-traffic control, a relatively short delay on a given flight can have immense multiplier effects. The basic challenge is therefore to design a virtually fault-proof system that does not produce substantial ground delays. This will not be easy. By 31 December 2002, each airport was supposed to have mass-screening technology in place to screen all checked bags for explosives. Although the deadline was not reached, more thorough baggage inspections were required in all airports. For the interim between that date and comprehensive mass-screening capability, the FAA has approved four baggage-screening techniques: use of bomb-sniffing dogs; running luggage through smaller explosive-detecting machines; hand searches; and bag-matching, a procedure long employed in Europe whereby no item can be loaded onto a plane unless its owner is also on board. Furthermore, a profiling system known as computerised-assisted passenger screening (CAPS) has been used.

Even if fully implemented, the new aviation security system remains far from foolproof. Matching bags, for instance, would not deter a suicide bomber, and even that measure will not be conducted on some connecting flights. Nevertheless, the TSA's measures have generally been received as providing a relatively high degree of security and a substantial deterrent provided they are substantially implemented. In early 2002, US aviation authorities began testing a computerised screening system considerably more discerning than CAPS that would link every reservation system in the United States to private and government databases, employing data-mining and predictive software to profile passengers and ferret out potential threats.

Information Security and Protection of Critical Infrastructure

Another homeland-security worry is a scenario analysts call a 'Digital Pearl Harbor': a surprise attack on the web of computer networks that undergirds the American economy and government. Although al-Qaeda is not believed to have a strong interest or capability in this area, some states have manifested a keen interest in it and the possibility that transnational terrorists may warm to the idea cannot be ruled out. A cyber-attack might immobilise the Pentagon's ability to communicate with US military forces, siphon billions from the economy, or shut down all the services of a large city. Many computer-attack tools are posted on the Internet, available to anyone with a mouse and a modem. New defensive capabilities, including better

encryption, intrusion detection and firewalls are rapidly being developed, but so are viruses and advanced attack tools. The vulnerability of the 'wired' economy is evident. Intrusions on US private-sector computers and Pentagon systems have increased steadily, peaking at 36,000 and 40,000 respectively, in 2001. Other US government systems are routinely visited or probed by foreign assailants.[13]

The major threat will probably come from state-sponsored information-warfare efforts. Chinese military officials, for instance, have written articles about America's vulnerability to 'electrical incapacitation systems', and believe it will be a potentially decisive element in future conflict. Indeed, prompted by the 1 April 2001 collision between a US surveillance plane and a Chinese fighter, Chinese and US hackers for over a month exchanged defacement and denial-of-service attacks on various websites, some of them run by their respective governments. The episode was over-hyped by the media, but did illustrate the ease with which supposedly secure computer assets could be compromised, as did the untraced 13 July 2001 'Code Red' denial-of-service worm attack affecting 280,000 hosts running Microsoft Windows. Numerous computer crimes and intrusions have also been traced to sources in Russia. Although few countries presently demonstrate a strategic-level offensive information-warfare capability, in addition to Russia and China, the governments of India, Iran, Cuba, Taiwan, Israel, Bulgaria, France, Britain, Canada and North Korea are believed to be attempting to develop one.

US government computer systems often have not obtained passing grades from the GAO. 'Red teams' from the NSA regularly enter government-owned information systems, undetected by system administrators. The US government's direct authority is limited to government computers. They are, of course, vulnerable, and shortly after the 11 September attacks the Office of Cyber Security announced plans to set up an ultra-secure computer network, known as 'Govnet', for government agencies and their key partners. But even greater potential vulnerability resides in the non-governmental infrastructure underlying the power-generation, transportation and financial sectors of the economy. A study by computer-security firm Riptech Inc. released in January 2002 found that attacks monitored weekly at 300 companies totalled 128,678 and increased by 79 per cent between July and December 2001, and that power and energy companies were disproportionately targeted by actions originating in the Middle East.

The US government has emphasised public–private cooperation on

both cyber security generally and the protection of national critical infrastructure in particular. The challenge is to win the cooperation of private industry, which may be inclined to believe that security is adequate in order to preserve consumer confidence. The government's approach has been to rely on consumers' lack of confidence to spur industry voluntarily to implement the government's cyber-security proposals. These include: periodically distributing 'patches' that plug holes in software through which hackers can seize control of computers; monitoring Internet service provider (ISP) networks for viruses and false Internet addresses; and rendering Internet servers capable of suppressing denial-of-service attacks. ISPs may be required to collect and retain data that can be accessed by government agencies, though civil-liberties groups are wary of any such requirement. But while the official view is that the private sector is generally best equipped to ensure security in both realms, it also holds that the government should assume responsibility naturally for securing government cyberspace and infrastructure but also some private systems where high transaction costs of legal barriers produce significant coordination problems. Thus, among other things, the DHS is devising and refining government cyber-security training programmes and promoting private-sector certification schemes.

More broadly, substantial diagnostic and remedial resources have been invested in improving security. A General Accounting Office study identified major vulnerabilities in 24 government agencies, which informed the determination of the DHS' capabilities. The Secretary of the DHS is charged with developing a comprehensive national plan for securing the United States' key resources and critical infrastructure; providing crisis management during attacks on critical information systems; furnishing technical assistance to the private sector and other government organs during the post-attack emergency recovery phase; oversight the efficient distribution of warning information and advice about countermeasures; and performing and funding research and development. In furtherance of these duties, the DHS on 14 February 2003 adopted the *National Security Strategy to Secure Cyberspace* and the *National Strategy for the Protection of Critical Infrastructures and Key Assets*, and subsequently established the Information Analysis and Infrastructure Protection Directorate, which in turn subsumes the National Cyber Security Division and the National Infrastructure Protection Center. The implementation of the directives in the two documents is likely to alter the relationship between the public and private sector. To wit, it will strengthen the federal government's supervisory role in the operation of commercial enterprises involved in

national security, which includes a considerable proportion of information technology (IT)-related businesses. This change is arguably incremental rather than wholesale, since federal authorities have long been accorded unusually robust regulatory powers over practices at sensitive or infrastructural private concerns (for instance, nuclear plants and defence contractors). At the same time, the documents appear to contemplate an unprecedented degree of day-to-day interaction between government and private industry. Homeland-security spending on IT security is projected to reach USD 2.6 billion in 2003, compared to USD 1.5 billion in 2002. While the US government is doing a great deal to improve IT security, the systems involved are so pervasive and have so many different custodians that achieving an acceptable level of security will be especially difficult. For the same reasons, there appears to be no viable alternative to the government's reliance on public-private partnership.

Protection against Bio-Terrorism

The Congressionally mandated TOPOFF exercise co-sponsored by the US Justice Department and FEMA in early 2000 and the DARK WINTER simulation conducted in late 2001 by several prominent former US officials have highlighted the dire implications of a biological attack. In each exercise, the hypothetical attack was successful because medical and emergency personnel did not know how to diagnose unusual symptoms, and the local medical infrastructure collapsed. Daunting complications also arose with respect to quarantine laws and information management. Analysts assessed that hundreds of thousands could have died had the simulated circumstances been real.

The real anthrax attacks that occurred in October and November 2001 showcased many of these problems. Government agencies were surprised at the virulence and lethality of the anthrax spores, which were far more deadly than any individual biologist-cum-terrorist was considered able to produce. The mode of delivery precluded large-scale casualties. Yet medical professionals and biological warfare analysts under-estimated the level of the infective dose that could cause death. Government communications procedures were inadequate for reassuring a frightened public. Equally sobering was the insufficiency of medical resources. Laboratories were unprepared for the volume of work required to test samples for anthrax. Further, US hospitals would have found it difficult to cope with a more sophisticated mass-casualty operation.

Owing to these difficulties, the budget for the federal Centers for Disease Control and Prevention to improve national preparedness for biological events is likely to increase substantially. More broadly, the US government now recognises that, given the ease with which biological weapons can be concealed and a biological attack launched, minimising risks requires a strengthened public health system. In December 2001, the Secretary of Health and Human Services Tommy Thompson announced major initiatives for developing a new anthrax vaccine, research on new rapid-response strategies, and improving methods of mass diagnosis and tracing vectors of infection. Congress approved USD 1.4 billion for bio-terrorism in the FY2002 budget as well as a USD 3.7 billion supplemental allocation, and USD 5.9 billion for FY2003 – a total of USD 11 billion over two years. The money is being used primarily to improve the national public health system. The budget also allots USD 10 million to the Centers for Disease Control and Prevention for creating a team of epidemiologists to share information with foreign counterparts and USD 20 million to bolster the centers' Epidemiological Intelligence Service, which was established in 1951 to provided early warning in case of biological warfare. The Bush administration has continued to be especially sensitive to US vulnerability to bio-terrorism, and in early 2003 announced Project BioShield – a ten-year USD 6 billion research-and-development initiative designed to achieve comprehensive protection of the US population against a bio-terror attack.

Homeland Security and Transatlantic Relations

Iinter-governmental intelligence and law-enforcement cooperation has become more important since the US-led military action in Afghanistan denied al-Qaeda its physical base. Al-Qaeda was forced to spread out, becoming even more decentralised, minimising the exposure of any 'bricks-and-mortar' infrastructure and decreasing the availability of large point-targets. Traditional military means therefore became less applicable to the terrorist threat.[14] Offensively, al-Qaeda has been hobbled by the Afghanistan intervention, improved homeland security in North America and Europe, and the overall global counter-terrorism mobilisation, and appears less able to stage sophisticated mass-casualty attacks than it was before 11 September. Defensively, however, al-Qaeda may be better off without Afghanistan insofar as its operatives have fully metastasised through over 60 countries, blending into the fabric of their societies and becoming all the more difficult

to detect and apprehend. Inter-governmental cooperation has thus become paramount in generating a security network that operates horizontally, across national boundaries, and thus matches up well with al-Qaeda's dispersed and 'virtual' capability and its flat organisational structure. Notably heavy radical Islamic activity in support of terrorism was uncovered in Germany, the United Kingdom and France, all of which have large Muslim populations.[15] Overall, Muslims constitute a far higher proportion of Europe's population than that of the US.

Without question, the participation of European capitals and the EU in the US-led global counter-terrorism campaign has been generally enthusiastic and vigorous. Yet the target date for the EU-wide arrest warrant to become operational has been steadily pushed back. Italy resisted adopting the warrant before relenting as the result of a partial opt-out. Differing law-enforcement philosophies may cause other countries to drag their feet on executing warrants, even though legal grounds may be lacking. For example, France leans towards direct suppression of radical Islamic sentiment, while Britain often prefers to let militants gather and talk freely and gain intelligence from surveillance.[16] In May 2002, the European Commission announced the possibility of a multinational EU border patrol that would work with Europol. A 15-day trial had been in held in which guards from EU member states had patrolled the borders of France, Italy and Spain, stopping 4,500 illegal immigrants and arresting 34 alleged drug traffickers. Despite these moderately promising results, the trial was not regarded as a success, as it was plagued by communication, coordination and broader interoperability problems. The EU interior ministers' meeting in Luxembourg in the subsequent month resulted in near-paralysis on border security and immigration issues. The counter-terrorism potential of those immigration-control devices that have been implemented has been seriously diluted by civil-liberties concerns. On 14 January 2003, the European Automated Fingerprints Identification System – known as 'Eurodac' – was launched in 14 EU member-states plus Norway and Iceland. Designed to monitor and curtail 'asylum shopping,' the system registers in a central and commonly accessible database in Brussels the fingerprints of asylum applicants over age 14 and certain other illegal immigrants. The system, based on American technology, has impressive technical capabilities: it can run up to 500,000 fingerprint comparisons per second, with better than 99.9 per cent precision.[17] But the European Commission required that no information acquired or developed by Eurodac be provided to police, intelligence or other security services.[18] Some European businesses have

resisted government intrusions on the privacy of their employees, even when they are premised on counter-terrorism.[19]

What appears at times to be the disinclination of European governments to confront matters such as immigration, border security and mass-casualty attacks with full conviction is cause for legitimate concern, and if unremedied could impair the transatlantic relationship and US as well as European security. But one factor in particular militates against Europe's opting out of a coordinated territorial-security policy. Heavy US expenditures on homeland security and its vulnerability- (as opposed to threat-) based approach are likely to yield – and probably have already yielded – an American homeland considerably less vulnerable to terrorist attack. In that event, terrorists would find Europeans – the US's cultural cousins and political allies – prime targets of opportunity. After 11 September, terrorists appeared to cherry-pick soft European targets in Tunisia, Pakistan and Indonesia. The November 2002 taped warning apparently made by Osama bin Laden – which specifically named France, Germany, Italy and the UK as well as Canada and Australia as potential secondary targets – adds weight to this inference. Vigorous European territorial defence policies have thus become a more acute matter of self-protection, stimulating greater convergence of European and American counter-terrorism agendas.[20] This was in some evidence with the early 2003 counter-terrorism sweeps in the UK, France, Italy and Spain, which resulted in over 50 arrests (mainly of North Africans) and, in Britain, the seizure of a small quantity of ricin, a toxic agent. Convergence is still likely to be inhibited by threat assessments that may differ somewhat; Europe's relative lack of resources; and the premium on open borders and personal data protection in the EU.

As a consequence of the decreased vulnerability of North American and European territories – no major attacks have been executed in either since 11 September – al-Qaeda has focused on lower-profile targets in countries like Indonesia, Kenya, Morocco, Pakistan, Saudi Arabia and Tunisia, where security institutions are weak or constrained domestically by anti-American or anti-Western sentiment. These are lesser targets of opportunity. Yet al-Qaeda's relative offensive weakness and curtailed freedom of action do not mean that the group has permanently dialled back its level of violence or limited its agenda. The US military presence in Saudi Arabia and American support for Israel in the Israeli-Palestinian conflict are cited in post-11 September al-Qaeda videotapes aired on the Qatari news network al-Jazeera as justifications for al-Qaeda terrorist operations. Now, as

suggested by al-Qaeda's renewed focus on the Persian Gulf and larger Arab world implicit in the Riyadh and Casablanca attacks in May 2003, the aggressive US-led intervention in Iraq that began in March 2003 and the United States' subsequently enlarged military footprint in the Arab world have been added to al-Qaeda's list of grievances. Also frequently referenced in al-Qaeda rhetoric is the alleged historical humiliation of Islam at the hands of the Judeo-Christian West. Al-Qaeda spokesman Suleiman Abu Ghaith has said that there can be no truce until the group has killed four million Americans, whereupon others could convert to Islam.

Thus, the US remains al-Qaeda's prime target. Given its inconsolable enmity to the US and its absolutist religious agenda, operational counter-terrorist measures – primarily in the non-military areas of intelligence and law-enforcement – remain indispensable. And there is a premium on inter-governmental cooperation insofar as al-Qaeda operates transnationally, in multiple 'fields of jihad'. But only more sustained and nuanced diplomatic and political initiatives – sometimes, perhaps, involving the use of military force – can strike a better accommodation between Islam and the West and eliminate the root causes of Islamic terrorism. Coercive regime-change in Iraq was certainly intended as a bold catalyst towards achieving this objective: the rebirth of Iraq as a unitary but pluralistic democratic state would, in theory, ultimately change the status quo in the Gulf by demonstrating the feasibility of political, economic and social liberalisation in hitherto illiberal Muslim regimes. It would also provide political cover for drawing down the US military presence in Saudi Arabia, which is bin Laden's most genuine and acute complaint. But the reality that al-Qaeda's anger now extends far beyond US troops in Saudi Arabia and post-conflict complications in Iraq indicate that the West needs an alternative strategy that involves more incremental, workmanlike steps to 'drain the swamp' of potential al-Qaeda recruits. These include conflict resolution – primarily in the Israeli–Palestinian conflict but also in Kashmir – as well as creative forms of foreign assistance and, especially in Europe, national policies that better promote Muslim assimilation through greater political participation and economic opportunity. As of mid-2003, no well thought-out strategy or consensus had materialised. While there were indications of a more concerted approach among the US, European powers and Russia on reviving the Middle East peace process, there remained transatlantic discord over the Iraq war and broader disagreement about how to stem radicalism in the Muslim world.

Conclusion

The US and its counter-terrorism partners, then, still have their hands full. Al-Qaeda, it's true, must now rely more on local groups that may have only loose affiliations with – or merely be inspired by – the al-Qaeda leadership. Consequently, bin Laden and his lieutenants are compelled to relinquish substantial operational initiative and responsibility to local talent. Nevertheless, experienced al-Qaeda operatives and 'middle managers' are in sufficient abundance to provide planning and logistical advice, materiel and perhaps financing to the smaller groups. This they are likely to have done with respect to the Bali bombing and the Mombassa attacks in late 2002 as well as the Riyadh and Casablanca operations. While these were not mass-casualty attacks on the order of 11 September and did not generate its symbolic power, they still killed Americans, Australians, Western Europeans and Israelis – all prominent enemies of al-Qaeda – and managed to palsy the civilised world.

Al-Qaeda affiliates suspected of involvement in post-11 September operations – Jemaah Islamiah in Indonesia, the Armed Islamic Group (GIA) of Algeria and al-Ittihaad al-Islamiya in East Africa, to name a few – probably have no direct operational links. Al-Qaeda, however, acts as their common ideological and logistical hub, and bin Laden's charisma, presumed survival and elusiveness enhances its symbolic power and attractiveness to would-be terrorists. This unique position means that the new al-Qaeda remains a terrorist 'network of networks' with unparalleled global leverage. Through June 2003, al-Qaeda's post-11 September incarnation appeared to be contained, if barely. At the same time, judging by the Riyadh and Casablanca bombings and a wave of Palestinian attacks, regime-change in Iraq appeared to have increased the terrorist impulse, and it remained possible that terrorist activity would surge again. Thus, the US and its partners may be required, in the short and medium term, to confront an al-Qaeda invigorated through an upsurge in recruits and energised local affiliates and sympathisers. Immediately after 11 September, it may have seemed to some observers that the United States' vulnerability-based approach to security might clash with more traditional modes of counter-terrorism that required fewer resources and hinged to a greater extent on current intelligence. But while there are some differences between the US and other governments about how the new transnational terrorist threat ought to affect security sector governance, there is probably more convergence than divergence. The US has discovered that plugging vulnerabilities is

harder to do than initially expected, and that extensive counter-terrorism experience especially of European partners is indispensable in containing al-Qaeda's threat.

European governments, for their part, have acknowledged that the greater salience of mass-casualty attacks makes a focus on vulnerabilities more critical than it was when the main threat came from less destructive terrorist organisations. On balance, therefore, terrorism concerns are likely to harmonise security sector governance at least among Western nations, if not more widely. The EU established an ambitious counter-terrorism agenda in the aftermath of 11 September, but implementation has proven sluggish. There are understandable reasons. Inter-governmental coordination in Europe is inherently more difficult than inter-agency coordination in the United States. Indeed, how much added value the new DHS brings to US security remains to be seen. Still, the EU might be able to draw valuable organisational lessons – for example, on border and port security and immigration monitoring – from the practices that the DHS is now developing in implementing a more integrated US homeland-security regime. At the same time, Brussels will have to take due note of how well – or poorly – the US accommodates partially unmet civil-liberties concerns that heightened post-11 September security has produced.

Notes

[1] The seminal article on the distinction between 'old' and 'new' terrorism is Simon, S. and Benjamin, D., 'America and the New Terrorism', *Survival*, vol. 42, no. 1 (Spring 2000), pp. 59–75. There remains a significant risk, of course, that 'old' terrorist groups, particularly Islamic ones, confronting dim political prospects will find advantages in forging various types of relationships with al-Qaeda. See, e.g. Stevenson, J., 'Pragmatic Counter-terrorism', *Survival*, vol. 43, no. 4 (Winter 2001), pp. 37–8.

[2] The restriction on the use of military forces on US territory against American citizens or residents originated in the Posse Comitatus Act of 1878, which barred the Army from 'executing the laws' – that is, functioning as a law-enforcement agency – unless expressly authorised by Congress to do so. This prohibition was reinforced and expressly extended to other branches of the military by the National Security Act of 1947. While exceptions have been carved out for containing civil disturbances, drug interdiction, and counter-terrorism training, there remains a strong cultural reluctance to use the regular military for domestic purposes.

[3] See, e.g. Fields, G., 'Customs Unveils Security Moves', *Wall Street Journal* (16 April 2002), p. A4. By August 2002, nearly 400 US companies had enrolled in CTPAT. 'Increased Container, Border Security Remain Tops on Customs Agenda', *HazMat Transport News* (1 September 2002).

[4] Eventually US customs officials plan to extend this system to 20 ports worldwide that account for 70 per cent of the 5.7 million containers shipped annually by sea to the United States. In November 2002, like arrangements were in place in Canada (the US's largest trading partner) at the ports of Halifax, Montreal and Vancouver, and Japan, Hong Kong and Singapore had formally agreed to such arrangements while China had agreed in principle. As of July 2002, the Service was checking at least 15 per cent of the incoming cargo. 'Customs Cargo Inspections Boosted to 15 percent', *National Infrastructure Protection Center Daily Report* (3 July 2002).

[5] See Gormley, D.M., 'Enriching Expectations: 11 September's Lessons for Missile Defence', *Survival*, vol. 44, no. 2 (Summer 2002), pp. 19–35.

[6] In essence, the recruitment of agents became subject to vetting requirements based on their prior human rights-related conduct that many operations officers considered unrealistic and crippling. One former CIA officer, Robert Baer, has spoken out sharply on this issue. See Baer, R., *See No Evil: The True Story of a Ground Soldier in the CIA's War on Terrorism* (Three Rivers Press: Three Rivers, MI, 2003). See also Borger, J., 'How the CIA Lost Its Edge', *Guardian* (16 October 2001). National security officials at higher levels, however, have observed that the vetting requirements were no absolute bars to recruitment and that the problem was fundamentally bureaucratic rather than substantive.

[7] 'USA PATRIOT' is an acronym standing for 'Uniting and Strengthening of America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism'.

[8] Most of the restrictions were imposed by Presidential executive order, and supervision was tightened via the creation of Senate and House intelligence committees. But there were some statutory reforms enacted, including the FISA itself.

[9] Technologies capable of monitoring external features of Internet transmissions and 'sniffing' for significant data, such as the FBI's *Carnivore* computer programs and the National Security Agency's *Echelon* surveillance system, already exist. The primary technical limitation on the preventive (as opposed to reconstructive) potential of this form of intelligence remains the lag between the collection and the analysis of data. There are also to be so-called 'black crypto' counter-measures available.

[10] The key elements in intelligence collection and analysis of under TIA are 'information artefacts'. These can probably be gathered without violating the USA PATRIOT Act's restrictions on access to email or Internet site content. An information artefact is simply a record of a transaction. An artefact that hints at a plot to use biological weapons could take the form of, say, an electronic bank record of a funds transfer to buy a fermenting tank, a shipper's database entry of an export licence for the tank, or an email message in an Internet service provider's server confirming receipt of the tank. That transaction, in turn, constitutes a link in a threat network – that is, an action (e.g. a sale) that connects two or more potentially hostile actors (e.g. a purchaser and a supplier). Since information has made tracks from one part of the network to the other, the intelligence discipline known as 'traffic analysis' can provide clues about the digital activities of a terrorist network. Information artefacts, however, will tend to be highly 'granular' and require significant context to afford effective analysis. Context will consist of other, possibly more legally dubious data relating to possible hostile

agents that is collected and archived by the law-enforcement and intelligence authorities.

[11] See e.g. IISS, 'US Domestic Intelligence Initiatives', *Strategic Comments* (January 2003), p. 2. Among the strongest advocates is Democratic presidential hopeful Senator John Edwards.

[12] In late 2001, the RUC was renamed the Northern Ireland Police Service.

[13] See e.g. Hoffman, F.G., *Homeland Security: A Competitive Strategies Approach* (Center for Defense Information: Washington DC, 2002), pp. 25–6.

[14] At least in the US view, of course, there remains a role for precise, leading-edge military counter-terrorism applications, such as the CIA-launched missile strike from a *Predator* unmanned aerial vehicle against six al-Qaeda operatives in Yemen in November 2002.

[15] See e.g. Corera, G., 'How Militant Islam Found a Home in London', *Jane's Intelligence Review* (August 2002), pp. 15–19.

[16] See e.g. Bell, S., 'Britain in Row With France as Bomb Terrorism Trial Opens', *The Scotsman* (2 October 2002), p. 13.

[17] Cushing, K., 'Security Concerns at Immigration Database Launch', *Computer Weekly* (23, January 2003), p. 14; Fielding, R., 'System Will Simplify Asylum Process', *Computing* (30 January 2003), p. 20.

[18] Some European civil-liberties activists found even this safeguard unsatisfactory. See e.g. 'Asylum-seekers Set to Face Fingerprint Rule Across EU', *EIU ViewsWire* (17 January 2003).

[19] In Germany, for example, as of August 2002 only 212 of about 4,000 companies agreed to hand over personnel records that the government sought to check against profiles of the 11 September hijackers. See Johnson, I., and Crawford, D., 'Corporate Defiance: Germany's Hunt for Terrorists Hits Unlikely Obstacle', *Wall Street Journal* (9 August 2002), p. A1.

[20] See Stevenson, J., 'Terror Gap: Europe and the US Head Opposite Ways', *Wall Street Journal Europe* (9 April 2002), p. A12. A plan devised by a group of Algerians with possible al-Qaeda connections to bomb a market in Strasbourg was uncovered and thwarted in late 2000, indicating that operations against non-American targets in Europe may have occurred to some in al-Qaeda well before 11 September. See generally Stevenson, J., 'How Europe and America Defend Themselves', *Foreign Affairs*, vol. 82, no. 2 (March/April 2003), pp. 75–90.

Chapter 3

Security Sector Reform and NATO and EU Enlargement[*]

Marina Caparini

Introduction

Security sector reform (SSR) is a relatively new concept that now shapes international programmes for development assistance.[1] Originating within the development community, the concept is based on the assumption that democracy and sustainable socio-economic development – including the objectives of poverty reduction and social justice cannot be achieved without meeting the basic security needs of individuals and communities. Recognising that it is often state security institutions themselves that threaten the security of individuals and society, whether through inefficiency, lack of professionalism, inadequate state regulation, corruption or human rights violations, security sector reform focuses on the sound management and accountability of the security sector consistent with the principles and practices of good governance. The objective of security sector reform is to achieve efficient and effective security institutions that serve the security interests of citizens, society and the state, while respecting human rights and operating within the rule of law and under effective democratic control.[2]

The security sector includes all the bodies whose main responsibility is the protection of the state and its constituent communities.[3] It includes core structures such as armed forces, police and intelligence agencies as well as those institutions that formulate, implement and oversee internal and external security policy.

The good governance objectives promoted by security sector reform – democratic accountability, civilian control of security structures, clear

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demarcation between internal and external security mechanisms and approaches, the rule of law, an independent judiciary and a strong civil society – are implicitly based on 'good practices' and norms, rules and laws governing behaviour, that have evolved within mature democratic states, primarily those of Anglo-American and West European democracies.[4] These norms and good practices in governance of the security sector are increasingly being identified and laid out by a range of international actors. They include international organisation*s* – the United Nations, the United Nations Development Programme (UNDP) and the Organisation for Economic Cooperation and Development (OECD);[5] regional organisations – the European Union (EU), the Council of Europe, the Organisation for Security and Cooperation in Europe (OSCE), and the North Atlantic Treaty Organisation (NATO);[6] various NGOs; and national governments.[7] The attempts to specify advanced norms and good practices within and among democratic polities reflect the implicit assumption in security sector reform of the potential influence of such norms on relations between states, and hence on international peace and security.[8] As a concept and guide for policy, security sector reform has many of its strongest supporters among development experts and the British Department for International Development (DFID).[9] These have been in the vanguard of defining the parameters of security sector reform and encouraging its application as a policy agenda, especially to states in Africa and Asia.

Security sector reform is one of several concepts that have been developed in the post-Cold War environment to deal with the complexity of contemporary security concerns. It shares with the concept of 'human security', for example, a concern for the welfare and safety of individuals, groups and society.[10] However, the area of security sector reform concern is the state's capacity to provide effective and accountable management of national security. It is state-centric in its focus on state institutions, legal and regulatory frameworks, and security policy, without necessarily prioritising military security or dismissing the public security requirements of individuals and groups within society.

Nevertheless, in various developing countries there exist non-statutory security forces which may have arisen from the state's inability to meet local community security needs and whose roles are not covered by national legislation. Similarly, guerrilla forces and private armies may operate and challenge state authority. Alternatively, the state may condone the provision of security by private firms or may receive reform assistance through foreign private contractors. In each of these cases, security sector reform must take into account the non-statutory security forces, whose presence may signal

deficiencies in the state's near-monopoly over the application of force and in its capacity to protect the state and communities within it, or the de facto devolution of some of the state's responsibility to provide security.

When pursued within the Euro-Atlantic area, security sector reform has the same goals of good governance, efficiency and accountability as elsewhere in the world, but within a very different environment. Indeed, it has not been widely used as an operational concept within this region until very recently. Earlier in the 1990s, security reform objectives in the newly democratic Central and East European (CEE) states were usually seen only in terms of democratic control of armed forces, defence reform and/or defence modernisation. Today, there is a greater appreciation that security reform also includes policing, border management and the judiciary. One reason for the shift in approach was that, at least from 1993–94 onwards, gaining membership of NATO and the EU came to dominate the foreign policy agendas of most CEE states, with significant implications for external leverage on their security sector reform processes. To achieve NATO entry they had to take measures not only of *restraint* and *reduction* in the military field but also of *transformation* and *enhancement* of national security capabilities. In parallel, the EU demanded from its candidates not just proof of their democratic credentials but also precise performance standards in a number of fields of non-military security. Security sector reform thus became one of an interlocked set of change-oriented objectives in which it sometimes played the role of an end in itself and sometimes that of a means. The rather sharp division of different parts of the *de facto* security sector reform agenda between the institutions of NATO and the EU, complicated further by their differing memberships and enlargement choices, also stands in contrast to the more holistic frameworks for pursuing security sector reform elsewhere.

The obvious reason to review and reassess the security sector reform achievements in Europe is the fact that seven of the CEE states undergoing security sector reform will join NATO and ten will join the EU in 2004. Simultaneously, however, a new agenda is being imposed on all the members and members-in-waiting of the two institutions by the policy challenges of counter-terrorism, the proliferation of weapons of mass destruction, and responses to 'rogue' states, or 'states of concern'. Both NATO and the EU have been required urgently to develop new policies and instruments directed at these and other new-style, transnational and asymmetrical threats. The general trend of these measures is to enhance

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members' active as well as defensive military capabilities, and the control and enforcement capacity of non-military security organs.

Concern has been expressed by sectors of opinion in both NATO and the EU about the risk that this skewing of the agenda could weaken the protection of fundamental liberties and basic features of democracy within the institutions' own territory. If it did, new members would find it particularly ironic that their security sector reform progress was being partly reversed or undermined, just as they achieved formal membership in the two pre-eminent organisations of Western democracies. Keeping track of this potential problem and seeking ways to restore the balance are meanwhile being made more complicated by the fact that the new agenda tends to cut across familiar divisions of responsibility for the various dimensions of security in Europe. The formerly clear military/civilian, external security/internal security dichotomy between NATO and the EU is increasingly blurred, as are the traditional dividing lines between what the West has been accustomed to regard as 'military' and 'police' functions.[11]

The sections below examine these developments and conundrums in more detail, first in the NATO and then in the EU context. After a brief overview on repercussions of the enlargements on security sector reform, NATO's security sector reform achievements in Central Europe up to 2002 and the potentially cross-cutting impact of changes introduced in the alliance during the year will be evaluated. This is followed by an examination of the possible contradictions between the EU's justice and home affairs (JHA) policies and the security sector reform agenda. The following section deals briefly with outstanding challenges for NATO and the EU regarding security sector reform in the regions neighbouring their newly expanded territory. The final section presents the conclusions.

Repercussions of the Enlargements on Security Sector Reform

NATO and the EU are in the process of admitting new members, mainly from Central and Eastern Europe. NATO announced at its Prague Summit, held on 21–22 November 2002,[12] that it would invite Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia and Slovenia to join the alliance. These seven states would join the three Central European countries admitted in the first wave of enlargement – the Czech Republic, Hungary and Poland. At the Copenhagen European Council meeting of 12–13 December 2002, the EU followed with the decision to admit the Czech Republic, Cyprus,

Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia as full members by 2004.[13] (Bulgaria and Romania were given a somewhat later date to aim for, and a process was laid down for moving towards accession negotiations with Turkey.) These dual processes of enlargement are influencing the reform processes of security sectors in candidate countries in distinct ways.

Both organisations apply pressure and incentives, and provide guidance and assistance for the restructuring of elements of the security sectors of member and applicant states. Both have been instrumental in promoting security sector reform, in practice if not in name, in the transitional, post-conflict and developing states.[14] Because NATO and EU membership are valued highly by the governments of CEE states, these organisations wield considerable influence over which issues and structures are tackled in the domestic reform processes of applicant states. The 'carrot' of eventual membership is a significant source of leverage. Both organisations deal with components of the security sector and increasingly acknowledge the interrelationships between these components and the need to coordinate them in order to address the new security environment effectively. In addition, both declare a fundamental concern with the democratic control, transparency and accountability of the security sectors with which they deal.

The impact of NATO and EU enlargement on the security sectors of their member and candidate states is made more complicated by the simultaneous efforts of NATO and the EU, referred to above, to refocus and extend their functions within the wider security field. The ongoing institutional transformations are further complicated by the surge in tensions in transatlantic relations over the specific issue of Iraq, especially as the governments of the new Central European members have often been seen (and have sometimes confirmed this by their actions) to be more sympathetic to the US vision.

These multilateral institutions, overlapping in terms of membership and converging in terms of security activities, are influencing the reform of the security sectors of both member and aspirant states. This is particularly true of the CEE states, whose leaders and people seek to identify with, or 'return to', Europe. However, it is worth bearing in mind that the aspirant states are vulnerable to the political dynamics and internal agendas within each institution. Guidance, influence and pressure for security sector reform may consequently suffer in terms of rationality, focus and coherence. Once the new members are in NATO and the EU, moreover, it is an open question

whether they will continue to coordinate among themselves and respond in broadly parallel terms to issues with normative overtones, including those of the reform and transformation agenda. If they do not, this will have implications not only for how the institutional agenda develops but also for future security relations among them.

NATO Enlargement: Challenges of 'Defence Reform'

Preparing the first Post-Cold War Enlargement

The prospect of NATO membership has been an important incentive for reforms in the defence sector of aspirant states in the period leading up to membership. Establishing democratic civilian control of the military was identified as one of the basic political pre-accession criteria of enlargement in the 1995 *Study on NATO Enlargement*.[15] These criteria were to be met prior to accession, and meeting them did not necessarily guarantee accession. The precondition of democratic civilian control was not defined in depth; NATO officials stressed the diversity of national systems of democratic civilian control and eschewed prescribing any one formal model of civil-military relations to applicant states.[16] Nevertheless, in the Czech Republic, Hungary and Poland, Western criticism regarding the effectiveness of their democratic control of armed forces and the possibility that failure to address these problems would harm their chances for NATO accession prompted the political leaderships of these countries to implement important changes in their systems of armed forces control and accountability.[17] Indeed, establishing effective civilian control has proved to be essential in order for governments to undertake painful defence reforms in the face of conservative military leaderships.[18]

NATO sought a structured process that would encourage defence reform and civil–military coordination in candidate states before they became members. This process began in January 1994 with the Partnership for Peace (PFP) programme, which sought to increase transparency in national defence planning and budgeting, encourage democratic civilian control of the military, and promote cooperation in military and security affairs between the PFP and the NATO countries.[19] Part of the rationale for establishing military-to-military contacts through the PFP, for example, was the idea that military elites in democratising countries could undergo a socialisation process through interacting with Western counterparts who

subscribe to doctrines and norms of democratic control. It was believed that military elites with such exposure would be more likely to accept and internalise such beliefs, as had been the case in post-authoritarian Spain's military relations with NATO.[20] The PFP was, then, in part intended to function as a 'transmission belt' for democratic norms regarding the civilian control of armed forces.

However, the experience of the Czech Republic, Hungary and Poland after joining NATO in 1999 indicates that the general processes of reform in the defence sector have been much slower and more problematic than was initially expected and have encountered significant obstacles. While all the new members have carried out substantial downsizing, undertaken strategic defence reviews and aspire to create more professional, mobile and flexible armed forces, the bulk of their militaries comprise oversized forces that are too heavy, underfunded, poorly trained, often poorly equipped with non-operational or obsolete equipment and showing declining operational effectiveness.[21] These problems have tended to reflect a lack of political will and domestic public support for increased defence spending in order to implement reforms, inadequate defence planning and programming procedures, and major technical and structural deficiencies in their armed forces.[22]

Only with the Kosovo crisis did NATO itself fully realise the disjuncture between contemporary security challenges and the military capabilities of most member states. NATO shifted to an emphasis on more mobile, deployable and sustainable forces, and the new members faced the difficult task of transforming mass army structures into capability-based, flexible and combat-ready forces. This implies fundamental reform over the long term in mindset, structure and procedures, and it has been made more difficult by the unexpectedly high costs to new members of meeting NATO force planning criteria.[23]

There is also evidence of insufficient assistance through the PFP and the Planning and Review Process (PARP).[24] On becoming NATO members on 12 March 1999, the Czech Republic, Hungary and Poland became ineligible for important bilateral assistance programmes, adding to their challenges in post-accession defence reform. The new members also found that their human and material resources were overwhelmed by the requirement of applying and incorporating NATO Standardisation Agreements (STANAGs).[25]

Moreover, as regards the specific objectives of security sector reform and despite the establishment of formal systems of democratic civilian

control, these countries continue to experience problems in this area. They have experienced resistance from military elites, disputes within the executive branch over areas of authority and responsibility, and shortages of qualified civilian personnel to staff defence ministries and provide independent expertise on defence and security affairs. In the case of Poland, successes in overcoming severe conflicts in civil–military relations through legal and structural reforms in the three years preceding NATO membership have not been sustained following the country's accession to NATO in March 1999. Faulty institutional design, superficial understanding of the principles of democratic control, and inadequate procedures for developing civilian defence expertise and embedding it within the process of defence management have combined to undermine civilian democratic control of the armed forces.[26]

The Czech Republic and Hungary have been criticised for not meeting the defence commitments they embraced upon accession to NATO. Hungary's defence budget declined through the 1990s to the point that the Hungarian Defence Forces were severely underfunded. By 1999 they were considered 'one of the weakest national military establishments in Europe'.[27]

The armed forces in the Czech Republic have had different obstacles to overcome in their transformation, as they have generally been held in low regard by the public for historical reasons, and have suffered more recently from political neglect.[28] Governmental indifference to defence and security concerns during Vaclav Klaus's tenure as prime minister served to exacerbate the effects of dramatic budget cuts and downsizing and resulted in an incoherent procurement process.[29] In 1997 NATO and the USA strongly criticised the Czech Republic for the military's declining readiness, poorer training and proficiency, and equipment problems. Nevertheless, it was not until Klaus was ousted and a caretaker government sworn in that a viable plan for defence reform and integration into NATO was developed. During the 1999 NATO Operation Allied Force against the Federal Republic of Yugoslavia, which was embarked upon only two weeks after the formal entry of the new members into NATO, Czech public opinion remained divided and the political leadership failed to mobilise support for the air operation in Kosovo, either within the government or among the broader public, raising doubts about the loyalty and reliability of the new ally.[30] Public doubts about the NATO air campaign have been linked to uncertainty among Czechs about the real meaning of NATO membership, and ultimately to inadequate preparation of the public for NATO membership through informed debate and discussion by the Czech political class.[31]

While NATO's leverage to pressure for continued reforms was reduced once the three states achieved membership,[32] some blame also lies with the reluctance of the alliance to criticise or even to continue providing advice to them once they had gained membership.[33] NATO's criticism of the general state of their civil–military relations and defence performance, while so effective in prompting reforms before accession, seemed to stop when these states entered NATO in spite of the many problems remaining. The end result is that transformation of the military in the three new NATO member states lags behind in political, economic and social transformation.[34] Four years after joining, the new NATO members are acknowledged to have contributed only modestly to NATO capabilities.

The concern has thus been perpetuated that future members – whose institutional capacities are all significantly weaker than those of the three new member states will be consumers, rather than producers, of security, at least in the military sense.[35] According to a RAND study in 2001,[36] all nine Membership Action Plan (MAP) states (seven of which were subsequently invited to begin accession negotiations) were still facing problems of defence reform: including low levels of technology, training and readiness in their armed forces; inadequate defence expenditure; and severe problems with their air forces and air defence, including inadequate training of air crews, inadequate equipment, and in some cases inability to protect their own sovereign airspace.[37] Assuming the continuation of those trends, the study concluded that future members will be able to make only minor contributions to Alliance missions in collective defence and power projection over the near to medium term (10–15 years).

While all the CEE countries are hampered by limited resources in the defence and military spheres, the Czech Republic, Hungary and Poland are among the most economically advanced states in the region. Even so, the absence of a direct military threat to any of their territories suggests that their defence spending will not increase substantially in the foreseeable future, however clear their general political support may be for NATO goals and their further evolution. Low defence spending can only aggravate the already widening 'technology gap' between the USA and its European allies. The growing perceptions of the new members as a 'third tier', lacking a technology base comparable to other European states, give credence to fears about enlargement diluting NATO, but also risk further weakening US interest in the alliance as a military instrument of choice.[38] Despite the proclamations of support by the governments of 'New Europe' for the United States' war on Iraq, a war which was opposed by most publics in

both 'Old' and 'New Europe', only one CEE country contributed combat troops and capabilities, and this modestly.[39]

The new Central European members of NATO appear to have been caught between limited defence budgets and their commitments to meet NATO military requirements such as national Target Force Goals (TFG) and the 1999 Defence Capabilities Initiative (DCI),[40] as well as contributing to individual operations. Their efforts to integrate into the alliance come at a time when NATO has embarked on a period of fundamental transformation to address not only the collective defence of its members but also conflict prevention, conflict management and peace enforcement throughout Europe and beyond the NATO treaty area. NATO's military requirements may have even helped to slow defence reform in the new member states and impeded the undertaking of radical structural change in their armed forces.[41] In the view of some observers, the process has inadvertently resulted in two-tier military structures in the new member states. A small section of elite forces, usually rapid reaction forces, are trained, well-resourced and interoperable with NATO forces, and deployable in international peace support operations, while the majority remain underfunded and barely adequate even for territorial defence.[42] Indeed, by the time of accession in April 1999, the PARP had prepared only about 15 per cent of the armed forces of the three new members to NATO standards.[43] The priority given to maintaining them, as NATO standards continue to be more stringently defined and applied, leaves few resources for training and upkeep of the rest.

Lessons for the Next Round of Enlargement

For political as much as military reasons, one concern at the time of the first round of enlargement was for NATO to avoid creating new dividing lines in Europe between successful applicants and those who had still not been invited to join the alliance. In handling the latter, NATO sought to apply lessons learned from its experience with the integration of the first three new members, aiming to be more specific than it had previously been in identifying what aspirants needed to accomplish in order to be invited to join and more successful in achieving reforms in their defence sectors. NATO enhanced its PFP programme[44] and established the Membership Action Plan at the Washington Summit in April 1999.[45] These initiatives were intended to provide non-NATO member states with a sense of inclusion as well as a structured process for reform and the development of military capabilities. The process of NATO enlargement has thus contributed to the broader

process of the integration of CEE states into the Euro-Atlantic community, and by so doing has contributed to its stabilisation.

The MAP is designed to help aspirant states to meet NATO standards and to prepare for membership through the development of forces, capabilities and structures.[46] It requires that they undergo a lengthy process of individualised reform, coordination and review, but it also offers a more structured and systematic reform process, with more feedback and assistance, than was available during the first wave of enlargement.

Aspiring countries submit an Annual National Programme (ANP) detailing their preparations for membership, objectives and specific steps being taken in five 'chapters': (a) political/economic affairs (including commitment to the rule of law and human rights, and the establishment of democratic civilian control of the armed forces); (b) defence and military; (c) resources (agreement to allocate sufficient budgetary resources to enable implementation of alliance commitments); (d) security (ensuring the security of sensitive information); and (e) legal aspects.

The MAP process allows aspirant states to set their own objectives and targets in preparing for future membership and offers periodic feedback, practical advice and assistance. It is more comprehensive and systemtic than the PFP in its approach to defence and security reform in the aspirant states, offering a defence planning approach which includes elaboration of agreed planning targets. It also functions as a sort of clearing house for assistance from NATO and its member states. During the four cycles of the MAP process since its inception in 1999, effort has been made to fine-tune the process and to ensure that NATO assessment teams could cover all five MAP chapters and present feedback and progress reports to the applicants. As a result, the MAP and the ANP are considered to have 'helped create a structure for democratic control, defence reform and civil–military coordination that otherwise might not have arisen'.[47] Through the evolution of these mechanisms to promote interoperability, more rational assistance and planning for reform, NATO has contributed to the establishment of strong international norms relating to democratic oversight and control of armed forces.

A Changing NATO Environment

The environment in which the second-round enlargement strategy has come to fruition has been gravely affected by the challenges to NATO that have emerged since the 11 September 2001 terrorist attacks against the United

States. Even earlier, NATO policy-makers had seen a need to balance further 'widening' by enlargement with further 'deepening' of the alliance's military integration through more up-to-date and better-enforced defence planning goals, and the modernisation of operational theory and practice. The particular course taken by Euro-Atlantic security policy debates in 2001–02 further complicated these goals by adding pressure for NATO to prove its relevance to counter-terrorism strategy and to the USA's concerns over the threat from weapons of mass destruction linked with 'rogue states' such as Iraq.

In the public eye at least, the main achievement of the NATO Prague Summit was its decision to admit seven new members. Eclipsed by this headline issue, however, were concurrent efforts to transform the alliance's focus and to address the capabilities issue. The selection of new members itself appeared to have been affected by the new agenda, and notably by the geostrategic significance of new members.[48] Some observers maintain that, on the grounds of this criterion, and specifically their position as a link between Hungary, Greece and Turkey, Bulgaria and Romania were invited to become members at the Prague Summit despite their poor performance in other fields.[49] Romania, for example, had encountered problems with meeting the democratic criteria because of concerns about corruption, lack of transparency, lack of respect on the part of the Ion Iliescu government for the rule of law and political interference with the judiciary.[50] A further consideration might be that both countries' presence in the alliance would help to stabilise and contain the post-Yugoslavia region during a phase when the military input of NATO, notably the USA, to stabilisation there was set to decline.[51] Nevertheless, one can also see the decision to extend invitations to the seven candidate states as essentially a political decision, aiming at providing more security in the region by bringing as many new members as feasible into the primary Euro-Atlantic security structure.

In 2002 NATO not only widened its doctrinal scope to cover potentially worldwide operations and counter-terrorism but also took concrete steps for streamlining the military command arrangements to focus more effectively on rapid deployment, launching the Prague Capabilities Commitment (PCC) and creating a NATO Response Force (NRF).[52] All these changes had a direct impact on the mutual expectations of the alliance and its new member states. While the new headquarters system means less change on their territories than might otherwise have been the case, the PCC creates explicit new targets for them in the fields most relevant to interoperability for joint military deployments. The NRF seeks, *inter alia*, to bridge the growing discrepancy between the significant US power projection

capability and the generally small and fragmented European capabilities, by allowing the latter to be used as 'niche' contributions in relevant areas of military specialisation. This aspect of the NRF is especially appealing to the smaller NATO member states.[53] The NRF is also attractive because the costs will be kept relatively low owing to the small number of forces (a figure of 20,000 is now being mooted).[54] The concomitant risk is that nations may de-prioritise the rest of their capability goals once a 'niche' input to this high-profile endeavour has been identified.

The NRF was also presented as compatible with and complementary to the EU crisis management capability delineated by the December 1999 Headline Goal. Those Central European countries also joining the EU will of course be expected to make contributions to the EU (and have already had an opportunity to volunteer contributions through the EU's European Security and Defence Policy (ESDP) consultation frameworks with interested non-member states). In general, the requirements of the two new forces appear to converge more than conflict, and the circumstances in which each might be used are distinctly different (the NRF being more suitable for 'short, sharp' US-led actions in smaller coalitions).

As with previous cycles of NATO defence modernisation goals, new members' success in coping with these latest targets will not necessarily come at the expense of security sector reform proper, but will not automatically promote it either. What remains to be seen is whether the effort needed to maintain and further improve democratic standards in the defence sector will be kept up alongside the effort devoted to increasingly specific and quantified capability outputs. This may need special attention in the next few years, first and most obviously because the transition to full membership will leave the new members with no special targets or incentives for security sector reform beyond those applicable to any ally, while it exposes them to the full pressures and possible distortions of intra-alliance politics. At the same time, the severe disputes in NATO in early 2003 over support to Turkey may have shaken the faith of both Central European leaders and their publics in the value of NATO guarantees, the price for which they had felt it worth making so many changes and sacrifices (not least in the field of security sector reform) during the past decade.[55]

There is now an internal discussion in NATO, initiated by the Swiss government, about incorporating security sector reform as a topic in future PFP work programmes. This reflects the wider acknowledgement that, following the terrorist attacks of 11 September 2001 and the more complex, fluid security challenges in the contemporary environment, it is necessary for

NATO to broaden the scope of its engagements not just beyond the treaty area in geographic terms but also beyond the military dimension in functional terms. If this is accepted, the dialogue between PFP states and member states may well be extended to include ministries and officials other than those in the foreign and defence ministries, such as interior and justice ministries.[56]

In summary, the process of NATO enlargement has had several major effects on the defence element of the security sector reform of its first three new member states and those invited to join in 2004. It has successfully established the norm of democratic control of and transparency in armed forces, and this expectation continues to exert considerable influence on civil–military reforms in countries aspiring to join the alliance. Further, NATO has recently implemented a much more structured process of advice and support for defence restructuring in aspirant and candidate states through the development of the MAP – a reform process which is now intended to both precede and follow formal accession to the alliance. The MAP was developed specifically in response to and on the basis of the experience of problems encountered in the entry of the first three new Central European states into NATO, including low levels of defence spending and slow defence reforms.

Both member and candidate states are being affected by the push to reverse the dilution of NATO's military capabilities and 'reinvent' the alliance to play a global counter-terrorism role. The PCC and the NRF offer mechanical solutions, but they also require a will on both sides of the Atlantic to make them work – and make use of the results. In order to avoid the further consolidation of a de facto two-tier NATO and an imposed division of labour in post-Cold War missions, European states must improve their military assets enough to be able to participate credibly. The NRF may mitigate the challenge for the governments of new NATO members because it appears to require a more modest and specific investment, thus easing the burden on societies that are unwilling to sustain a high level of military spending. In combination with the more refined MAP, which appears more likely to address the main obstacles to reform in the remaining candidate countries, NATO's contribution to defence transformation in the CEE countries is becoming more realistic and more likely to show results.

EU Enlargement: Challenges of 'Internal Security Reform'

The European Union is enlarging at the same time as it is undergoing fundamental change in the security field. The change is derived not only from efforts to develop an autonomous European crisis management capability but also, and more profoundly, from the accelerated emergence of an internal security regime since 1999. Developments in what was previously known as 'justice and home affairs' began with 'compensatory measures' at the external borders of the EU to reduce the risks that criminals and illegal immigrants would enter a common space within which they could move freely after the dismantling of internal borders. The internal security regime has been given impetus, especially by the decision taken at the European Council meeting in Tampere on 15–16 October 1999 to develop, as a high political priority, the Area of Freedom, Security and Justice (AFSJ) by the target date of 2004. The three components of the AFSJ are intended to be 'interlinked and balanced'; extending beyond the freedom of movement of persons, the AFSJ includes the freedom to live in a safe and law-abiding environment. More specifically, the Tampere European Council meeting agreed on an increase in all forms of cooperation between the law enforcement agencies of member states. Practical manifestations of the AFSJ include not only the Schengen Agreement on border control[57] and its incorporation in the *acquis communautaire*,[58] but also the expansion of Europol (the EU-level information, coordination and exchange centre staffed by police and customs officers) and the development of the cross-border prosecution agency Eurojust.

However, these developments in internal security coordination have generally not been matched with corresponding measures for transparency, judicial control, parliamentary accountability and human rights protection. Candidate states are expected to adjust and harmonise national policy to conform to the dynamic 'communitarisation' of the EU area of internal security. While AFSJ development, and to a lesser extent the ESDP, are influencing the internal and external security reform of states looking to become members of the EU, they raise the prospect that EU enlargement favours the shoring up of effectiveness of the security sectors of applicant states, while neglecting the elements of good governance that are integral to the notion of security sector reform.

While NATO has gradually evolved more specific mechanisms for guiding defence reforms among aspiring states in the form of the progressively refined MAP process and clear norms of interoperability, its

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formal political criteria for accession remain general. The EU has a rather different mixture of generalised political conditions and extremely precise, often legally formulated technical ones. At the political level, applicant states must meet the 'Copenhagen Criteria',[59] such as a functioning constitutional democracy, including institutional stability, the rule of law, respect for human rights and protection for minorities, and a competitive market economy. At the technical level, they must accept and have the capacity to implement the *acquis communautaire*, in both the external and internal security field.

Just as NATO lacks a precise criterion for democratic civilian control over armed forces, the EU does not define constitutional democracy or market economy and prescribes no single model. During the negotiation process these criteria have formed the basis of perpetually changing and increasingly specific demands on Central European candidates, making the EU membership criteria a 'moving target'.[60] The EU's application of these norms to its existing members is also a contentious and evolving subject, as witnessed by the application of political sanctions on the Austrian Government in 2000.

The EU's relations with post-communist countries in transition to democracy is based on the implicit assumption 'that accession and transition are part of the same process and that preparations to join the Union are coterminous with overall development goals'.[61] However, EU policies and regulatory frameworks were not devised for countries in transition but for those at a very different stage of their political and economic development, with well-developed institutional structures. Candidate states in Central Europe are still in the process of transforming their internal security systems. Key reforms remain to be implemented in terms of achieving more effective and democratic policing systems, restructured and democratically controlled intelligence services, and effective, reliable and accountable border management services. The result of having to take on the EU requirements in the internal security sphere, some fear, will be distortion in policy effects, and especially, inadequate protection of democratic values and human rights.[62]

Specific Challenges of the Acquis

The EU accession process includes harmonisation of laws and procedures by aspirant states within the context of a rapidly developing regional internal security regime . The JHA policy area concerns issues of internal security,

primarily the creation of the Schengen zone through a common border regime and, increasingly, common asylum policies. JHA was one of the most dynamic areas of European policy initiatives during the 1990s. Its rapid growth has been seen as the result of both the increase in perceived transnational challenges to internal security and the development of a 'culture of cooperation' among normally circumspect and inward-looking police forces, ministries of interior and justice, and customs authorities as a result of the regular exchange of information and cross-border cooperation in the Schengen zone.[63] There is also considerable cooperation among police colleges of EU member states, in the hope that this may lead to a common managerial culture and a further convergence of norms in policing behaviour.[64] There is less legislation in the internal security area than in many others under the remit of the EU, as JHA concerns responsibilities that traditionally lie with the executive sphere, and hence were initially governed by intergovernmental agreement. Although legal instruments are now being developed more rapidly, harmonisation is still less a question of complying with legislation than of earning and keeping the trust of the EU member states in providing a non-porous border.[65]

The EU has consciously applied a double standard in the JHA area: all the candidate countries are required to meet the standards of the Schengen *acquis* in law enforcement and border management, which has been incorporated into the Treaty on European Union (Article 49).[66] The Schengen *acquis* primarily concerns strengthening the EU's external borders and combating illegal immigration. Among the existing EU members, however, consistency is lacking because some have opted out from the Schengen zone (Ireland and the UK), others have signed on to the Schengen Agreement but implement the rules selectively according to national preferences,[67] and two non-EU members have decided to abide by the agreement (Iceland and Norway).

Apart from a general desire to avoid further 'special cases', the EU has based its enlargement approach on the perception of a greater threat from illegal immigration, smuggling and other cross-border problems along its eastern border than on its northern, western and particularly southern periphery – which is of even greater concern after the attacks of 11 September 2001. On similar logic, no candidate country has been offered a transition period for implementation of JHA policies. The result is that candidate countries are required to meet the highest standards at the moment of entry, accepting the *acquis* in full as well as further measures taken by the institutions within its scope. Recognising that failure to comply in this field

might jeopardise their whole accession strategy, the candidate states agreed in 1998 to implement the Schengen *acquis* even before they formally become members of the EU.

Human rights experts and organisations, such as the British Parliament's Joint Committee on Human Rights,[68] have expressed concern about the implications of this approach for the implementation of democratic standards such as respect for human rights as well as for security sector reform achievements in Central Europe which, after enlargement, would also affect the performance and reputation of the EU as a whole. Two areas of general difficulty are the maintenance of democratic scrutiny over JHA-related activity and the treatment of asylum-seekers and refugees. Practical worries also exist about the impact on the balance between enforcement agencies inside states, and about the consequences for non-Schengen-area neighbours.

There is a long-standing debate about the deficit of democratic (notably parliamentary) control, accountability and transparency at both the EU and the national level in the JHA field. This is in part a consequence of the fact that border control and policing are traditionally executive branch functions, where parliamentary control has been weaker and international cooperation has developed behind closed doors.[69] As cooperation among European law enforcement and intelligence authorities has grown, the new inter-agency frameworks involving the police and magistrates – Europol and Eurojust – have also been free of scrutiny and lacking in transparency.[70] The JHA is also characterised by weak judicial control by the European Court of Justice. No specific judicial controls have been defined for Europol, Eurojust and the EU border control coordinating group (known as the Council's Strategic Committee on Immigration, Frontiers and Asylum, 'SCIFA+'), and yet decisions taken in these forums have considerable potential for affecting human rights.[71] There are no real EU-level accountability mechanisms for the Schengen *acquis*, leaving democratic control and accountability to be addressed at the national level, where they remain underdeveloped in many candidate states. In sum, in response to the increasingly transnational threats to public security, policy is being made increasingly at the international level, but with the emphasis on maintaining order at the expense of protecting rights, transparency and democratic control.[72]

Within the EU, these criticisms are sometimes answered by pointing to the monitoring and review arrangements that exist within nations, such as the rights of parliaments and ombudsmen and the activism of NGOs. The campaign currently being pursued in the framework of the European Convention[73] to give treaty status to the European Charter on Fundamental

Rights is also relevant. The difficulty with the new member states is that, for historical and sometimes cultural reasons, they may lack the full panoply of institutional checks and balances, opportunities for appeal and review, and competent and confident NGOs that are necessary to reassert the balance in the face of constantly mounting pressures for tighter security. Nor, as noted above, has the EU defined and enforced clear performance standards in these latter fields as part of the accession process. (There is still a considerable variety in existing members' legislative and structural solutions in the human rights and equal rights dimensions.) Hence, there is concern that internal security structures may become over-strengthened (and over-resourced) in comparison with the mechanisms needed to protect individual rights and to assure democratic accountability and transparency.

The weakening of human rights protection is particularly apparent in the extension of EU asylum and immigration policies to the countries of Central Europe. EU policies are caught between two imperatives. Internal security dictates tighter controls at borders against the perceived threats posed by illegal immigration and bogus refugees. On the other hand, the values of liberal humanitarianism call for recognition of fundamental rights of freedom of movement and for refugee protection through fair and reasonable asylum procedures. Because of the way in which EU policy on asylum and immigration has developed (with national justice and home affairs officials pushing in intergovernmental communications for stronger external border controls to compensate for the abolition of internal border controls), the internal security perspective and emphasis on control have come to predominate over humanitarian concerns and liberal values. The end of the Cold War, the political and economic liberalisation of CEE states, and the dislocation and disorder linked to transition throughout the region were perceived as heightening the risks of uncontrolled, perhaps large-scale immigration. In response, the EU member states devised a preventive strategy focused on integrating Central European candidate states into the EU's developing system of migration control. This has become a key component of EU enlargement politics.[74]

This rapid extension of EU migration policy to Central Europe has been criticised because it is based on an untested assumption that all states participating in the regime hold compatible standards of legal and social protection. The post-communist states lack the liberal humanitarian tradition that acts as a counterbalance to the internal security imperative in Western states, as well as much of the normative and institutional framework that Western states have developed for the protection of refugees.[75] This may

raise doubt about whether their application of European standards in the case of refugees and asylum-seekers will respect the minimum norms of human rights and humanitarian considerations. Another problem is that residents of the new member countries who after enlargement seek asylum elsewhere in the EU will be turned back on the ground that they come from 'safe' states. However, there are well founded concerns, to which the European Commission has drawn attention in regular assessments during the accession process, about discrimination and violence against visible minorities (notably the Roma) in these countries, excessive use of force and degrading treatment of people held in custody by police.[76]

A practical problem relates to the distribution of EU assistance to candidate countries for reform of their internal security structures. While law enforcement and border control are both main components in JHA, upgrading the border control capacities of candidate states has been the priority concern in EU assistance programmes to date. The result is that border guards in candidate countries have received a disproportionate amount of assistance and resources in comparison to the regular police services, which are typically severely under-funded in post-communist environments.[77] The growing discrepancy in the capacities of these component sectors in candidate countries is cause for resentment and raises questions about the overall rationality of internal security reform.[78]

Furthermore, through the principle of 'safe third countries' and the negotiation of re-admission agreements, countries in Eastern Europe immediately outside the accession group of states are increasingly taking on the burden of immigration control and refugee protection on behalf of their more developed neighbours. Ukraine, an important transit country, has concluded repatriation agreements which now enable Germany to deport asylum-seekers back to Ukraine via Poland. Police brutality against asylum-seekers and migrants occurs frequently in Ukraine, however, violating international and EU human rights norms.[79] One result of the restrictive measures being implemented by the EU is the threat of the exclusion of third-country nationals and those countries that do not meet the Schengen standards.

In summary, EU enlargement is exerting strong influence on candidate states in terms of reforms to the various policy sectors subsumed under 'internal security', including border control, asylum and immigration, police and judicial cooperation. Moreover, EU policy is, in effect, being 'exported' to third states which have not yet been accepted for, or even applied for, membership, notably through the immigration and asylum mechanisms discussed above. What is uncertain at this point is whether measures to boost

the effectiveness of EU internal security are being accompanied by efforts to protect the democratic values and norms implicit in European Union membership.

As with NATO, all these causes for concern are sharpened by the fact that the *acquis* is rapidly being developed further and in the direction of constantly tightening controls. In the first quarter of 2002 the EU pushed through a package of measures on common penalties for terrorism, extradition procedures and a common arrest warrant which will automatically become applicable to the new member states as well. The fact that the measures gave rise to protest from human rights monitors and parliaments within several EU countries, yet were carried through with only a minimal time for scrutiny, makes clear that the problems outlined above are neither imaginary nor diminishing.

New Frontiers

Properly considered, all the trends addressed in this chapter reflect not so much a *diminution* of concern about security sector reform in the European theatre as a *shift* in its focus. Both NATO and EU policy makers are turning their attention, in anticipation of enlargement, to the security challenges presented by 'new neighbours' and to the options for deeper engagement with them. It is generally accepted that substantial shifts of priority and method may be needed for the purpose within institutional outreach policies, on top of the structural changes that are inevitable as the centre of gravity of (notably) the Partnership for Peace and the Euro-Atlantic Partnership Council moves eastwards. The OSCE and the Council of Europe, while not changing their membership structures, will need to address parallel issues about how to tackle that cluster of unresolved conflicts and other security challenges remaining outside the extended NATO and EU boundaries – without unnecessarily hardening dividing lines or falling into overt discrimination.

These outreach strategies will have various direct and concrete security goals, but all of them will need to integrate the pursuit of security sector reform both as an instrument for progress and as a goal in itself. There are at least three underlying policy challenges or conundrums involved which, while not the subject of this chapter, should be noted as points for further attention in the security sector reform debate.

The first is the observation that the 'new frontier' zones are actually several and different in nature. One distinction may be drawn between the countries of South-Eastern Europe (including the new states of the former Yugoslavia), which have already been brought within the ambit of eventual EU integration, albeit with widely varying timelines, and the range of OSCE nations to the east, extending into the Caucasus and Central Asia, whose eventual relationship to the EU and NATO is far more uncertain. Operationally as well as politically, the prime responsibility for the first group is shifting to the EU from NATO, but this is happening in a still fragile post-conflict environment where it is not yet certain that the sticks and carrots of 'the European way' can do the job alone. Arguably, the eastern and southern shores of the Mediterranean could be seen as a third frontier zone where no existing European institution has yet demonstrated the ability to promote significant change in security culture. As European strategies develop, it will be important to ensure that the relevance of security sector reform is not left out in addressing any of these frontiers and that double standards and incoherence in handling this dimension are avoided so far as possible.

The second is the obvious fact that in all the new frontier zones, standards of democracy and transparency in the security field (as well as of military reform) are generally lower than in the present enlargement zone, and histories and cultural environments more significantly divergent. This raises questions about whether the methods used to promote security sector reform in Central Europe can simply be extended to the new targets and, if not, what changes of philosophy and implementation may be required. Such questions become even more pressing when considering the transferability of lessons from security sector reform in Europe to areas of the developing world.

The third point is a wider extension of the argument made above about the risk of losing sight of, or at least leverage over, security sector reform within the zone already covered by enlargement. This problem does not arise only from the NATO and EU dynamics discussed above. It is compounded by the fact that there will be a transfer of *resources* needed for promoting security sector (and other) reform from the new member states to new-frontier recipients. There is already concern that, for example, many of the Central European NGOs that were active during the pre-accession phase and have received support from the Phare programme[80] and other Western institutional subsidies will not be able to survive the withdrawal of such assistance. It is uncertain whether the PFP Consortium of Defense Academies and Security Studies Institutes[81] can survive beyond 2003 in its

present form. Debate has started within the OSCE on whether it is acceptable to shift that organisation's work on security building exclusively to the zones lying beyond the larger NATO and EU, given that some quite serious unresolved internal conflicts, potential national minority problems and other security challenges clearly persist within the 'integrated' area.

Put in these terms, the issue becomes a sensitive political one which challenges the assumptions of the European 'West' about the adequacy of its own security policy model and control mechanisms more deeply than anything occurring in the pre-enlargement period. Creating explicit targets (such as the NATO MAP) for new members' application of democratic norms in the internal security sector would be a major and contentious undertaking precisely because EU logic would require them to be equally – and possibly even retroactively – applicable to all member states. A completely fresh approach developed in the context of the European Convention might be the least problematic scenario. However, there are also some practical options for addressing the problem that need not have the same divisive overtones and would be worth addressing without delay. One approach would be to find ways of associating the new NATO and EU members directly and creatively with the new security reform strategies for neighbouring areas, so that they continue to 'learn through teaching' and strengthen regional security communities across dividing lines in the process. Another would be to work deliberately for the extension to new membership zones of the (non-governmental) networks and movements existing in Western Europe for the monitoring of governmental behaviour in the external and internal security field. Parliamentary bodies existing in NATO, the EU, the OSCE and the Council of Europe could be important both as actors and as providers of a conceptual framework for this end. No doubt other prescriptions can be found, so long as the issue is faced openly and in good time.

Conclusion

From the discussion about the enlargement and transformation of two key regional organisations in the Euro-Atlantic sphere, some tentative conclusions can be drawn about the impact of these multilateral institutions on security sector reform in member and, especially, aspirant states.

First, multilateral institutions offer significant incentives and consequently potential to encourage reform in the security sectors of states

aspiring to gain membership in them. To avoid the consequences of loss of leverage at the time of accession, however, aspirant states must be committed to a systematic and continuing process with regular feedback and assistance, both preceding and following the date of formal accession.

Secondly, the internal reform and adaptation of both institutions is a highly political process. For example, special interests may influence the character of some of the reforms urged upon candidate states, such as the pointed political pressure exerted on the three new member states of NATO to purchase expensive combat aircraft. This political element and its potential to skew priorities in domestic security sector reforms, at either the national or the multinational level, has not been adequately explored in the existing security sector reform literature.

Thirdly, there are some generic advantages in multilateral efforts to spread democratic norms, compared to unilateral efforts. The former tend to minimise the perception that the actor is interfering in the domestic politics of the target state. They also give the possibility for members and candidate states to 'shift the blame' for unpopular and costly reform up to the multilateral and instititial level. In other words, a multilateral regional security organisation plays a certain legitimising function in the effort to spread democratic norms.

Thus, although neither NATO nor the EU yet undertakes to encourage comprehensive security sector reform in candidate states, they can and do exert significant influence in the respective policy spheres of external security (armed forces and defence reform) and internal security (border management, policing, and refugee and asylum policies). To date, the extent of that influence appears to be more visible in the case of the EU, with its comprehensive and legally binding *acquis*. The impact of this double process of enlargement on security sector reform in new members and candidate states of Central and Eastern Europe appears mixed. NATO has consistently promoted the norms of transparency and democratic civilian control of the armed forces, but its message and to some extent its effectiveness have been complicated by the demand that candidates meet concurrent (and possibly unrealistic) targets for force structure and capability. The EU's leverage in convincing candidate states to comply with its quickly evolving internal security regime has arguably come at the cost of enhanced autonomy of national executives and a weakened emphasis on democratic values, respect for human rights and accountability. Maintaining a focus on security sector reform *within as well as beyond the enlarged boundaries* may provide the best guide through the risks and opportunities inherent in the enlargement of these key multilateral organisations.

Notes

[1] There is as yet no consensus on the precise definition of security sector reform. See e.g. D. Hendrickson, *A Review of Security-Sector Reform*, Working Paper no. 1 (Conflict, Security and Development Group, Centre for Defence Studies, King's College, University of London: London, 1999), p. 29, available at:
<http://csdg.kcl.ac.uk/Publications/assets/PDF%20files/Working%20paper%20number%201.pdf>; and Brzoska, M., 'The concept of security sector reform', in H. Wulf (ed.), *Security Sector Reform,* BICC Brief 15 (Bonn International Center for Conversion: Bonn, 2000), pp. 6–13, available at: <http://www.bicc.de/general/brief15/content.html>.

[2] Hendrickson, D., and Karkoszka, A., 'The challenges of security sector reform', *SIPRI Yearbook 2002: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 2002), pp. 175–201; and the United Nations Development Programme (UNDP), 'Democratizing security to prevent conflict and build peace', *Human Development Report 2002: Deepening Democracy in a Fragmented World* (Oxford University Press: New York and Oxford, 2002), pp. 85–100.

[3] The definition of the security sector is discussed in Hendrickson and Karkoszka, 'The Challenges', p. 179.

[4] Raymond, G., 'Problems and prospects in the study of international norms', *Mershon International Studies Review*, vol. 41 (1997), pp. 205–45.

[5] See e.g. *Code of Conduct for Law Enforcement Officials*, adopted by the United Nations General Assembly in Resolution 34/169 (17 December 1979), available at:
 <http://193.194.138.190/html/menu3/b/h_comp42.htm>; Organisation for Economic Cooperation and Development (OECD), Development Assistance Committee (DAC), *The DAC Guidelines on Conflict, Peace and Development Cooperation* (OECD: Paris, 1997); United Nations Development Programme; and N. Ball, 'Enhancing security sector governance: a conceptual framework for UNDP', (9 October 2002), available at:
<http://www.undp.org/erd/jssr/docs/UNDP_SSR_Concept_Paper_Oct_9_2002.DOC>.

[6] See e.g. *OSCE Code of Conduct on Politico-Military Aspects of Security, 1994,* available at:
 <http://www.osce.org/docs/english/pia/epia93-4.pdf>; Council of Europe, Parliamentary Assembly, Recommendation 1402 (1999), 'Control of internal security services in Council of Europe member states', *Official Gazette of the Council of Europe* (April 1999), available at <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/asp/search/pasearch.asp>; and Council of Europe, Committee of Ministers, Recommendation Rec 2001 (10), 'The European Code of Police Ethics', adopted on (19 Sep. 2001), available at:
<http://cm.coe.int/ta/rec/2001/2001r10.htm>.

[7] See e.g. 'The Johannesburg Principles on National Security, Freedom of Expression and Access to Information' (Article 19, the Global Campaign for Free Expression: London, November 1996), available at: <http://www.article19.org/docimages/839.htm>; Ball, N., *Spreading Good Practices in Security-Sector Reform: Policy Options for the British Government* (Saferworld: London, December 1998), available at: <http://www.saferworld.co.uk/pubspread.htm>; Chalmers, M., *Security-Sector Reform in Developing Countries: An EU Perspective* (Saferworld/University of Bradford: Bradford, January 2000); Lilly, D., Luckham, R., and von Tangen Page, M., *A Goal Orientated Approach to Governance and Security Sector Reform* (International Alert: London,

September 2002), available at: <http://www.international-alert.org/pdf/pubsec/Goa.pdf>; and British Department for International Development (DFID), *Understanding and Supporting Security Sector Reform* (DFID: London, June 2002), available at:
 <http://www.dfid.gov.uk/Pubs/files/supporting_security.pdf>.

[8] See e.g. assumptions concerning the ability of democracies to resolve disputes among themselves without resorting to war (the NATO injunction in its pre-accession criteria for aspiring members to resolve territorial disputes peacefully), or the evolution of regimes to address common problems among states (the emerging European Union internal security regime, described later in this chapter).

[9] See e.g. British Department for International Development (DFID), *Security-Sector Reform and the Management of Military Expenditure: High Risks for Donors, High Returns for Development, Report on an International Symposium sponsored by the UK Department for International Development, London, 15–17 February 2000* (DFID: London, June 2000), available at: <http://www.dfid.gov.uk/Pubs/files/ssrmes_report.pdf>; Cooper, N., and Pugh, M., *Security Sector Transformation in Post-Conflict Societies,* CSDG Working Paper no. 5 (King's College: London, 2002); and British Department for International Development (DFID).

[10] See e.g. Human Security Network, available at: <http://www.humansecuritynetwork.org/>; and *Bibliography on Human Security* (Harvard Program on Humanitarian Policy and Conflict Research: Cambridge, Mass., August 2001),
<http://www.hsph.harvard.edu/hpcr/events/hsworkshop/bibliography.pdf>. The concept of human security has been criticised for the use of excessively broad and vague definitions, as undermining its analytical utility for researchers and its effectiveness as a guide for policy-makers. See e.g. Paris, R., 'Human security: paradigm shift or hot air?', *International Security*, vol. 26, no. 2 (Fall 2001), pp. 92–3.

[11] The distinctions are blurred at the operational level by proposals to use military force in counter-terrorist strikes and by the new interest in police components for international peace operations and at the institutional level by the EU's development of a military crisis-management capability and by NATO's interest in such topics as nuclear, biological and chemical weapon protection, relevant also to domestic security. There is also now an internal discussion in NATO about incorporating SSR as a potential topic in the Partnership for Peace programme, reflecting the wider acknowledgement that, since the terrorist attacks of 11 Sep. 2001, it has become necessary to broaden the scope of reform and reform assistance beyond the military.

[12] See <http://www.nato.int/docu/comm/2002/0211-prague/index.htm>.

[13] See <http://europa.eu.int/comm/copenhagen_council_20021212/index_en.html>.

[14] Greene, O., *International Standards and Obligations: Norms and Criteria for DCAF in the EU, OSCE and OECD Areas*, DCAF Working Papers, no. 88, (October 2002), p. 4, available at: <http://www.dcaf.ch/publications/Working_Papers/88.pdf>, also in Edmunds, T. and Germann, W., *Criteria of Success in Security Sector Reform* (Nomos: Baden-Baden, forthcoming 2003).

[15] The other political criteria included: demonstrating commitment to and respect for OSCE norms and principles, including resolution of ethnic and territorial disputes; showing commitment to economic liberty and social justice; and ensuring that adequate resources are committed to achieve political and military integration with the alliance. NATO, *Study on NATO Enlargement* (NATO: Brussels, Sep. 1995), chapter 5, available at:

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[27] Barany, Z., 'Hungary, an outpost on the troubled periphery', Michta, A.A., (ed.), *America's New Allies: Poland, Hungary, and the Czech Republic in NATO* (University of Washington Press: Seattle, Wash., 1999), p. 106. In the lead-up to the Prague Summit, US and NATO officials took Hungary to task for failing to meet its promise to allocate 1.8% of gross domestic product to defence. NATO officials reportedly told Hungarian Defence Minister Ferenc Juhasz that Hungary would have been expelled if NATO had had the mechanism to do so. The example of Hungary has been used in support of arguments to introduce monitoring of NATO member states' performance in meeting key democratic and military criteria and a system of graduated sanctions for states that fail to address deficiencies, including expulsion. Wallander, C., 'NATO's price: shape up or ship out', *Foreign Affairs* (November/December 2002), p. 5.

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[30] Gabal, I., Helsusova, L., and Szayna, T., 'The impact of NATO membership in the Czech Republic: changing Czech views of security, military and defence' (Conflict Studies Research Centre, Royal Military Academy: Sandhurst, Camberley, March 2002), pp. 3–4.

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[33] Simon, J., 'Road MAP to NATO accession: preparing for membership', *Hampton Roads International Security Quarterly* (Portsmouth: Spring 2002).

[34] Martinusz, Z., 'NATO enlargement: lessons from the 1999 round', Valasek and Hitchens (eds), p. 45.

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[51] Testimony of William E. Odom to the US House International Relations Subcommittee on Europe, Washington, DC (17 April 2002), available at <http://usinfo.state.gov/topical/pol/nato/0417hudson.htm>.

[52] For further detail on the decisions taken at the NATO Prague Summit see <http://www.nato.int/docu/comm/2002/0211-prague>.

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[55] Kostolny, M., 'What will NATO be like?', *Sme*, (Bratislava: 11 February 2003), p. 8, in 'Slovak commentary questions purpose of NATO in view of dispute over Turkey', Foreign Broadcast Information Service, *Daily Report–West Europe (FBIS-WEU)*, FBIS-WEU-2003-0212, (13 February 2003); and Sienkiewicz, B., 'Lesson Poland has to learn from the Iraqi crisis', *Rzeczpospolita* (Warsaw, 14 February 2003), in 'Polish analyst views implications of NATO crisis for global, domestic security', FBIS-WEU-2003-0214, (19 February 2003).

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[65] Grabbe, 'European Union', p. 255.

[66] The 1991 Treaty on European Union was amended by the 1997 Treaty of Amsterdam and the 2001 Treaty of Nice (entered into force on 1 February 2003). A consolidated text is available at <http://europa.eu.int/eur-lex/en/search/search_treaties.html>.

[67] E.g. France has for years maintained de facto border controls on its northern border with Belgium in a manner that appears to exceed the Schengen Agreement provisions for temporary reimposition of systematic checks. Anderson, M., Apap, J., and Mulkins, C., *Policy Alternatives to Schengen Border Controls on the Future EU External Frontier: Proceedings of an Expert Seminar* (Centre for European Policy Studies (CEPS) and Batory Foundation: Warsaw, February 2001), p. 24. On the Joint Committee on Human Rights see <http://www.parliament.uk/commons/selcom/hrhome.htm>.

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Chapter 4

Revisiting the OSCE Code of Conduct on Politico-Military Aspects of Security (1994)

Victor-Yves Ghébali

Introduction

Since the collapse of communism, the issue of democratic control of armed forces, which is at the heart of security sector governance in the Euro-Atlantic area, has become one of the preconditions that countries are required to meet in order to accede to the North Atlantic Treaty Organisation (NATO) and (implicitly) the European Union (EU). That requirement is crucial, since the building and strengthening of democratic structures can only succeed if armed forces enjoying true legitimacy and respectability are part of them.

However, once a state has been admitted within NATO and/or the European Union there are apparently few constraining incentives to ensure continuous and sustainable improvements in the democratic control of its armed forces. Fortunately, all former and potential candidates to the two most-coveted Euro-Atlantic institutions happen to belong to the OSCE. Being OSCE participating states, they are bound by the provisions of Sections VII and VIII of the Code of Conduct on Politico-Military Aspects of Security (1994). Accordingly, their compliance record is subject to regular scrutiny. Revisiting the Code, almost a decade after its adoption, is thus of a particular relevance from both a policy-oriented as well as theoretical perspective.

The present chapter will not address either the drafting process of the Code or the provisions of Sections I to VI which, basically, contain norms relevant for inter-state relations.[1] It will focus on four main issues: the scope of the Code's security sector, the basic components of the democratic control of armed forces' regime, the Code's implementation arrangements and,

finally – in view of its tenth anniversary in 2004 – the ideal expansion of the Code's specific regime on the democratic control of armed forces.

The Scope of the Code's Security Sector

Section VII and Sections VIII of the Code of Conduct are specifically devoted to the civilian democratic control of armed forces and, more broadly, to what is now currently referred to as the 'security sector'.[2] The issue was not totally novel at the OSCE. Indeed, in the Copenhagen Document on the Human Dimension (1990), the then Conference on Security and Cooperation in Europe (CSCE) participating states[3] recognised that the rule of law required, among many other elements, that 'military forces and the police […] be under the control of, and accountable to, the civil authorities'.[4] In the Moscow Document on the Human Dimension (3 October 1991), they even enunciated some general obligations as regards their military and paramilitary forces, internal security and intelligence services, as well as the police activities. They committed themselves to ensure that those forces, services and activities are subject to the effective direction and control of the appropriate civil authorities, to maintain (and, where necessary, strengthen) executive control over the use of those forces, services and activities and to take appropriate steps to create (wherever they do not already exist) and maintain effective legislative supervision over all such forces, services and activities.[5]

The provisions of Sections VII and VIII of the Code (paragraphs 20-37) represent a considerable extension and development of the Moscow Document's commitments. Their philosophy or rationale is expressed in paragraph 20 specifying that the democratic control of armed forces represents 'an indispensable element of stability and security' as well as 'an important expression of democracy'. The democratic control of armed forces is certainly, to quote one of the negotiators of the Code of Conduct, 'a way to guarantee the internal stability of the state, its responsible behaviour towards its own citizens and other states, and as an instrument aimed increasing the predictability of the state's actions'.[6] Indeed, as put by another negotiator, it brings an important contribution to internal and international stability because democratically controlled armed forces 'pose a considerably smaller risk of threatening international posturing and of internal abuse'.[7] Furthermore, the democratic control of armed forces represents, admittedly, a key element in the transition from authoritarian to

democratic political systems.[8] In a true rule of law state, no important political issue should be allowed to escape effective democratic control. Beyond the prevention of unconstitutional use of armed forces for both internal and external purposes, the aim of Sections VII and VIII taken as a whole is to promote a 'conscience' of the rule of law, human rights and international humanitarian law in the military establishments of the OSCE participating states. Outlawing the practices of the Nazi and Soviet regimes to use armed forces to dominate other European states and to intimidate their own populations (as well as the kind of abuses perpetrated in the then ongoing Yugoslav conflict) directly motivated the drafting of these portions of the Code of Conduct. The provisions of Sections VII and VIII reflected the quintessence of the lessons drawn from the experience of the Western democracies with the intention on passing them on to the new democratic regimes emerging in the former Soviet and Balkan geopolitical space.[9] The ultimate aim of Sections VII and VIII taken as a whole is to promote an ethics, let alone a 'conscience', of the rule of law, human rights and international humanitarian law in the military establishments of the OSCE participating states.

The 1994 Code of Conduct requires the OSCE participating states to place five specific categories of their armed forces under civilian democratic control: 'military forces', 'paramilitary forces', 'internal security forces', 'intelligence services' and 'the police'. In this enumeration, included in paragraph 20, the first three categories are purposely separated from the last two by the expression 'as well as'. Indeed, paragraph 20 is the only one which makes reference to all five categories. The subsequent paragraphs which are of an operative nature, mention either the first three categories simultaneously (paragraphs 21, 27, 32) or just the 'armed forces' (paragraphs 22, 23, 28, 30, 31, 34, 35, 36, 37).[10] The formal categories of 'intelligence services' and the 'police' do not appear outside the boundaries of paragraph 20: for most of the participating states, they were much too sensitive; therefore, there was no consensus to mention them elsewhere than in an introductory paragraph of a general declaratory character fulfilling the role of a mini-preamble. The Code does not provide definitions of any of the five categories. Moreover, the provisions of Sections VII and VIII do not attribute equal importance to each of them:

1.   *Military forces* That broad category, which obviously refers to the forces of the regular army, is the basic concern of Section VII of the Code. It is also reasonable to consider that the regular army is aimed at when the

Code uses, in both Section VII and Section VIII, the general expression 'armed forces' .

2.   *Paramilitary forces* The case of 'paramilitary forces' is addressed specifically in paragraph 26 and implicitly in paragraph 25.[11] During the drafting process of the Code, Poland suggested that the OSCE participating states pledge 'not to use paramilitary organisations to circumvent limitations concerning the use and size of their armed forces', in particular limitations related to the CFE Treaty.[12] Because of Russian objections, the text finally adopted did not address the general problem of circumvention, but just a specific aspect of it: paragraph 26 only committed each participating state to 'ensure that in accordance with its international commitments its paramilitary forces refrain from the acquisition of combat mission capabilities in excess of those for which they were established'.[13]

In the course of the negotiation, the issue of paramilitary forces was also inevitably raised when the 'European Union plus' grouping proposed a commitment for governments to refrain from encouraging, supporting, aiding or protecting *irregular armed forces* using violence on its own territory, as well as from training, arming, equipping, financing, supplying or otherwise encouraging, supporting and aiding irregular forces using violence on the territory of another participating State'.[14] Unproductive discussions during which some delegations attempted to establish a distinction between 'legal' and 'illegal' irregular armed forces compelled the negotiators to drop out the concept of 'irregular armed forces' and make obliquely reference, in paragraph 25, to 'forces that are not accountable to or controlled by their constitutionally established authorities' – forces that the participating states committed themselves not to 'tolerate' (on their territory) or 'support' (outside their territory).[15]   The issue of paramilitary forces has remained non consensual. It is significant to note that the OSCE participating states have not been able so far to agree, contrary to what was suggested during the 2nd Follow-up Conference on the Code of Conduct (1999), on the possible inclusion of paramilitary forces into their annual information exchange on the Code's implementation.[16]

3.   *Internal security forces* The category of 'internal security forces' appears, with all the four others, in paragraph 20. Under an abbreviated form ('security forces'), it is also mentioned – simultaneously with military and paramilitary forces – in paragraphs 21, 27 and 32. In addition, 'internal security missions' are the direct concern of paragraphs 36 and 37.

4.   *Intelligence services* As previously mentioned, the category of intelligence services is only referred once in the Code, namely in the declaratory mini-preamble of what paragraph 20 actually is.[17] As a consequence, there are no OSCE specific norms on the matter. However, it is worth mentioning here that the issue of intelligence services has been addressed by the Council of Europe's Parliamentary Assembly under the – misleading – label of 'internal security services'. Through Recommendation 1402 (1999) on 'Control of internal security services in Council of Europe member States', the Assembly provided guidelines for ensuring equitable balance between the right of a democratic society to national security and the rights of the individual. The text requested the Committee of Ministers to elaborate a framework convention regulating the way 'internal security services' should be structured, conduct their operations and be effectively controlled – that is to say organised on strictly legal bases and preferably not within a military structure, remain under the effective (*a priori* and *ex post facto*) control of the executive, legislative and judiciary branches, be funded exclusively through the state budget and in conformity national parliament's current procedures, perform in compliance with the obligations of the European Convention on human rights and not to be used as a political tool to oppress the opposition, national minorities and other groups or take normally part in the fight against organised crime.[18] The Committee of Ministers rejected the idea of a framework convention. However, it decided to consider setting up a new committee of experts ('Group of Specialists for Internal Security services') with a view to preparing a report and, if appropriate, putting forward relevant recommendations.[19]

5.   *Police services* Similarly to the issue of intelligence services, that of the police is only referred in paragraph 20 of the Code.[20] The OSCE participating states failed to elaborate normative provisions on the police activities although such norms did already exist at both European and universal level. Indeed, in 1979, the Parliamentary Assembly of the Council of Europe adopted a 'Declaration on the Police' laying down guidelines for the behaviour of police officers in case of war and other emergencies, including in the event of occupation by a foreign power. All of the Declaration's provisions (except those related to occupation) concerns 'individuals and organisations, including such bodies as secret services, military police forces, armed forces or militias performing police duties, that are responsible for enforcing the law, investigating offences and maintaining public order and State security'.[21] Subsequently, a 'European Code of Police

Ethics' was drafted under the aegis of the Council of Europe's Committee of Ministers and submitted, in 2001, for opinion to the Parliamentary Assembly. The forthcoming Code of Police Ethics is expected to supersede the 1979 Declaration.[22]

At a universal level, the General Assembly adopted a United Nations Code of Conduct for Law Enforcement Officials (1979) as a recommendation for governments to use it within the framework of national legislation or practice as a body of principles for observance by law enforcement officials. According to the commentary appended to the instrument, the definition of 'law enforcement officials' includes all officers of the law, whether appointed or elected, who exercise *police* powers, especially the powers of arrest or detention and, in countries where police powers are exercised by military uniformed/non-uniformed authorities or by state security forces, all officers of such services. The text requires of all officers of the law who exercise military as well as civilian police powers to 'respect and protect human dignity and maintain and uphold human rights of all persons' (art. 2) while empowering them to the use of force 'only when strictly necessary and to the extent required for the performance of their duty' (art. 3).[23]

In sum, formally or substantially, the Code of Conduct refers to all major elements of the security sector with the exception of *border guards*, a category nobody at the OSCE was really thinking of in the early 1990s. However, since the adoption of the Code, the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) has launched – and now undertakes on a current basis a number of democratisation programmes providing for training in human rights for the border guards of a number of participating states.[24]

The Basic Components of the Democratic Control of Armed Forces' Regime

In conformity with an OSCE long-standing current practice, the Code of Conduct has been adopted as a 'politically binding' instrument.[25] Norms of politically binding nature are not less binding than those which are legally binding. In the expression 'politically binding', the crucial term is the verbal element ('binding') and not the adverb ('politically'). As relevantly stressed by Peter Koojmans, an international commitment does not need to be legally binding in order to have a binding character for OSCE participating states.[26]

In addition, and as sustained by Michael Bothe, although they cannot directly be made the basis of a court judgment 'documents which are not legally binding as such may be used as a proof of customary law'.[27] By virtue of the rationale of their 'cooperative security' approach, the OSCE participating states are expected to honour their politically binding commitments in the same way as legally binding ones. If they are not formally legal, OSCE politically binding commitments have nevertheless, as obligations of good faith, to be respected as much as standard legal commitments. In other terms, the violation of the former is as inadmissible as that of the latter.

The difference between politically binding and legally binding commitments is at the level of sanction. If an international legally binding commitment is violated by a given state, the latter's international legal responsibility is at stake and legal lawsuits for redress are perfectly conceivable. In the case of a politically binding commitment, the sanction is only political and moral. One may argue that political or moral sanctions do not have meaningful consequences. However, it must not be forgotten that the most basic OSCE texts are signed at the level of heads of state and government: as a consequence, the political costs of violation cannot be insignificant. Anyhow, from the point of view of governments, politically binding agreements offer two main advantages: they do not have to be submitted for parliamentary approval and are easier to monitor because of their flexibility.[28]

The politically binding instrument represented by the OSCE Code of Conduct does not propose a specific model for either an 'objective' or a 'subjective' type of civilian control over the military – the standard distinction established, in 1957, by Samuel P. Huntington.[29] However, through its Sections VII and VIII, it does offer the framework of a coherent regime based on four pillars: the primacy at all times of democratic constitutional civilian power over military power, the subjection of armed forces to the norms and prescriptions of international humanitarian law, the respect of the human rights and fundamental freedoms of the armed forces personnel and, finally, the regulation of the use of armed forces for internal security purposes.

1. *The primacy at all times of democratic constitutional civilian power over military power (paragraphs 21, 22, 23, 24)* It is in paragraph 21 of the Code of the Conduct that the OSCE participating states enunciated the essence of the democratic control of armed forces: the primacy of the legitimate civil authorities over military power.[30] Basically, paragraph 21

commits each government to 'provide for and maintain effective guidance to and control of its military, paramilitary and security forces by constitutionally established authorities vested with democratic legitimacy' – and, this, 'at all times': peace and war. The responsibility of 'constitutionally established authorities' represents a necessary but not a sufficient condition, in the sense that such authorities must also be 'vested with democratic legitimacy'. The democratic political control of the armed forces must be executed on the basis of the Constitution, by constitutionally established organs sanctioned by the democratic will of the people. More broadly, it implies that the authorities concerned operate in a system of true separation of powers and rule of law.

Paragraph 21 also includes two other related commitments. First, it obligates the OSCE participating states not only to provide for but also to 'maintain' democratic control over their armed forces. This means that such control must be *sustained*, and not just achieved. The relevance of sustainability is provided for by paragraph 24 under which each OSCE participating state is committed 'to guard against accidental or unauthorised use of military means' taking place within its jurisdiction is. Within the OSCE, the issue of *accidental* use of military means is a familiar one: since 1990, it has been part and parcel of the Vienna regime on CSBM under the heading of 'cooperation as regards hazardous incidents of a military nature'.[31] That of *unauthorised* use of military means represents a qualitatively different case in so far as an incident of a military nature could be the result of a political dysfunction or even a mischievous behaviour. In both cases, it could mean that the state's monopoly in 'the legitimate use of violence', *inter alia* through military means, is defective: hence the relevance for each OSCE participating state to provide and maintain appropriate measures, in conformity with paragraph 21 of the Code.

Secondly, paragraph 21 of the Code prescribes the OSCE participating states to provide controls ensuring civil authorities 'to fulfil' their constitutional and legal responsibilities. This means that governments will have to make sure that the democratic constitutional authorities will not *abdicate* their responsibility to control the military establishment – for instance during a state of public emergency or in case of unlawful overthrow. In the same context, that of the primacy at all times of democratic constitutional civilian power over military power, paragraph 23 of the Code of Conduct commits each participating state to 'ensure that its armed forces as such are politically neutral'. That provision rules out the possibility for the army to constitute, anywhere in the OSCE area (as was the case during the

Communist period) a state within the state. It does not specify, as suggested by Poland during the drafting process, that armed forces must not serve the interests of 'particular groupings' or 'ideological systems'.[32] However, as emphasised by the Greek delegation at the opening of the 3ʳᵈ Follow-up Conference on the Code of Conduct (1999), only those who have experienced the oppression of a dictatorship or the horrors of the war could really appreciate at its full measure the importance of having the armed forces remaining neutral.[33] More regrettably perhaps, paragraph 23 does not establish (as suggested by the 'European Union plus' group of countries) that if the armed forces *usurp* political control in any participating state, the other governments will urgently consider appropriate action in the framework of the OSCE.[34] Nevertheless, another OSCE instrument contains norms relevant for the same purpose: in the 1991 Moscow Document on the human dimension, which was adopted in the aftermath of the failed coup against Mikhail Gorbachev, the OSCE participating states condemned 'forces which seek to take power from a representative government of a participating State against the will of the people as expressed in free and fair elections and contrary to the justly established constitutional order' and, accordingly, committed themselves in case of overthrow or attempted overthrow of a legitimately elected government of a participating state by undemocratic means, to support 'the legitimate organs of that State upholding human rights, democracy and the rule of law …'[35]

The basic commitment embedded in paragraph 21 and developed throughout Sections VII and VIII of the Code actually concern (without however specifically mentioning it) the executive branch. However, the Code does include a single but clear reference to the legislative branch.[36] Thus, paragraph 22 commits each of the OSCE participating states to provide for legislative approval of its defence expenditures, as well as for transparency and public access to information related to the armed forces.[37] It also prescribes each government to exercise restraint in its military expenditures 'with due regard to national security requirements'.[38] All the requirements embodied in paragraph 22 are normally met in parliamentary democracies. A parliament resulting from free and fair elections represents indeed a key instrument for the control and accountability of the armed forces.[39] In mature democracies, critical media and the pressure of public opinion represent a major element of accountability and control. Besides, the exercise of restraint in military expenditures is generally a quasi routine consequence of budgetary deliberations.

The Code of Conduct makes no direct mention of the judiciary branch.

However, the second sentence of paragraph 36 commits the OSCE participating states to ensure that their internal security missions are performed under the effective control of constitutionally established authorities and 'subject to the rule of law'. Given that the rule of law implies the existence of political system based on a standard tripartite separation of powers, it can reasonably be argued that the control referred to in paragraph 36 involves the *judicial* as well as the two other branches of constitutional authority.

2.   *The subjection of armed forces to the norms and prescriptions of international humanitarian law (paragraphs 29, 30, 31, 34 and 35)* The Code of Conduct's provisions confirm three basic aspects of international humanitarian law.

The first aspect concerns the *obligation of states to respect the corpus of international humanitarian law in peacetime and wartime*. The Code commits the OSCE participating states to ensure that their armed forces are managed, at all times, in ways that are consistent with the provisions of international law and its respective obligations and commitments related to the use of armed forces in armed conflict (paragraph 34). In the same vein, the Code requires from each of them to conform its 'defense policy and doctrine' to the obligations of international humanitarian law and to the relevant commitments of the Code of Conduct itself (paragraph 35). During the drafting process of the Code, Poland suggested that the OSCE participating states undertake to base their military doctrines on defensive principles and that 'the structure, equipment, state of readiness and training of the armed forces in Europe [...] be oriented to serve defensive purposes'.[40] As demonstrated by two special Seminars successively held in 1990 and 1991, military doctrines in the OSCE area were already leaning in that direction since the end of the Cold War.[41] However, and although the Code of Conduct included provisions committing the OSCE participating state to maintain only such military capabilities commensurate with individual or collective security needs (paragraph 12), not to impose military domination over each other (paragraph 13) and to exercise restraint in military expenditures (second sentence of paragraph 22), the Polish proposal was not retained.

Paragraph 34 also enumerates a number of relevant international instruments in accordance to which the OSCE participating states are expected to manage their armed forces at the level of *command, personnel, training and equipment*. The listing mentions the basic elements of the

general corpus of international humanitarian law, namely the Geneva Conventions of 12 August 1949 (whose regime is applicable to inter-state wars waged between the regular armed forces of sovereign states) and the two Additional Protocols of 8 June 1977 to the Geneva Conventions, which take into account the evolution of armed conflicts since 1949.[42] It also includes the 'Geneva Convention on prohibition or restrictions on the use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects' (10 October 1980).[43] The listing also makes reference to the 'The Hague Conventions of 1907 and 1954' , that is to say to the numerous instruments of 18 October 1907 resulting from the historical Second Peace Conference, as well as the UNESCO-sponsored Convention for the protection of cultural property in the event of armed conflict of 14 May 1954.

The second aspect has to do with the *obligation of states to promote knowledge of international humanitarian law*. In the spirit of the relevant provisions of the four 1949 Geneva Conventions and their two Additional Protocols of 1977, paragraph 29 requires from the OSCE participating states to promote at a national level a general knowledge of the international humanitarian law of war obligations and commitments, as well as to incorporate the relevant international obligations and commitments in national military training programmes and regulations. Broached in such broad terms, this obligation means that dissemination concerns not only the armed forces personnel (those expected to apply it primarily and who remain accountable for its application), but the entire civilian population whose protection is also provided for by international humanitarian law.[44] The aim of dissemination is to raise consciousness of the existence of so-called principles of humanity and to guarantee their effective respect through preventive means. As a logical consequence of paragraph 29's provisions, paragraph 30 requires from the OSCE participating states to provide its armed forces personnel with direct instruction on the rules, conventions and commitments governing armed conflict.

The third aspect refers to the *obligation of states to hold all military persons responsible of serious violations accountable for their action under national and international law*. The Code commits the OSCE participating states to ensure that the members of armed forces are ultimately responsible – on an individual basis – for their actions at both a domestic and international level (paragraph 30). Drafted under the pressure of the atrocities perpetrated in Bosnia and Herzegovina, this provision is just limited to accountability. As such, it appears less advanced than the regime

of the 1949 Geneva Conventions which commits the Contracting parties to enact penal legislation directed against persons responsible for grave breaches, as well as to search for and bring such persons (regardless of their nationality) before national or even foreign courts.[45] However, the Code of Conduct and the Geneva Conventions proceed from the same spirit: they both state that violations should not be left or remain unpunished. Paragraph 30's commitment is emphasised with more precision in paragraph 31 which stipulates that the participating states

> 'will ensure that armed forces personnel vested with command authority exercise it in accordance with relevant national as well as international law and are made aware that they can be held individually accountable under those laws for the unlawful exercise of such authority and that orders contrary to national and international law must not be given. The responsibility of superiors does not exempt subordinates from any of their individual responsibilities.'

The first sentence of paragraph 31 refers to the 'armed forces personnel vested with command authority'. This broad expression does not specify, as suggested by Sweden during the drafting process, that officers are also directly concerned. The reason is that the concept of commandment has different definitions in the armies of the respective OSCE participating states. However, the expression used in this context is general enough to include officers too, since command authority can be delegated to them in specific circumstances. Therefore, it is reasonable to consider it as covering all persons who detain a command responsibility, at whatever level. In any case, command must be exercised 'in accordance with relevant national as well as international law', that is to say in ways consistent with the requirements of the rule of law and of international humanitarian law: accordingly, 'orders contrary to national and international law must not be given'. By means of consequence, and given its special responsibilities, each member of the personnel vested with command authority is individually accountable under domestic and international for the unlawful exercise of such authority.

The second sentence of paragraph 31 concerns the rank and file servicemen. It clearly states that the latter could not invoke orders emanating from anyone vested with command authority to escape individual accountability for acts committed by any of them in contravention to the rule of law and international humanitarian law. During the drafting process, some

delegations sought to include in the Code of Conduct a provision stipulating that unlawful orders shall not have to be executed by subordinates.[46] The suggestion was rejected by the Russian Federation on the ground that it would open the door to a process of refusal of obedience and that, anyhow, ordinary soldiers are not always in a position to really evaluate the lawfulness or unlawfulness of a specific order.

3.   *The respect of the human rights and fundamental freedoms of the armed forces personnel (paragraphs 23, 27, 28, 32, 33)* While totally excluding the possibility for the armed forces as an entity to operate above or outside the law, the Code of Conduct clearly establishes that the rights of their individual members do not stop at the barracks. Being citizens of their respective countries, servicemen are entitled to exercise their civil rights (paragraph 23). More generally, they also must enjoy, 'in conformity with relevant constitutional and legal provisions and with the requirements of service', the standard human rights and fundamental freedoms embodied in OSCE documents and international law (paragraph 32). The formal distinction between OSCE texts and international law just reflects the distinction between politically binding and legally binding instruments. The expression 'in conformity with relevant constitutional and legal provisions and with the requirements of service' means that the rights in question can be restricted by the Constitution and the law in order to take due account of the particular requirements of the military service – for instance, the necessity of daily life in barracks restricts the freedom of the individual to choose the place of his place residence.

On that ground, the Code commits the OSCE participating states to reflect in legislative texts or 'other relevant documents' (viz. non legislative texts as is the practice in such countries as the United Kingdom) the rights and duties of armed forces personnel (paragraph 28). It also commits them to provide appropriate legal and administrative procedures to protect the rights of servicemen (paragraph 33) so that the latter be able, for instance, to dispose of remedy means in support of the full exercise of their rights.[47] Finally it prescribes to the OSCE participating states to ensure that the concerned personnel is recruited and called-up in a way consistent with OSCE and other human rights international obligations and commitments – that is to say on the basis of equality of treatment and non-discrimination (paragraph 27).

The participating states did not propose any menu of rights that armed forces personnel should enjoy. They only considered the issue related to the

right of conscientious objection, an issue already addressed in the 1990 Copenhagen Document on the human dimension. In that instrument, the OSCE participating states took note that the United Nations Commission on Human Rights had recognised the right of everyone to have conscientious objection to military service and agreed 'to consider introducing, where this has not yet been done, various forms of alternative service, which are compatible with the reasons for conscientious objection, such forms of alternative service being in principle of a non-combatant or civilian nature, in the public interest and of a non-punitive nature'.[48] During the drafting of the Code of Conduct, the 'European Union plus' group of countries tabled a proposal under which the governments would have been committed to 'embody in legislation or other appropriate documents the rights and duties of members of the armed forces as well as the right to refuse to render military service on the grounds of conscientious objections'.[49] The participating states declined to assume any commitment going beyond the relevant provisions of the Copenhagen Document on the Human Dimension. They only agreed to 'consider introducing exemptions from or alternatives to military service' (paragraph 28).[50]

The problems raised by the issue of rights of the 'citizens in uniform' are, as illustrated by the difficulties encountered by the Parliamentary Assembly of the Council of Europe to promote norms in this field, rather thorny. In 1998, the Assembly signalled considerable differences between member states (all of whom belong to the OSCE) regarding the legal status of conscripts and the rights they enjoy. It deplored the existence within the armed forces of situations and practices in direct contravention with the obligations of the European Convention on Human Rights, especially those related to forced labour (article 4), fair trial (articles 5 and 6), free speech (article 10) or free association (article 11), and even to cruel treatment (article 3) – a reference to extreme form of harassments imposed by older servicemen to new conscripts, notably illustrated by the Russian practice of *dedovshina*.[51] Accordingly, it adopted Resolution 1166 (1998) which invited the member states to promote the application of civil and social rights which conscripts should enjoy in peacetime and, as far as possible, in time of war.[52]

Subsequently, the Parliamentary Assembly focused on one particular aspect of the matter: the right to association for members of the professional staff of the armed forces, which belong to the category of civil and political rights as well as of economic and social rights. Taking stock of the tendency of governments to convert armies from a conscription system to a purely professional system, the Parliamentary Assembly considered in Resolution

1572 (2002), that the Council of Europe's Committee of Ministers should call on the governments of the member states to allow members of the armed forces and military personnel to organise themselves in representative associations (with the right to negotiate on matters concerning salaries and conditions of employment), to lift the restrictions on their right to association, to allow them to be members of legal political parties and to incorporate all the appropriate rights in military regulations.[53]

Anyhow, the basic rights of military personnel in many members of the Council of Europe (and hence the OSCE) are still 'seriously limited' today.[54] In the specific case of freedom of association, some states do not place any restrictions (Austria, Denmark, Finland Norway, Sweden and Switzerland), while others allow servicemen to actively participate in professional associations, but regulate their membership of political parties (Germany, Hungary, Netherlands, Luxembourg). Other states (such as Azerbaijan, the Czech Republic, Romania, Slovenia and Ukraine) forbid membership of political parties and authorise only in restricted forms the right to association. Finally, Croatia, France, Italy, Poland and Yugoslavia prohibit servicemen from setting up trade unions and political parties in the armed forces.[55]

Finally, and at non-governmental level, mention should be made of the European Council of Conscripts Organisations (ECCO). Created in Sweden as a youth organisation in 1979, it advocates the recognition of all basic human rights, safe working and living conditions, fair legal procedures and acceptable social and economic conditions for the 'citizens in uniform' – with particular focus on the situation of conscripts in Central and Eastern Europe. ECCO's demands have been submitted under the form of a 'European Charter on the Rights of Conscripts' adopted in September 1991 (as a 'European Social Charter for Conscripts') and revised in September 1996 – and whose provisions are applicable in time of peace.

4.   *The regulation of the use of armed forces for internal security purposes (paragraphs 36 and 37)* Through paragraphs 36 and 37, the Code of Conduct offers standards on the use of force for internal security purposes. Paragraph 36 formally refers to 'internal security missions' performed by 'armed forces'.[56] Despite lack of precision, one can reasonably assume that its provisions concern the police and/or the internal security forces – and, in more exceptional circumstances, the paramilitary or even military forces.[57] Be as it may, it spells out four conditions regulating the domestic use of force:

(i)   *'Each participating State will ensure that any decision to assign its armed forces to internal security missions is arrived at in conformity with constitutional procedures'* In line with the fundamental provision of paragraph 21 of the Code establishing the primacy of democratic constitutional civilian power over military power, the first sentence of paragraph 36 confirms that any decision through which an OSCE participating state assigns to its armed forces an internal security-type mission must be taken and formulated in conformity with the procedures established by the Constitution of the country.

(ii)   *'Such decisions will prescribe the armed forces' missions, ensuring that they will be performed under the effective control of constitutionally established authorities and subject to the rule of law'* It is also in full conformity with paragraph 21 of the Code that the second sentence of paragraph 36 requires internal security missions to be performed under the effective control of constitutionally established authorities – and also subject to the rule of law. In other words, internal security missions must permanently be performed under the effective control of *judicial* as well as political civilian authorities. It is worth reminding that, according to paragraph 2 of the 1990 Copenhagen Document on the Human Dimension, the rule of law 'does not mean merely a formal legality which assures regularity and consistency in the achievement and enforcement of democratic order, but justice based on the recognition and full acceptance of the supreme value of the human personality and guaranteed by institutions providing a framework for its fullest expression'.[58]

(iii)   '*If recourse to force cannot be avoided in performing internal security missions, each participating State will ensure that its use must be commensurate with the needs for enforcement*' In disregard of what had been envisaged in the course of the drafting process, paragraph 36 does not indicate that use of force may *legitimately* be used at domestic level for specific reasons such as the performance of relief operations or the maintenance and restoration of democratic public order.[59] It does not provide that 'armed forces also may be called to upon for other assistance during a state of public emergency' and that in such a case the relevant commitments of the 1991 Moscow Document on the human Dimension apply.[60] In that instrument, the OSCE participating states established that 'a state of public emergency may not be used to subvert the democratic constitutional order, nor aim at the destruction of internationally recognised human rights and

fundamental freedoms'.[61] While admitting that a state of public emergency may be proclaimed by a constitutionally lawful body duly empowered to do so and subject to approval or control by the legislature in the shortest possible time, they also agreed that it will have to be lifted as soon as possible in order not to remain in force longer than strictly required by the exigencies of the situation.[62] More significantly, they decided that in case a state of public emergency is declared or lifted, the government concerned will immediately inform the OSCE of this decision, as well as any derogation made from its international human rights obligations.[63] Given the expression 'if recourse to force cannot be avoided …', the third sentence of paragraph 36 clearly legitimises the domestic use of force from a general and broad perspective.[64] Furthermore, it introduces in this context the subjective criterion of '*commensurability*' with the needs for enforcement – which does not exist either in the Geneva Conventions (1949) or their Protocols (1977).[65] However, the same provision does not specify that armed forces will be used only 'in case of absolute necessity' (as wished by Hungary) or 'only when strictly necessary' as tabled in the 'European Union plus' proposal[66] – or also 'after civil means of enforcement have been exhausted'.[67] It is from the angle of commensurability (or proportionality) that the behaviour of the Russian armed forces in Chechnya has been put into question at the OSCE.[68]

(iv)   '*The armed forces will take due care to avoid injury to civilians or their propert.*' Drafted in mild language ('take due care to avoid'), the fourth and last sentence of paragraph 36 stipulates that commensurability requires avoiding to the extent possible damage for civilians persons and their property. The notion of 'unlawful injury', raised during the drafting process, did not gain consensus .[69] The idea that any OSCE participating state resorting to a domestic use of force could provide information on the size, organisation, role and objectives and the activities of involved armed forces was equally rejected.[70]

To sum up, the originality of paragraph 36's provisions is twofold. First, to a limited extent, paragraph 36 provides for the regulation of conduct not covered by humanitarian law and human rights law: indeed, 'in an international context, norms for the use of force internal conflicts are virtually non-existent, the only relevant example being the Code of Conduct for Law Enforcement Officials adopted by the UN General Assembly in 1979'.[71] Second, paragraph 36 establishes 'a link between the application of

force and individual human rights; a link not explicitly mentioned in human rights treaties'.[72]

While paragraph 36 is permissively drafted (since it allows domestic recourse to force in the performance of internal security missions), paragraph 37 introduces *prohibitions* in two specific cases.[73] The first case is that of a use of force aimed at limiting the 'peaceful and lawful exercise of their human and civil rights' by 'persons as individuals or as representatives of groups' – an expression wide enough to cover all individuals and groups living in the state, including persons belonging to a national minority and minority groups.[74] The expression 'peaceful and lawful exercise of their human and civil rights' is the remnant of proposals aimed at committing the OSCE participating states to respect the right of citizens to advocate constitutional change by peaceful and legal means, and not to use force against those who do so.[75] The second case concerns a use of force aimed at depriving persons (here again as individuals or as representatives of groups) of their 'national, religious, cultural, linguistic or ethnic identity'. This phrase is the remote product of proposals prohibiting a domestic use of force contrary to the peaceful exercise of the principle of *self-determination of peoples*.[76] The specific adjectives used in this connection ('national', 'religious', 'cultural', 'linguistic', 'ethnic') are somewhat redundant: the umbrella concept of culture encompasses religion, language and ethnicity; besides, a 'national minority' is in fact and 'ethnic minority' characterised either by religion and/or language.

From a global perspective, the provisions of Sections VII and VIII of the Code of Conduct constitute an answer to a basic question: 'Who must control what, how and why?'. The overall corresponding answer can be summarised as such in the following table (see Table 4.1):

Table 4.1   Summary of the Code's provisions related to the democratic control of armed forces

Who?	What?	How?	Why?
Constitutionally established authorities vested with democratic legitimacy (§ 21). Specific role of the legislative branch: (§ 22). Implicit role of the judicial branch (§ 36).	Military forces, paramilitary forces, internal security forces, intelligence services and police (§ 20). First three categories only (§§ 21, 27, 32); 'Armed forces' (§§ 22, 23, 28, 30, 31, 34, 35, 36, 37). Paramilitary forces (§ 26). Irregular forces (§ 25).	Primacy at all times of constitutional civilian power over military power (§§ 21, 22, 23, 24, 25, 26). Subjection of armed forces to international humanitarian law (§§ 29, 30, 31, 34, 35). Respect of the human rights of servicemen (§§ 23, 27, 28, 32, 33). Commensurability of the domestic use of force with the needs for enforcement (§ 36) and prohibition of a use of force aimed at restricting the peaceful and lawful exercise of human rights or at depriving people of their individual or collective identity (§ 37).	'An indispensable element of stability and security', as well as 'an important expression of democracy' (§ 20).

The Code's Implementation Arrangements

The Code of Conduct provides for only rudimentary implementation and follow-up arrangements.[77] Paragraph 38 establishes the direct responsibility of each participating state for the implementation of the Code. It stresses that 'if requested, a participating State will provide appropriate clarification regarding its implementation of the Code' and also that 'appropriate CSCE bodies, mechanisms and procedures will be used to assess, review and improve if necessary' the implementation of the Code . In addition, the OSCE participating states must 'seek to ensure that their relevant internal documents and procedures or, where appropriate, legal instruments reflect

the commitments made in this Code' (paragraph 41) as well as publish, disseminate and make the Code known as widely as possible' (paragraph 42).

In conformity with paragraph 39, the Code of Conduct entered into force on 1 January 1995. Subsequently, three unforeseen trends developed pragmatically and gave birth to established practices:

1.   *Annual assessments* From 1995 onwards, the Code of Conduct represents a regular item on the agenda of the Annual Assessment Implementation Meeting (AIAM), the body responsible for the annual regular review of the CSBM regime's implementation as well as of that of all other politico-military commitments. It means that the implementation of the Code is briefly assessed every year in the framework of the AIAM.[78] Whether the latter is the most appropriate venue for assessment or that a more tailored-made structure is necessary remains a bone of contention among the OSCE participating states.

2.   *Annual exchange of information* By the end of 1995, some participating states voluntarily notified implementation measures such as the translation of the Code into their national language, and its introduction into military training programmes. This practice developed on a larger scale in 1996. Accordingly, the idea of an institutionalised regular exchange of information gained ground. Eventually, in July 1998, the Forum for Security Cooperation (FSC) decided that the OSCE participating states will submit, every year, a report on their actual implementation of the Code in a standardised format – namely a Questionnaire including ten rubrics out of which seven related to the democratic control of armed forces:

• Question No. 2. National planning and decision making-process for the determination of the military posture (paragraphs 13 and 22 of the Code);
• Question No. 4. Constitutionally established authorities and procedures to ensure effective democratic control of armed forces, paramilitary forces, internal security forces, intelligence services and the police (paragraphs 20–21);
• Question No. 5. Role and missions of military, paramilitary forces and internal security forces as well as controls to ensure that they act solely within the constitutional framework (paragraph 21);
• Question No. 6. Procedures for the recruitment or call-up of

personnel in the military, paramilitary forces and internal security forces (paragraph 27);

- Question No. 7. Legislation or other relevant documents governing exemptions from, or alternatives to compulsory military service (paragraph 28);
- Question No. 8. Instruction on international humanitarian law and other international rules, conventions and commitments governing armed conflict included in military training programmes and regulations (paragraphs 29–30);
- Question No 9. Legal and administrative procedures protecting the rights of all forces personnel (paragraph 33).[79]

In June 2002, the FSC requested the OSCE Conflict Prevention Centre (CPC) to prepare an overview of the exchange of information of the current year for the purpose of its submission to the Third Follow-up conference, scheduled for September 2002.[80] The overview underscored the existence of 'a marked divergence' in the interpretation of the Questionnaire by participating states due to the uneven degree of precision requested by most of its items. It also considered that the nature and substance of responses provided for by the latter did not give 'much room for summarisation or generalisation'. Therefore, it suggested that the Questionnaire could be rationalised in order to avoid repetitions or to provide more targeted information, and that certain categories of information (those concerning legislation) did not need to be annually replicated if no changes have occurred. In more practical terms, this meant for instance providing a one-off batch of legislation for the purpose of streamlining the information related to Question No. 2, as well as combining Questions 6, 7 and 9 into a single item.[81] The participating states examined the CPC's overview during the 3rd Follow-Up Conference, but could not agree on a structural re-arrangement of the Questionnaire. However, one month later, they decided to expand Question No 1 concerning the issue of terrorism.[82]

3.   *Ad hoc follow-up conferences*   Upon a European Union's initiative, the FSC convened in 1997, at the OSCE Vienna headquarters, an *ad hoc* short conference for the purpose of reviewing the implementation of the Code.[83] Two other similar conferences followed suit in 1999 and 2002.[84] Despite their relevance, those meetings have not been – from want of consensus – institutionalised.

From a political perspective, the Code of Conduct has been referred to in situations related to a disproportionate and indiscriminate use of force in Croatia (1995) and, especially, in Chechnya since 1995 – as well as unwarranted stationing of foreign armed forces in Moldova.[85] Although some of its basic provisions are presently still being violated in the OSCE area (the blatant violation by the Russian Federation with regard to Chechnya has remained unchecked), the Code of Conduct continuing relevance could not be doubted: as put by Jonathan Dean, Europe is better off with a violated Code of Conduct than with no such instrument.[86] In any case, it is common wisdom that 'every norm raises the moral cost of its own violation.[87]

The Ideal Expansion of the Code's Regime

In its Sections VII and VIII, the Code of Conduct establishes a direct connection (at both domestic and international levels) between the armed forces, political stability, security and democracy. As such, it represents a 'cross-dimensional' instrument, which bridges the politico-military and the human dimensions of the OSCE. The Code belongs to the politico-military dimension for obvious reasons: its regime on the democratic control of armed forces directly concerns the main categories of the security sector, while also including specific provisions on defence expenditures as well as defence policies and doctrines. Due to provisions referring to the rule of law, the human rights of conscripts and international humanitarian law, its relationship to the human dimension is no less evident. Despite all that, there is no formal linkage between the Code and either the 1999 Vienna regime on Confidence and Security Building Measures or basic human dimension instruments such as the 1990 Copenhagen Document and the 1991 Moscow Document. Even more regrettably, a number of OSCE norms existing in the framework of the politico-military and human dimensions are not, despite their relevance to the security sector, reflected in the Code or formally linked to it. In spite of these shortcomings, as wells as the various weaknesses or flaws mentioned earlier in that chapter, one is tempted to advance here some suggestions for an *ideal* type, that is to say disregarding their political acceptability or feasibility, in view of perfecting – in terms of contents and/or actual implementation – the Code's regime on the democratic control of armed forces. From the perspective of the *politico-military dimension*, at least four main avenues could be explored.

1.   The category of *paramilitary forces* could be attributed more attention in the Code. This could be achieved through the adjunction of some preliminary guidelines aimed at regulating the use of such forces. From this perspective, the relevant idea of a commitment not to use paramilitary organisations to circumvent limitations related to the use and size of their armed forces under arms control agreements (which was raised but rejected during the drafting process of the Code) would deserve fresh and more constructive reconsideration. Furthermore, specific data on paramilitary forces could be introduced in the general annual implementation reports exchanged by the OSCE participating states, with a view to providing information on the degree of integration of those forces into the system of parliamentary control.

2.   The categories of *intelligence services and the police*, which are only mentioned in a single declaratory provision of Section VII (paragraph 20) and not in any subsequent operative paragraph, could also be more meaningfully addressed in the Code. Admittedly, those categories are even more sensitive than that of paramilitary forces and the elaboration of OSCE norms in this field is unlikely to be at hand. However, an alternative minimum solution is conceivable: the OSCE participating states (which all belong to the United Nations and, in their overwhelming majority, to the Council of Europe) could reasonably endorse the United Nations Code of Conduct for Law Enforcement Officials (1979) or take stock of the elaboration of the 'European Code of Police Ethics' in the framework of the Council of Europe.

3.   A real breakthrough would be achieved if the OSCE participating states agree to provide information on the *use of force at domestic level*. Such information could possibly refer to the size, organisation, role, objectives and activities of armed forces involved in internal security missions.

4.   Finally, a better linkage could be established between the Code of the Conduct and the *1999 Vienna CSBM regime*. There is a clear direct relation between the Code's provisions on the democratic control of armed forces and the Vienna Document's provisions on defence planning. The Code offers as a reference point for the formulation of defence policy: transparent information on the defence planning process, especially when comparable over the years, and represents an indicator of the effectiveness of the

democratic control of armed forces when that information is correctly transmitted. Moreover, the Code includes provisions on the 'accidental use of military means' (paragraph 25), an issue addressed in the Vienna Document 1999 under 'Cooperation as regards hazardous incidents of a military nature'. As hinted by Sweden in 1998, incorporating some provisions of the Code of Conduct to the Vienna Document 1999 would certainly add an element of annual insight in the implementation of the Code.[88] At an operational level, it could be relevant to use the CSBM verification procedures to assess the degree of implementation of the Code. Thus, the inspection and evaluation reports would give an account of that implementation. The briefings held during inspections and evaluations could also include an obligation to report on the implementation of the Code in the inspected facility. The inspected/evaluated state could have an obligation to present the training programme of the personnel and conscripts, which would reveal the impact of the Code in the training.

From the perspective of the *human dimension*, four main improvements could ideally be envisaged.

1.   The Code could make room for the still forgotten major security sector's category represented by *border guards*. At first sight, this should not raise considerable difficulties of principle since the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) has launched only a few years after the adoption of the Code – and now undertake on a current basis – a number of democratisation programmes providing for training in human rights for the border guards of a number of participating states.

2.   While the Code prescribes democratic control of armed forces at executive and legislative level, it does not explicitly provide for control by the *judiciary*. This gap could be filled by means of a specific provision drawing on and extending the Copenhagen (1990) and the Moscow (1991) Document's provisions on the role of the judiciary in the broad framework of the rule of law.[89]

3.   Given the fundamental necessity for armed forces to respect *democratic legitimacy* at all times, the Code's regime could be expanded in order to enshrine provisions regulating the use of armed forces during a state of public emergency. It could also be established that in the case of usurpation of political control by armed forces in any participating state, the other governments will consider such an action as a source of concern and

take urgently appropriate action, including at least the non-recognition of the legitimacy of an usurper government – two issues partially addressed in the 1991 Moscow Document on the human dimension.

4.   For the sake of more consistency with its own philosophy, the Code could offer a preliminary catalogue, inspired from the best existing practices in the OSCE area, of the basic *rights and duties of servicemen* of the armed forces.

Conclusion

The Code of Conduct occupies a fundamental place among the body of commitments developed within the politico-military dimension of the OSCE. It intrudes into an area of state power which has hitherto been considered a *sanctum sanctorum* – the armed forces. As such, it has no real counterpart in any universal or regional security organisation: so far, the Parliamentary Assembly of the Council of Europe has been unable, despite the continuous efforts of a number of MPs, to arrive at a 'European Code of professional ethics for the armed forces' and even less a global text concerning the democratic control of the security sector.[90] Although far from being technically and substantially perfect, the Code has proven to be a vital instrument. At the same time, its potential remains largely unexploited. Presently (mid 2003) the overwhelming majority of OSCE participating states seem to be less interested in the issue of the democratic control of armed forces as such than in the Code of Conduct's possible (but actually marginal) use in the fight against terrorism. It would certainly be most appropriate for governments to take advantage of the opportunity offered by the tenth anniversary of the Code (to be celebrated in 2004), to constructively revisit an instrument which represents the jewels of the crown of the normative achievements of the OSCE.

Notes

[1] For a comprehensive analysis of the Code see Ghébali, V., *The OSCE Code of Conduct on Politico-Military Aspects of Security (1994). A Paragraph-by-Paragraph Commentary* (forthcoming). Already available is a shorter version entitled *The OSCE Code of Conduct on Politico-Military Aspects of Security (3 December 1994). A Paragraph-by-Paragraph Commentary on Sections VII and VIII (Democratic Control and use of Armed Forces).* DCAF Document no. 3 (Geneva Centre for the Democratic Control of Armed Forces, DCAF: Geneva, February 2003).

[2] For an analysis of the concept of 'security sector' see Chapter One.

[3] In view of the institutionalisation of the Conference on Security and Cooperation in Europe (CSCE) at the Budapest Summit on 5–6 December 1994 the decision was taken to rename it the Organisation for Security and Cooperation in Europe (OSCE). This took effect on 1 January 1995. Unless otherwise indicated in the text, developments in the CSCE in the early 1990s will be treated as part of the evolution of the OSCE.

[4] *Copenhagen Document on the Human Dimension* (29 July 1990), § 5.6.

[5] *Moscow Document on the Human Dimension* (3 October. 1991), § 25.1 to 25.3. Those obligations reflected all of the provisions of a joint US-Hungarian proposal (CSCE/CHDM.43 of 26 September 1991), with the exception of a prescription explicitly forbidding the participating States 'to create or permit such forces, services or activities to function beyond the reach of executive'.

[6] Kobieracki, A., 'Negotiating the Code: A Polish View,' in G. de Nooy (ed.), *Cooperative Security, the OSCE and its Code of Conduct* (Kluwer Law International: The Hague, 1996), p. 19.

[7] Von Butler, P., 'Negotiating the Code: A German View', *Cooperative Security, the OSCE and its Code of Conduct*, op. cit., p.26.

[8] Hennig, O., 'The Code of Conduct on Politico-Military Aspects of Security', *OSCE Yearbook*, vol. 1–2 (1995–96), pp. 273–89.

[9] Dean, J., 'The OSCE Code of Conduct on Politico-Military Aspects of Security: A Good Idea, Imperfectly Executed, Weakly Followed-Up', *OSCE Yearbook*, vol. 1–2 (1995–96), pp. 291 and 295.

[10] In addition, the vague notion of '*forces*' appears in paragraph 33.

[11] In addition, paragraph 36 formally refers to 'internal security missions' performed by 'armed forces': one can reasonably assume that its provisions also concern, at least in exceptional circumstances, paramilitary forces.

[12] CSCE/FSC/SC.5/Rev.1 (18 November 1992), p. 4.

[13] The expression 'in accordance with international commitments' introduced, besides, an unhappy escaping qualification.

[14] CSCE/FSC/SC.21 (30 June 1993), p. 13. The grouping consisted of the European Union member States plus Canada, Iceland and Norway.

[15] The same paragraph also encourages any participating state which is 'unable to exercise its authority over such forces' to seek consultations in the framework of the OSCE in order to get possible help or advice on the matter.

[16] FSC.GAL/84/99/Rev.1 (19 July 1999).

[17] On the general issues raised by intelligence services see Born, H., *Democratic and Parliamentary Oversight of the Intelligence Services. Best practices and procedures*, DCAF Working Papers, no. 20, (2002).

[18] The Parliamentary Assembly adopted Recommendation 1402 on 'Control of internal security services in Council of Europe member States' on 26 April 1999. See also Order No 550 (1999), Doc. 7104 (13 June 1994) (motion for a resolution) and Doc. 8301 (23 March 1999) (Report by G. Frunda).

[19] Parliamentary Assembly of the Council of Europe: Doc. 8907 (14 December 2000) (Reply from the Committee of Ministers to Recommendation 1402).

[20] On the general issues raised by the police activities see Sheptycki, J., *Accountability Across the Policing Field. Towards a General Cartography of Accountability for Post-Modern Policing*, DCAF Working Papers, no. 35, (Geneva, 2002).

[21] The Parliamentary Assembly adopted Resolution 690 (and Recommendation 858) on the '*Declaration on the Police'* (8 May 1979). See also Doc. 4212 (15 January 1979) (Report by John Watkinson), Doc. 5523 (29 January 1986) (written question to the Committee of Ministers) and Doc. 5554 (21 April 1986) (Committee of Ministers' reply). At earlier stage, in 1970, the Parliamentary Assembly adopted Recommendation 601 concerning the application of the 4th Geneva Convention (1949) to police officials.

[22] Council of Europe's Parliamentary Assembly: Doc. 8923 (15 January 2001) (Draft text submitted to the opinion of the Parliamentary Assembly) and Doc. 8994 (9 March 2001) (Report by Kevin McNamara containing the Parliamentary Assembly's reply).

[23] Resolution 34/169 adopted by the United Nations General Assembly (17 December 1979).

[24] On the issue of border guards, see Hills, A., *Consolidating Democracy. Professionalism, Democratic Principles and Border Services*, DCAF Working Papers, no. 27, (2002) and Hills, A., *Border Control Services and Security Sector Reform*, DCAF Working Papers, no. 37, (2002).

[25] 'The provisions adopted in this Code of Conduct are politically binding. Accordingly, this Code is not eligible for registration under Article 102 of the Charter of the United Nations' (paragraph 39). Article 102, paragraph 1, of the Charter of the United Nations provides that 'Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and publish by it'.

[26] Kooijmans, P., 'The Code and International Law', in de Nooy, G., (ed.), *Cooperative Security, the OSCE and its Code of Conduct*, (Kluwer Law International: The Hague, 1996), p. 34 .

[27] Bothe, M., 'Legal and Non-Legal Norms – a Meaningful Distinction in international Relations ?', *Netherlands Yearbook of International Law*, vol. XI (1980), p. 87.

[28] Ibid., pp. 35 and 37.

[29] Huntington, S. P., *The Soldier and the State. The Theory and Politics of Civil-Military Relations* (Belknap Press of Harvard University Press: Cambridge and New York, 1957).

[30] Three years before the Code of Conduct's adoption, the OSCE participating States acknowledged, through the *Moscow Document on the Human Dimension* (3 October 1991), the relevance of subjecting their military forces, services and activities 'to the effective direction and control of the appropriate civil authorities' (paragraph 25.1).

[31] In its latest version (1999), the Vienna Document on CSBM commits the OSCE participating States to cooperate 'by reporting and clarifying hazardous incidents of a military nature within the zone of application for CSBMs in order to prevent possible misunderstandings and mitigate the effect on another participating State'. The government whose military forces is involved in an incident of that type must 'provide the information available to other participating States in an expeditious manner', being also understood that any participating state affected by such an incident may directly request clarification as appropriate (paragraphs 17 and 17.2). Paragraph 24 of the Code does not, however, make any reference to the Vienna Document.

[32] CSCE/FSC/SC.5/Rev.1 (18 November 1992), p. 3.

[33] FSC.DEL/212/99 (29 June 1999).

[34] CSCE/FSC/SC.21 (30 June 1993), p. 12.

[35] *Moscow Document on the Human Dimension*, (3 October 1991), paragraphs 17.1 and 17.2.

[36] It is to be mentioned that the *Moscow Document on the Human Dimension* (3 October 1991) prescribed to the OSCE participating States to ensure only 'executive control' (§ 25.2) and 'legislative supervision' over the use of military forces, services and activities (paragraph 25.3).

[37] Paragraph 22 of the Code does not make any whatsoever reference to the detailed commitments of the OSCE's Vienna regime on CSBM related to 'Defense Planning' (embodied in paragraphs 15 to 15.10 of the latest version of the 1999 Vienna Document). Besides, the Code also commits each OSCE participating to 'determine its military capabilities on the basis of national democratic procedures …' (paragraph 13). It also obligates each government to 'ensure that its defense policy and doctrine are consistent with international law related to the use of armed forces, including in armed conflict, and the relevant commitments of this Code' (paragraph 35).

[38] This subjective and rather limitative provision has also to be construed in light of paragraph 12 of the Code of Conduct under which each participating State must 'maintain only such military capabilities as are commensurate with individual or collective legitimate security needs, taking into account its obligations under international law'.

[39] Born, H., *Transparency in Defence Budgets and Budgeting*, (DCAF and Inter-Parliamentary Union: Geneva and Belgrade, 2003).

[40] CSCE/FSC/SC.5/Rev.1 (18 November 1992), p. 3.

[41] The first Seminar on Military Doctrines took place prior to the dissolution of the USSR (Vienna, 16 January–5 February 1990). It produced no final text, but its proceedings inspired two elements which were embodied in the Vienna Document 1990 on CSBM: the annual exchange of information on military budgets and the annual implementation assessment meetings. The second Seminar was held in 1991 (no summary of proceedings) and the third in 1998 (FSC.MD.GAL/3/98 (9 February 1998)) – both in Vienna. All speeches and contributions to the 1990 and 1991 Seminars have been published by the Vienna *Institut für Sicherheitspolitik und der Landesverteidigungsakademie* in March 1990. Under paragraph 15.7 of the *Vienna Document 1999 on CSBM*, the OSCE participating States are now encouraged to hold 'high-level military doctrines seminars similar to those already held'. On that basis, a new Seminar took place, in Vienna, from 11 to 13 June 2001 (FSC.GAL/78/01 (6 July 2001)).

[42] Protocol I is related to the protection of victims of international (inter-state) armed conflicts and Protocol II concerns the protection of victims on non-international armed conflicts.

[43] Also known as the 'Inhumane Weapons Convention', this arms control instrument fills a gap of the Additional Protocols which did not restrict or forbid the use of any specific weapon. It is supplemented with additional texts on non-detectable fragments Protocol I, 1980), prohibitions or restrictions on the use of mines, booby-traps and other devices (Protocol II, 1980, amended in 1996), prohibitions or restrictions on the use of incendiary weapons (Protocol III) and on blinding laser weapons (Protocol IV, 1995).

[44] The obligation to disseminate international humanitarian law at domestic level is included in article 47 of the 1st Convention, article 48 of the 2nd Convention, article 127 of the 3rd Convention and article 144 of the 4th Convention – as well as in article 83 of Additional Protocol I and article 19 of Additional Protocol II. Annexed to the Protocols, Resolution 21 suggests a general programme of dissemination to be undertaken with the cooperation of the International Committee of the Red Cross.

[45] Articles 49–51 of the 1st Geneva Convention and articles 50–53 of the 2nd Geneva Convention. Under Additional Protocol I, commanders are required to prevent breaches from being committed in making their subordinates aware of their international humanitarian obligations, to suppress breaches when they have been committed trough disciplinary or penal action and, in such a case, to report breaches to the competent national authorities (article 87).

[46] '… military personnel are obliged to follow lawful orders only; acts contrary to national and international law, rules of war, as well as criminal or delinquent acts cannot lawfully be ordered, and military personnel cannot be obliged to obey orders of this kind; the responsibility of subordinates does not exempt superiors from any of their responsibilities' (paragraph (ii) of the Coordinator's Perception of 3 June 1994, DOC.337 of (8 June 1994)).

[47] The expression 'appropriate […] administrative procedures' takes into account, here again, the case of those participating states, such as the United Kingdom, where exist administrative rather than formal legal procedures.

[48] *Copenhagen Document on the Human Dimension* (29 July 1990): paragraph 18.4. The United Nations Commission on Human Rights recognised the right to conscientious objection in its Resolution 1989/59 (8 March 1989). The Council of Europe did the same through the Committee of Ministers' Recommendation No R (87) 8, as well as the Parliamentary Assembly's Order 132 (1997) and Recommendation 1518 (2001). The right to conscientious is also enshrined in paragraph 2 of article 10 of the European Union's Charter on Fundamental Rights (2000).

[49] CSCE/FSC/SC.21 (30 June 1993), p. 12.

[50] Under paragraph 27, each of the OSCE participating states pledged to ensure that the recruitment or call-up of personnel for service in its military, paramilitary and security forces was 'consistent with its obligations and commitments in respect of human rights and fundamental freedoms'. The expression 'consistent with …' allows those participating states which do not recognise the right to conscientious objection to military service to proceed with regular enlistments and call-ups.

[51] On the *dedovshina* practice see Kiss, I., 'Rights of Conscripts in Peacetime: Obstacles to and Opportunities for Providing Judicial and Non-Judicial Solutions in East European and Central Asian Countries', Vankovska, B., (ed.), *Legal Framing of the Democratic Control of*

Armed forces and the Security Sector. Norms and Reality/ies (DCAF/Belgrade Centre for Civil-Military Relations: Beograd, 2001), pp. 45 & ff.

[52] Resolution 1166 (1998) on human rights of conscripts was adopted on 22 September 1998. In certain countries, some armed forces personnel even still have to seek permission from their superiors before marrying. See Parliamentary Assembly of the Council of Europe: paragraph 5 of Doc. 9532 (2 September 2002) (Opinion submitted by Francisco Arnau).

[53] Resolution 1572 on the right to association for members of the professional staff of the armed forces was adopted on 3 September 2002. This text actually replaced Resolution 903 (1998) on the right to association for members of the professional staff of the armed forces, adopted on 30 June 1998 (see also Doc. 5875 (12 April 1988): Report submitted by G. Apenes). In 2001, the Parliamentary Assembly noted that, despite Resolution 903 (1988), still less than half of the Organisation's membership did not recognise the right to association for members of the professional staff of their armed forces: Doc. 9080 of 4 May 2001 (Motion to the Committee of Ministers for a Recommendation on the Matter).

[54] Paragraph 1 of the second part of Doc. 9518 (15 July 2002) (Report submitted by A. van Ardenne-van der Hoeven).

[55] Ibid., paragraphs 19 to 23.

[56] The Austro-Hungarian proposal considered 'armed forces' as including all five categories enumerated in paragraph 20 – namely military forces, paramilitary forces, internal security forces, intelligence services and the police (CSCE/FSC/SC.22 (15 September 1993), p. 18). The 'European Union plus' proposal limited the same concept to the first three categories, while adding irregular forces (CSCE/FSC/SC.21 (30 June 1993), pp. 13–14). From a more sophisticated perspective, the Hungarian proposal suggested that if civilian authorities were unable to restore democratic order by political means, they could make use in the first place of the police and internal security forces and then, if the latter fail, turn to 'military forces' specially trained for that purpose – in last resort and only for the protection of the civilian population and the restoration of democratic legality (CSCE/FSC/SC.25 (23 February 1994), paragraphs 7, 8 and second sentence of paragraph 6.3). As no consensus could be achieved on the issue, only the general broad expression 'armed forces' was retained.

[57] So far, the OSCE participating states have not been able to agree, as suggested during the 2nd Follow-up Conference on the Code of Conduct (1999), on the idea of revising the 1998 Questionnaire in order to introduce a differentiation between 'armed forces' and 'internal security forces' (FSC.GAL/84/99/Rev.1 (19 July 1999)).

[58] From that premise, the *Copenhagen Document on the Human Dimension* (29 July 1990) identified a large number of basic elements (paragraphs 5.1 to 5.20) – among which control of and accountability to military forces and the police by the civil authorities (paragraph 5.6). Subsequent OSCE texts reaffirmed, more or less, parts of that nomenclature. A new element, anti-corruption, was introduced in the 1999 Istanbul Charter for European Security (paragraph 33) and the 1999 *Istanbul Summit Declaration* (paragraph 37).

[59] First sentence of paragraph 19 of DOC. 551 (22 July 1994) (Coordinator's 4th revised version of the Code of Conduct) and paragraph 29.2 of the unnumbered Coordinator's Perception and Suggestions (10 November 1994).

[60] Second sentence of paragraph 19 of DOC. 551 (22 July 1994) (Coordinator's 4th revised version of the Code of Conduct) and paragraph 26.4 of the Coordinator Perception of 11 November 1994 (unnumbered document). The issue of state of public emergency was

addressed in the 'European Union plus' proposal (CSCE/FSC/SC.21 (30 June 1993), p. 12), the Austro-Hungarian proposal (CSCE/FSC/SC.22 (15 September 1993), pp. 17–18) and the Hungarian proposal (CSCE/FSC/SC.25 (23 February 1994), paragraph 2.12).

[61] *Moscow Document on the Human Dimension* (3 October 1991) second sentence of paragraph 28.1.

[62] Ibid., paragraphs 28.2 and 28.3.

[63] Ibid., paragraphs 28.10. Subsequently, the Helsinki Decisions 1992 specified that the ODIHR will act as clearing-house for the information related to declaration and lifting of a state of public emergency (first 'tick' of chapter VI's paragraph 5 b). Until 2001, the commitment contained in paragraph 28.10 of the Moscow Document on the Human Dimension was hardly complied with (see Ghébali, V., 'The Issue of the State of Emergency in the Context of the OSCE', in Prémont, D., (ed.), *Non-Derogable Rights and States of Emergency* (Etablissement Emile Bruylant: Brussels, 1996), pp. 317–30). In the aftermath of the 11 September terrorist attacks against the United States, several governments of the OSCE informed the ODIHR about the measures taken in the framework of the state of public emergency (ODIHR.GAL/3/02 (31 January 2002), PC.DEL/49/02 of same date and ODIHR.GAL/8/02 (5 March 2002)).

[64] Through the *Moscow Document on the Human Dimension* (3 October 1991), the OSCE participating states also agreed that, in the framework of a state of public emergency, 'if recourse to force cannot be avoided, its use must be reasonable and limited as far as possible' (last sentence of paragraph 28.1).

[65] The criterion of commensurability also appears in paragraph 12 of the Code of Conduct under which each OSCE participating State is committed to 'maintain only such military capabilities as are commensurate with individual or collective legitimate security needs, taking into account its obligations under international law'.

[66] CSCE/FSC/SC.25 (23 February 1994), paragraph 6.3 and CSCE/FSC/SC.21 (30 June 1993), p. 14.

[67] Paragraph 24.2 of DOC. 551 (22 July 1994) (Coordinator's 4th revised version of the Code of Conduct).

[68] The first Chechnya war started on 11 December 1994, eight days after the adoption of the Code of Conduct and three weeks before its coming into effect. On 2 February 1995, the Permanent Council adopted (with Moscow's full agreement) a decision which, without directly referring to the Code of Conduct, expressed 'deep concern over the disproportionate use of force by the Russian armed forces' in Chechnya (PC.DEC/10 (2 February 1995)). Time and again, the European Union called on Russia to fulfil its obligations under the Code of Conduct (see, for instance, FSC.AIAM/10/00 (28 February 2000)). On the issue of democratisation of Russian armed forces, see Fedorov, Y., *Democratic Transformation of the Security Sector in Russia: A Sad Saga of Failure*, DCAF Working Paper, no. 98, (2002), p. 20.

[69] Paragraph 29.2 of the unnumbered document 'Coordinator's Perception and Suggestions' of 10 November 1994.

[70] This idea was included in the 'European Union plus' draft proposal (CSCE/FSC/SC.21 (30 June 1993), p. 14) and reflected in the Hungarian draft proposal (CSCE/FSC/SC.25 (23 February 1994), paragraphs 7 and 8).

[71] Raic, D., 'The Code, Humanitarian Law, and Human Rights', in de Nooy, G. (ed.), *Cooperative Security, the OSCE and its Code of Conduct* (Kluwer Law International: The Hague, 1996), pp. 51.

[72] Ibid., p. 53.

[73] Similarly to paragraph 36, paragraph 37 formally concerns '*armed forces*' but without explicitly referring to 'internal security missions'; however, the latter have evidently to be subsumed.

[74] However, paragraph 37 deliberately avoids to refer to the concept of 'national minority' which was included in the official draft proposals tabled by Poland, the 'European Union plus' grouping, Hungary and the Austro-Hungarian tandem. In their joint draft proposal, Austria and Hungary also suggested a provision considering that deprivation of national minorities of the free exercise of their rights would pose 'a special threat to security within and between States and thus to the stability of the whole CSCE area' (CSCE/FSC/SC.22 (15 September 1993), p. 15).

[75] CSCE/FSC/SC.5/Rev.1 (18 November 1992), p. 5 (Polish proposal), CSCE/FSC/SC.21 (30 June 1993), p. 15 ('European Union plus' proposal), CSCE/FSC/SC.22 (15 September 1993), p. 18 (Austro-Hungarian proposal) and CSCE/FSC/SC.25 (23 February 1994), paragraph 6.5 (Hungarian proposal). The 'European Union plus' proposal also suggested a commitment concerning the respect of the peaceful evolution of States: 'The participating states will respect and encourage peaceful evolution in the constitutions of all participating States in accordance with international law, the principles laid down in the Code and the democratic wishes of the people' (CSCE/FSC/SC.21 (30 June 1993), p. 5).

[76] Polish proposal: 'Accordingly, the participating states will refrain from undertaking any use of force or acts of coercion contrary to the principle of self-determination of peoples, when pursued peacefully. The use of force to deprive peoples of their national identity constitutes a violation of their inherent rights' (CSCE/FSC/SC.5/Rev.1 (18 November 1992), p. 5).

[77] Proposals tabled by Austria, Hungary and Poland for stringent monitoring mechanisms (CSCE/FSC/SC.17 (5 May 1993)) were rejected at the end of the drafting process.

[78] REF.FSC/127/96 (14 March 1996) p. 20, REF.SEC/218/96 (24 April 1996) p. 6, REF.FSC/128/97 (14 March 1997) p. 18, REF.SEC/199/97 (27 March 1997) p. 5, AIAM/49/98 (11 March 1998) pp. 20-21, AIAM/50/98 (26 March 1998) p. 5, AIAM/41/99 (11 March 1999) pp. 18-19, AIAM/15/00 (28 February 2000) p. 5, AIAM/46/00 (9 March 2000) p. 18, AIAM/11/01 (26 February 2001) p. 2, AIAM/40/01 (7 March 2001) pp. 14–15, and AIAM/41/01/Rev.1 (11 April 2001) p. 5.

[79] FSC.DEC/4/98 (8 July 1998). The other rubrics (Question nos 1, 3 and 10) concern terrorism, stationing of foreign troops and voluntary additional information.

[80] FSC.DEC/7/02 (5 June 2002).

[81] FSC.GAL/102/02 (6 September 2002).

[82] FSC.DEC/16/02 (27 November 2002).

[83] 'Consolidated Summary' of the 1997 Follow-up Conference: FSC.GAL/15/97 (30 September 1997). Survey of suggestions tabled at the meeting: FSC.GAL/15/97 (14 October 1997).

[84] Respective 'Consolidated Summary' of the two Follow-up Conferences: FSC.GAL/82/99 (9 July 1999) and FSC.GAL/122/02 (8 October 2002). Survey of suggestions tabled at the two meetings: FSC.GAL/84/99/Rev.1 (19 July 1999) and FSC.GAL/123/02 (8 October 2002).

[85] According to paragraph 14 of the Code, a participating state is authorised to station its armed forces on the territory of another participating state only 'in accordance with their freely negotiated agreement as well as in accordance with international law'. The Code was also invoked by Russia and Belarus, in 1999, for the purpose of de-legitimising NATO's military intervention in Kosovo.

[86] Dean, J., 'The OSCE Code of Conduct on Politico-Military Aspects of Security: A Good Idea, Imperfectly Executed, Weakly Followed-Up', *OSCE Yearbook*, vol. 1–2 (1995–96), p. 297.

[87] Hennig, O., 'The Code of Conduct on Politico-Military Aspects of Security', *OSCE Yearbook*, vol. 1–2 (1995–96), p. 284.

[88] FSC.VD/37/98 (21 October 1998) (Swedish non-paper).

[89] The relevant provisions are those paragraphs 5.12, 5.13 and 5.16 of the *Copenhagen Document on the Human Dimension* (29 July 1990), as wells as paragraph 19, 19.1, 19.2, 20 and 20.1 to 20.4 of *Moscow Document on the Human Dimension*, (3 October 1991).

[90] In 1981–82, some MPs raised the idea of a '*European Code of Professional Ethics for the Armed Forces';* however, the Parliamentary Assembly did not follow suit. Doc. 4719 (12 May 1981) (Motion for a Recommendation) and Doc. 4963 (28 September 1982) (Motion for an Order). On 29 September 1982, the Parliamentary Assembly adopted Order 411 (1982) in which in deplored the decision of its Bureau to take no action on the matter and instructed the legal Affairs Committee to consider the possibility of drafting a European Code of professional ethics for the armed forces. In 2003, some MPs proposed the elaboration, under legal treaty or Recommendation form, of an instrument establishing political rules, norms and practical orientations for the democratic control of the security sector of member States of the Council of Europe (Doc. 9712 (13 February 2003)).

Chapter 5

Security Sector Reform in South East Europe: a Study in Norms Transfer

Philipp H. Fluri and Eden Cole

Introduction

This chapter examines the question of whether the security sector norms European and Transatlantic organisations sought to extend across South East Europe in the post-Cold War era not only affected, as desired, a substantive change in culture, but also their utility in terms of the literature on norms transfer and the value may be attributed to the methods used to assist those countries' transformation. To achieve this end, the chapter discusses the 'norms' and 'norms transfer' literature. It proceeds to locate the utility of norms transfer within the context of the contemporary international system. The ideal and reality of security sector reform as a vehicle for 'norms transfer' is put in the context of the relevant norms and their effect on shaping behaviour. Views on whether security sector norms transfer to South East Europe has worked are then analysed.

The chapter argues that the pursuit of an invitation to join a Euro-Atlantic discourse on security sector governance and reform has by itself now become a norm; and that a successful norms transfer to South East Europe has occurred in the security field. During the post-Cold War era, international organisations including the Organisation for Security and Cooperation (OSCE), the North Atlantic Treaty Organisation (NATO), the European Union (EU) and EU-inspired and funded institutions such as the Stability Pact, variously sought to affect similar constructive changes in the area of security sector reform, principally in securing solid democratic control mechanisms over the state's coercive agencies. The OSCE pursued the aim for the sake of the pan-European security architecture; NATO did so as a means of facilitating NATO accession; the EU, similarly, as a means for enabling EU accession; and the Stability Pact for South Eastern Europe

sought, in its very conception, to affect region-wide policies that would ultimately satisfy all of the international organisations' objectives for the good of the region after the final acts of the Wars of Yugoslav Dissolution.

In this instance, new entrants to international organisations have to convert to the norms and values of their Western counterparts. For a political union, defence alliance, or a security organisation to be successful, member states do not only need to 'grow together' (which they inevitably will if there is a shared economic and/or security interest). If these organisations are to function successfully, an element of cultural 'conversion' to the shared values and norms level of the newly joining member states will necessarily come into play. Such arguments can be unpopular. They entail changes in patronage networks, bureaucracies and other heretofore established vested interests: changes which, even with good management, may produce confrontations. As such, the norms transfer process cannot be measured simply in terms of fulfilment of action plans though the action plan may be the most adequate means of specifying requirements and the conditions for implementation. The spirit and the letter differ.

From a normative perspective, the advocacy of norms in this chapter proceeds from an acceptance of the social constructivist agenda.[1] The contention that international relations are about widely shared ideas and theorisation about the role of norms and collective identities in world politics informs the discussion. Not only are identities and interests of actors socially constructed, but they must share the stage with a whole host of other ideational factors emanating from people of any society as cultural beings. Hence, the construction of social realities at the international level presupposes that shared ideas and values shape any given actors' beliefs and that their actions are thereby conditioned by those beliefs.[2] Norms transfer arises from the creation, dissemination and recognition of such behavioural ideas.

In terms of empirical data from which to draw conclusions, this chapter draws heavily on the results of a Stock-Taking and Self-Assessment project on security sector reform in South East Europe (SEE) undertaken during the last two and a half years. Though none of these research and documentation programmes sought to evaluate the success of the norms transfer to South East Europe, instead seeking to describe the assimilation processes from within, the findings document very clearly such successes, or the absence thereof. The findings allow a more sophisticated diagnosis of security problematics to shape the next phase of security sector reform strategies.

The outcome of the stock-taking exercises indicate that an security sector reform norms transfer process is underway in SEE. Norms have been internalised, and the nature of the debate about security sector reform issues indicates the ideas' dissemination beyond the narrow confines of academia and security specialists.

Norms Transfer in Contemporary Social Science

In this section, the twofold understanding of norms and norm transfer in a contemporary context, on which the chapter is based, is elaborated.

A norm can be defined as a standard of appropriate behaviour for actors with a given identity.[3] The diffusion of international norms into domestic practices has been conceived as a socialisation process defined as 'the induction of new members […] into the ways of behaviour that are preferred in a society'.[4] It may be contended that socialisation such as this presupposes the existence of an 'International Society' which has a set of specific collective understandings about the appropriate behaviour of its members i.e. norms, even if differentiated across political, economic, and legal regimes. To become recognised members of international society, states must accept and internalise these collective understandings.[5]

The norms transfer process itself can be characterised as a three-stage process over time. Following Finnemore and Sikkink:

- Stage 1 of 'norm emergence', norm entrepreneurs with organisational platforms, motivated by altruism, empathy, ideas and commitment, seek to use persuasion, the only dominant mechanism open to them at the inception of a norm as an idea, to further diffuse the norm.[6]

- Stage 2, the 'norm cascade', wherein the actors become states, international organisations and networks; motivated by legitimacy, reputation and esteem; and the dominant mechanisms are socialisation, institutionalisation and demonstration.

- Stage 3, the 'internalisation' of norms, wherein the actors are lawyers, professionals, and bureaucrats; the motive is conformity; and the dominant mechanisms are habit and institutionalisation.[7]

While a number of related conceptual issues still cause confusion and debate (principally distinguishing the applicability of norm(s) in individual or collective institutional contexts), this does not preclude a synthesis of the schools of thought. Nor does it preclude the utility of the norm debate when considering the epistemic exchange of ideas across borders, polities, social, communal and institutional boundaries. As Finnemore and Sikkink argued, 'used carefully […] norm language can help to steer scholars towards looking inside social institutions and considering the components of social institutions as well as the way these elements are renegotiated into new arrangements over time to create new patterns of politics'.[8]

In sum, international norms serve as a means of understanding the complex inter-relation and interaction of contemporary polities at all levels. The explanatory value of international norms in the context of international relations derives from their position at the apex of a series of norms throughout the international system itself. Norms at the state and international levels are essentially defined by each other

> 'in the modern world system 'constitutive' norms of sovereignty define what counts as statehood, while regulative norms that either constrain or enable specify how sovereign states ought to conduct themselves […] International norms influence behaviour by shaping state identities, by providing 'inference warrants' from which governments officials can draw conclusions about whether a class of actions is required, forbidden, or allowed.'[9]

Such interlinking blurs state boundaries as anticipated political, economic, judicial, regulatory and military behaviour becomes more predictable by virtue of deliberate (from willing partners) or induced (from partners outside a framework) forms of behaviour: at the same time, the establishment of norms proceeds from the commonality of interests across states which have ultimately led to the emergence of such norms. Such a contention presupposes a capacity for international norms to initiate action: they are thought of as sources of action in three ways '*constitutive* in the sense that they define what counts as a certain activity: they may be *constraining* in that they enjoin an actor from behaving in particular way, or they may be *enabling* by allowing specific actions'.[10]

Common forms of accepted practice enable the inter-relation of multiple actors, and a greater level of understanding manifested in greater speed of interaction at multiple levels transnationally. Norms delineate

boundaries, serve as signposts, routine many facets of transnational relations (especially in commerce and finance), and can perform a tripwire function.[11]

To expand: the norm standard determines, regulates or conditions the actual or anticipated interactive behaviour between a multitude of actors on a given issue or issues; and the conglomeration of a set of norms across inter-related fields leads to a broader set of norms shaping and making more predictable and transparent in an international context the behavioural characteristics of international organisations and governments operating within a given set of international frameworks.

The shaping of internal aspects of polities to facilitate interaction with their external antagonists adds to the conception of a variegated international society, variegated across security, legislative, commercial and social axes, constituting the international system rather than an atomised and solely security-focused set of units. Norms, in sum, provide a way of seeing, to paraphrase Raymond, that although the international system may lack a tangible central governing body to enjoin those with felt grievances from resorting to the 'self help' of coercive action in any given context, the more abstract forms of supposed anarchy within the international system should not be taken for an actual and all pervasive anomie of state or individual.[12]

Security Sector Reform as a Vehicle for Norms Transfer in South East Europe

In an environment of proliferated global governance, international norms in the security sector have substantive meaning – they can be used to affect and consolidate positive micro- and macro-societal change. But: why does security sector reform matter as a norm? how is it defined? and what elements of it benefit from the ideational suppositions of norms transfer and international society? In the next section the idea of security sector reform will be briefly discussed. Thereafter, the evolution of security sector reform norms pertinent to South East Europe will be located in terms of international norm establishment outlined earlier. Then the projects which sought to initiate and assess ongoing internalisation of such norms are assessed.

Security Sector Reform

The security sector is defined here as 'all state services and agencies that have the legitimate authority to use force, to order force or to threaten to use force' and including 'the military, police, paramilitary units (like military police), border guards services and intelligence services'.[13] Security sector reform is defined as the 'structured, planned and assisted effort to adapt domestic Security Sector Governance (SSG) to the international norms as spelled in membership action plans and other association and membership facilitating documents'.[14]

The evolution of security sector reform is discussed elsewhere in this book, as is the available literature about the concept. However, it is possible to state that the concept became more entrenched in the late post Cold War era. Furthermore, it was relevant to South East Europe because of the similar aims of international organisations in Western Europe: transferring security sector governance norms required substantial security sector reform.[15]

Relevant Security Sector Reform Norms to South East Europe

The concept of security sector reform in the context of NATO, EU and OSCE are well covered in this book (see Chapters Three and Four) and in another forthcoming publication.[16] Herein, the relevant norms are elaborated in brief for discussion purposes herein.

The centrality of democratic control of armed forces as critical security sector reform goal for transition countries was underscored in the articulation of NATO, EU and OSCE security sector reform norms. For NATO, participation in Partnership for Peace (PfP) programmes remains dependent on adherence to the shared values of the Alliance including 'the protection and promotion of fundamental freedoms and human rights and safeguarding of freedom, justice, and peace through democracy'.[17] The NATO Study on Enlargement specifically stated the interrelation of civilian politics and armed forces and the need to shape reforms in applicant states to Western norms and practices. Support of democratic reforms 'including civilian and democratic control over the military' contributed to 'enhanced stability and security for all countries in the Euro-Atlantic area'.[18]

The 'EU' security sector reform norm specified similar bases, with the elaboration of the 1993 'Copenhagen criteria' offering the prospect of EU membership to Central and Eastern European nations[19] with the 'stability of institutions guaranteeing democracy, rule of law, human rights and respect

for and protection of minorities'[20] being specified. The European Parliament's endorsement of the Copenhagen criteria in its 'Agenda 2000' resolution provided further guidelines for EU accession, stressing the need to establish: 'the legal accountability of police, military and secret services […] and acceptance of the principle of conscientious objection to military service'.[21]

The OSCE Code of Conduct on Politico-Military Aspects of Security[22] became the benchmark for democratic control of the security sector, representing the culmination of an emergent consensus on sources of security and objectives originally elaborated in the 1990 Charter of Paris.[23] The most critical elements of Section VII elaborated the conditions, not least transparency, for which the instruments of democratic oversight and governance have been developed.[24]

The presumption of democratic modes of government and representation in each document were underpinned by the admission of many South East Europe states to the Council of Europe during the 1990s, facilitating the transfer of norms of parliamentary democracy, indivisibility and universality of human rights, rule of law, and common cultural heritage enriched by diversity. All countries of the region are eligible for membership and involvement in the Council's collective effort to bring about 'democratic security', but each of them must demonstrate willingness to join and prove its capability to comply with membership requirements.[25] The binding of human rights and admission to collective security and politico-military alliances created a consistent yardstick for judging the successful internalisation of norms by countries.

The inter-related aims of security sector reform transfer articulated by these institutions was underscored by the formation of the Stability Pact for South Eastern Europe which underpinned the need for the diffusion of norms at a regional level while serving as a vehicle for engendering such transmission. As stipulated by the 10 June 1999 Cologne document, more than 40 partner countries and organisations undertook to support the region in their efforts to foster peace, democracy, respect for human rights and economic prosperity in order to achieve stability in the whole region.[26] By seeking to engender a sense of regional ownership by applying participative strategies: representatives of South East European countries were, for the first time, on an equal footing with those of international organisations and financial institutions in advising on the future of their region and in setting priorities concerning the content of all three working areas.[27] The Stability Pact's mandate was thus the first long-term and comprehensive strategy of

the international community to replace previous crisis-intervention instruments by a long-term comprehensive conflict prevention and peace- and prosperity-building instrument.

Furthermore, to accommodate Albania, Bosnia-Herzegovina, Croatia, the former Yugoslav Republic of Macedonia (henceforth: Macedonia) and Serbia & Montenegro[28] through a similar and related multilateral body, the EU set up a new generation of Stabilisation and Association Agreements – Croatia and Macedonia signing in 2001, negotiations with Albania starting in 2002 – with the intention to increase economic, political, social cooperation between EU and said countries through CARDS (Community Assistance for Reconstruction, Democratisation and Stabilisation).[29] The Stability Pact is thus complementary to NATO MAP and EU accession process and covers the South East European candidate countries, Western Balkans, and the Republic of Moldova.

Thus, the vehicles for security sector reform norm creation, diffusion and internalisation were built during the late 1990s at the regional level, a platform for the extension of politico-economic, collective security, and human rights norms being proffered by Western institutions.

Security Sector Reform Norm Transfer to South East Europe

The adoption of these norms in South East Europe during the post-Cold War period and their successful internalisation at the macro-level can be argued for; moreover, the emergence of security sector reform norms follows Finnemore and Sikkink's identification of norm influence as a three stage process.[30] The near contemporaneous emergence of OSCE and the then EU security sector reform/democratic control norm at the Copenhagen Council and in the Charter of Paris declaration reflect Stage 1 of 'norm emergence': norm entrepreneurs with organisational platforms, motivated by altruism, empathy, ideas, and commitment, seeking to use persuasion, the only dominant mechanism open to them at the inception of a norm as an idea, to diffuse the norm further.

Stage 2, the 'norm cascade' – wherein the actors become states, international organisations and networks, the motives being legitimacy, reputation and esteem, and the dominant mechanisms being socialisation, institutionalisation and demonstration – was variously reflected in the genesis and spread of PfP membership, NATO accession frameworks, the OSCE refinement of a politico-military norm and participation of transitional states in the networks, some on each platform.

Stage 3, the 'internalisation' of norms – wherein the actors are lawyers, professionals and bureaucrats, the motives being conformity, and the dominant mechanisms being habit and institutionalisation – all are reflected in the new NATO members, the imminent extension of the EU in 2004 and prospective extension in 2007, the role of the Stability Pact for South Eastern Europe, and the widespread acceptance of a democratic control norm throughout the OSCE. The interest in first and second generation security sector reform suggests the need for refinement of the security sector reform norm to build on the achievements so far.[31]

However, the *prima facie* inductive elements of these arguments can be substantiated by an examination of the projects which sought to promote the creation, cascade and internalisation of these norms, to which the study now turns.

Has Security Sector Reform Norms Transfer to South East Europe Occurred?

An invitation to reform the security sector has as its objective an improvement of the security institutions and security-providing services by means of changing the very culture of security. What is at stake is a shift from the culture of state security to a culture of cooperative security embedded in the Euro-Atlantic system.

This again implies not only a process of insightful adaptation to Euro-Atlantic security sector reform standards, norms and procedures. It also implies a process of unlearning of the past. security sector reform norms are manifested in five concepts.

First, accountability – the construction of transparent lines of responsibility for each individual regardless of their position in government – will need to replace the expectation of collective responsibility. Secondly, parliamentary and public democratic oversight of the security budgets and personnel will need to replace the expectation that state security comes before individual security, and that budgets should therefore be best kept secret, and security-providing services best kept out of reach of parliamentary and public control. Thirdly, civil-military relations with a strong accent on civilian political leadership structures within the Ministries of Defence and the successful integration of the general staff within these ministries will have to replace the expectation that the military form a state within the state. Fourthly, civil society organisations will develop

independent security sector governance competence and expertise and replace the para-state or para-party organisations destined to disseminate enthusiasm and friendship, or their opposite. And finally, collective cooperative security as provided by an alliance of sovereign states will replace the expectation of a rigid system of artificially homogenised and integrated states and their military, or Social-Darwinist battles of nation against nation. The concept of human security will replace the concept of security for one's nation.

To this end, between 2000 and 2003, various stocktaking exercises on the status of security sector reform were organised in cooperation with both governmental and non-governmental experts from South East Europe to assess the knowledge and transmission of security sector reform norms. The method to be used and developed as necessary was (and remains) national self-assessment.

The concept reflects the interaction between the previously described first and second stages of norm diffusion: norm entrepreneurs with organisational platforms may seek to use persuasion to diffuse the norms further. But to ensure that the second stage 'cascade' occurs wherein the actors are states, international organisations and networks, a gap must be filled by other 'organisational platforms' which seek to promote or, as it were, create a critical mass to ensure the norms cascade, and that the concepts are understood, mobilised and owned at a national level, so that they may be internalised thereafter.

The South East Europe Defence and Security Sector Governance and Reform Self Assessment Process (2000–03) was planned and implemented as an assisted and supervised self-assessment process in six South East European states (made possible by a mandate from the Swiss Ministry of Foreign Affairs on behalf of Stability Pact Table III): Albania, Bulgaria, Croatia, Macedonia, Moldova, Romania. The findings were made available to the NATO SEESTUDY Group in January 2003 and the Stability Pact at its annual meeting in Cavtat/Croatia in June 2003.[32]

The method of the programme was stocktaking and self-assessment of the security sector against Western security sector reform standards. The aim: to create a process in which nationals inside and outside the security sector felt a sense of *ownership* of reform, debate and analysis. The creation of well-informed and confident experts allowed for outside input to reform to go beyond institutions, the potential for acceleration being self-evident.

Policy-makers in the target countries assessed the stages of reform so far attained, prioritised the immediate requirements on the basis of taking

stock of their situation and, working with external experts, defined both the feasibility and implementation of consequent reform activities. From March to July 2002, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) convened workshops in every participating country to assess and constructively criticise each set of findings and make recommendations for further action. The participants included policy-makers, non-governmental experts and government representatives. In most cases, the defence and foreign ministers participated (in Macedonia, the President did so), senior policy-makers, and the military, ambassadors of Western states and international organisations, and non-governmental organisations and the media. The objective of the workshops was to identify clearly the present state of defence and security sector reform, success and lessons learned, and the areas where external expertise is required and how it can be best provided.

As a follow-up for the workshops, the special studies written by local non-governmental experts, with support from governmental civilian and military staff, concluded the programme. The aim was similar – to identify the local understanding of the ideas and effectiveness of the norms and procedures as manifested in eleven critical areas: Democratic Oversight and Control over Defence; the Parliament; Transparency and Accountability; Democratic Oversight and Control over Intelligence, Police and Border Guards; Civilians and the Military in Defence Planning; Good Governance in Security and Defence Reform; Reform of the Civil Service, Parliamentary Staff and the Military; Civil Society; Crisis Management; Peace-Keeping and Regional Security; and International Requirements and Influence.

The written assessments allowed the progress made on adapting, from the perspective of national actors, the security sector reform norms advocated by Western international organisations across each area relevant to the internalisation of such norms. After all, as argued at the beginning of this chapter, the perception of norms transfer by those who aspire to them is the best guide to their national and the international community as to whether the form or substance of such transfer has been adopted. While Volume III of the Stock-Taking exercise in SEE will deal with the implications of the findings and the recommendations for international actors, they are dealt with thematically below in order to locate the threefold process of security sector reform norms transfer as manifested in each instance.

Democratic Politics and Reforms

All six countries under self-scrutiny had addressed the task of downsizing and reforming the Armed Forces with enthusiasm and success. As might have been imagined, the reform and downsizing of the army created discontent. The demobilised officers had to face the difficulties of integrating themselves into civilian life at a time when all countries were going through painful economic transition. In Albania during the 1997 crisis, military officers demobilised during the reform process joined and played an important role in the rebellion that was sparked by the financial crisis caused by the collapse of pyramid schemes.[33] But in none of the countries assessed have armed or other security forces shown any praetorian tendencies, which is in line with their tradition,[34] and quite remarkable given the massive budget and personnel cuts that were being implemented.

In all countries under scrutiny, defence and security sector reform together with the introduction of democratic institutions have produced some convincing results – most of all in the defence ministries – but are far from having been accomplished.[35] The inclination of the military to intervene in politics is only one side of civil-military relations. The other side of the coin is the tendency of civilians to use the military, and it is in this field that problems have been seen. Thus institution-building in Albania was done in such a way as to allow the political forces in power to control the institutions by bringing in their own people and carrying out massive purges. The military institutions have not escaped from this approach.[36] Macedonia had no experience of independent statehood so even the limited practice and skills gained under communism were of some significance in 1991 and for quite some time thereafter.[37] However, in Moldova the transformation of civil-military relations has received much less attention than larger issues of democratisation, economic and social reform.[38] Romania belongs with Bulgaria to the group of most advanced states (in terms of Security Sector Reform)*;* like the latter it has been concerned with immediate regional security challenges in the Balkans and in South Eastern Europe: the 'NATO agenda' is a very important part, but only one part, of the 'security sector agenda'[39].

Thus, while security sector reform norms have cascaded in this segment, their full internalisation remains an ongoing process region-wide. On current lines, they can come closer to full internalisation as the passage of time allows institutions and awareness to develop further. Internalisation remains an ongoing process, but the bases are increasingly stable.

The Constitutional and Legal Framework

All six countries under scrutiny have succeeded in putting in place constitutional provisions and subsequent legal acts laying down explicitly or implicitly the legal framework that regulates civil-military relations and responsibilities in the security sector. In Albania it is important to note that although the opposition boycotted the referendum on the new constitution and has not voted on a number of laws related to the democratic control of the army and documents on defence strategy, this fact is not considered a 'lack of consensus between the political forces on civil-military relations'.[40]

In the Bulgarian Constitution of 1991 responsibility for security matters was distributed among the Parliament, President, Government, Judiciary, armed forces and citizens. There is no definition of the security sector as such. The communist-era character of the armed forces was seriously changed by subsequent laws on Defence and the Armed Forces (1995), on the Ministry of the Interior (1991), on the establishment of state companies to replace Transport troops, Construction troops and Telecommunications troops, as well as Decrees of the President and Government to establish a National Intelligence Service (1990), a National Protection Service (1992), a State Agency for Civil Protection (2001), registration in court of new defence companies separate from the ministries of defence and the interior (1990s), the privatisation of defence companies that were in the Ministry of the Economy (Industry), the restructuring of many commissions and committees on the military-industrial complex and mobilisation readiness, arms trade control and others.[41]

Provisions of the National Security Concept (NSC) to establish a System for National Security and to have laws on all different elements of this system (elements of the security sector) have not been fully implemented yet. In Croatia the Parliament enjoys a range of competences in the field of national security, which, as a concept, does not differ greatly from the perception of national defence. In accordance with article 80 of the Constitution, the Croatian Parliament decides on war and peace, which is the main component of defence, but also adopts the Strategy of National Security and the Strategy of Defence.

In Macedonia the constitutional arrangement of the separation of powers has not been clearly defined. Since 1991 Macedonia has been 'wavering between its constitutional concept of parliamentary democracy and strong elements of a presidential system'.[42] The new Law on Defence adopted during the crisis was expected to eliminate the ambiguities in the

relationship President-Government-Minister of Defence-General Staff. It did not help overcome the problems in practice and soon the respective legal provisions were disputed before the Constitutional Court. Over the years of Moldova's existence as an independent country a legal division of authority between the state institutions responsible for national security has been gradually established. Efforts to ensure 'transparency' and raise public awareness concerning national defence planning and military budget approval have been made.

Hence, the prerequisite security sector reform norms, a comprehensive legislative framework defining the relation of coercive state agencies with the government, executive, parliament and public has begun to cascade. An exception is Macedonia. However the mitigating circumstances and level of international involvement there are such that there is reason to believe a sustained international engagement on this problematic issue can generate the sufficient framework necessary as events continue to stabilise. Given the conflicts in region during the break-up of the Yugoslav Federation, the introduction, cascading and, most importantly, understanding of these issues are reasons for optimism that the norm will continue to be influential.

The Competencies of the President

All six countries have succeeded in addressing the temptation to create a strong presidency – but with inconclusive results for some. The new Albanian constitution has reduced the powers of the President, who no longer enjoys law-making authority, and has few appointment competencies. The main competencies of the Bulgarian president are his constitutional position as Supreme Commander-in-Chief of the Armed Forces and his Chairmanship of the Consultative Council of National. The main problem of the Croatian executive is still the non-transparent allocation of powers between the Office of the President and the government, i.e. the Prime Minister. The new Law on Defence promulgated in March 2002 enumerates the duties of the Head of State, based upon his constitutional role. This Law recognises the President of the Republic as the Commander-in-Chief but seems to give the President too many specific duties which should fall to the government, the Parliament, or be located within the system of defence itself.

In Macedonia talk about defence and military reforms intensified in the crisis period of 2001. The peacetime ambiguity over competencies between the executive powers (President-Government-Defence Ministry and

the Interior Ministry) and the disagreements that followed the formation of a government of National Unity upon the insistence of the international community, resulted in a disorganised command over the security forces. In Moldova there is a clear division of powers and responsibilities between different branches of central state powers. The President is assisted in his duties by the Supreme Council for Security, which functions as a consultative body with its activity regulated by presidential decree.

Thus the transparent separation and differentiation of powers between President and Parliament to create clear lines of responsibility and accountability over the security sector are increasingly well established. Macedonia's difficult transition being the most recent, the attempt to delineate responsibility suggests the norm is now being internalised region-wide; but further improvements can be made.

Republican Guards and Irregular Forces

Albania still keeps a Republican Guard. The President of Albania, on the proposal of the Prime Minister, appoints and dismisses the Commander of the Republican Guard. A number of contradictions are embodied in the organisation of the Republican Guard such as its dependence on the Ministry of Public Order while at the same time it is composed of conscript soldiers, which is a defining element of the armed forces. Thus the Republican Guard is a hybrid structure in terms of composition that to a certain extent contradicts the Constitution with respect to the chain of command for the armed forces on the one hand, and the police on the other.

Some of the six countries sport security organisations which are only partly under governmental control. During the 2001 conflict, special paramilitary units appeared in Macedonia. The military, the police and the Interior Ministry activated special units, boldly named 'Wolves', 'Tigers', 'Lions' and the like. They were supposedly to be engaged as special reaction forces, as the army had the 'Tigers'. The best known, if disreputable, unit was the 'Lions', activated in mid-2001 by Interior Minister Boskovski. While recent events have contained the units, their networks' gradual elimination remains to be decisively proven.

In this case, at least two anomalies challenge the security sector reform norm with varying degrees of latent threat: such hybrid forces allow for the executive to use force autonomously outside military or police frameworks. While the recent history of both countries may account for the units' continued presence, the absence of similar formations in the other

countries assessed suggests a greater diffusion of the norm in the countries assessed. The full internalisation of the norm regionally would require further efforts by internal and external actors.

Parliamentary Oversight, the Authority of the Parliament and the Defence (Security) Committee

All six countries – to varying degrees – recognise the important oversight role of the parliaments. The Albanian parliament, whose role has been enhanced in the new constitution, represents the main and most important institution concerning democratic control. The parliament is the key institution that performs not only democratic control functions but also aims at ensuring transparency and accountability. Ad hoc committees are created to examine specific and complex legislative acts as well as to prepare specific legislative proposals.

The Bulgarian Parliament has with the National Security Concept, Military Doctrine, Interior and Defence Ministry laws as well as ratification of agreements with NATO, with the main NATO countries and those on regional cooperation established a real environment for security sector reform. However, a National Security Law still needs to be formulated.

The Croatian Parliament is authorised to 'supervise the work of the Government of the Republic of Croatia and other holders of public authority responsible to the Croatian Parliament, in conformity with the Constitution and Law'.[43] This illustrates that the Croatian Parliament has significant authority in the field of national security. For Moldova's parliament the most important role in the field of national security and defence can be considered the establishment at the beginning of 1990s of the constitutional and legal framework, including civilian control of an armed forces created from scratch, which is still functioning up to now.

Herein are several datasets indicating the cascading and latterly internalisation of the democratic control of the security sector law. The establishment of democratic control frameworks can be improved, but the concepts have been made real in legislative frameworks.

Parliamentary Oversight of the Intelligence Service

All six countries acknowledge a parliamentary responsibility for the intelligence services, though legislation may be not even a matter of discussion yet. This is an important area where the security sector reform

norm has not been transparently internalised: the reticence on the issue suggests that the cascading of the norm has also not truly occurred.

The International Environment

All six country teams acknowledged and welcomed the agenda-setting role of the international community. Albania was among the first countries to join the North Atlantic Cooperation Council (NACC) in June 1992, and PfP in February 1994. These steps were important in bringing Albania closer to the Alliance. The PfP programme based on the defence Planning and Review Process (PARP) has contributed to the restructuring and of the Albanian military establishment and capabilities in conformity with NATO standards. Bulgaria has profited from British, German, French, Italian and Greek consultants in the Bulgarian Defence Ministry, the US Military Liaison Team (MLT), plus PfP coordinating and foreign military financing (FMF) coordinating officers, attached to the US embassy.

The Croatian team acknowledged that international assistance, including conditionality and even some kind of pressure, would facilitate the accomplishment of reforms in various sectors, including the security sector. Macedonia, as a result of a difficult post-Kosovo security situation, has hosted a number of international missions with different mandates for peace building and democracy promotion. They have all had an impact on security sector reform and security conditions in the country. Macedonia has not managed to build a consensus on national interests and national security strategy. International organisations were seen to 'arrive with different and often contradictory advice concerning bilateral, multilateral or international arrangements'.[44] In Moldova external influence and the existence of an outside 'agency of change' are seen as a realistic solution for an otherwise lagging reform process.

In Romania, Western assistance was essential in building democratic institutions, particularly a democratic civil-military pattern. But this cannot yet be the end of the process: a coherent programme of assistance to foster the institutions, to help civil society to grow and aid development of the mechanisms of civilian control must continue. Otherwise, the institutions will remain fragile and could fail due to political or economic failure. Among the numerous opportunities, the PfP is said to have been a good training school for making the Romanian Armed Forces (RAF) compatible with NATO forces. Bilateral military assistance programmes also played an important role in making the RAF more professional, in setting up a multi-

year defence planning system and reorienting the armed forces towards regional security requirements. However, the systematic approach and inclusion of intelligence, police forces and defence industry in the assistance programmes came rather late and many things still need to be done in this respect.

Thus international actors have assisted in providing expert skills and other assistance to enable the cascading and internalisation of security sector reform norms. Yet, their broad remit for security sector reform-related action is unfinished as elements of the grander issues of security sector reform beyond the security sector itself remain fragile in comparison to the relatively greater societal stability of the West. Systematic, long-term engagement is still needed to make the societal internalisation of the security sector reform norm irrevocable.

Transparency and Accountability

All six countries have managed to put in place accountability and transparency-building mechanisms. Development of a transparency culture in the Bulgarian security sector started with the public debate on the Military Doctrine, Defence Reform Plan 2004 and Membership Action Plan 2004, a White Paper on Defence and Annual Reports on National Security, Defence and Armed Forces, hosted on the websites of the defence and interior ministries. Involvement of non-governmental organisations (NGOs), the academic sector and business, as well as of foreign partners led to impressive results. In Croatia the constitutional and statutory framework for political accountability is in place but the substance available does not match the legal rights. In this arena, the norm has cascaded and has been internalised across the region. The wherewithal of creating and publicising the tenets and perception of politico-military strategic needs enables the dissemination of the posture and policies advocated for the security sector by the government across society. Electronic means have been exploited, increasing the transparency of security sector reform norm adoption to foreigners.

Peacekeeping, Crisis Management and Regional Security

All six countries have made efforts to create peacekeeping and crisis management capabilities. The Albanian Armed Forces have participated in the SFOR mission in Bosnia as part of the German-led contingent and deployed since 1996. Under an agreement between the Albanian and

German Defence Ministries, the latter provides logistical support for the Albanian contingent participating in the IFOR mission and afterwards in the SFOR mission. Concerning the participation of the Albanian armed forces outside South East Europe, this first occurred in 2002 when a special commando unit of 30 soldiers of the Albanian armed forces was dispatched to Afghanistan for six months to serve with the Turkish unit in the International Security Assistance Force (ISAF). The Albanian armed forces contributed to the establishment of the South East Europe Brigade (SEEBRIG) under the auspices of the South East Europe Defence Ministerial (SEDM) in 1999.

SEEBRIG was established in accordance with the Multinational Peace Force South East Europe (MPFSEE) Agreement, which was signed in Skopje on 26 September 1998. The participant states are Albania, Bulgaria, Greece, Italy, Macedonia, Romania and Turkey, while the US and Slovenia take part with observer status. Bulgaria's National Security Concept, Military Doctrine and many decisions of the Parliament and Government, stipulate security through cooperation and integration, which is expressed in regional cooperation in South East Europe (SEEDM, SEEGROUP, Stability Pact, 2+2 cooperation) and the Black Sea area (BLACKSEAFOR) as well as through the progress in NATO and EU integration. The active role of Bulgaria as a temporary member of the Security Council of the UN and upcoming chairmanship of the OSCE is an important dimension of this aspect of security sector reform. Currently Bulgaria participates in SFOR, KFOR, and ISAF with not only military units, but police contingents (KFOR) as well.

It can be argued that Romania does not have a coherent and integrated strategy and a national crisis management system that would take into consideration the characteristics, dimensions and complex consequences of such risks, which are mainly non-military, multidirectional and unpredictable. The Romanian Constitution recognises only a limited number of exceptional situations whose proclamation belongs strictly to the competence of the President. It follows that no other authority has the prerogative of declaring a state of crisis or of civil emergency. The experience gained in the Romanian participation in peace support operations is being put to good use in all military units, taking into consideration that so far more than 8,000 Romanian military personnel have participated in different theatres. This experience has permitted the adaptation of training programmes to the real operational conditions and to equip forces according to real needs.

As with the Baltic States, the internalisation of the security sector reform norm of contributing to collective security as a security provider, no matter the size of the contribution, has occurred across the region. While Macedonia is a *prima facie* exception as a result of its domestic situation, it acknowledges the principle of contributing to a regional contingent.

Capacity-Building and the Role of Education in the Security Sector

All six countries have stepped up their training and instruction efforts, especially in the military field, and have profited from offers made by the international community. Given the important role military and civilian, governmental and non-governmental expertise plays in security sector reform, all six country teams criticised the insufficiencies of their own training and instruction capacities (especially for civilians and non-governmental experts), and/or the ignorance of applicable methods.

Thus, while the norm may arguably have cascaded in so far as a region-wide series of experts acknowledged the deficiency of expertise and improvements to knowledge capacities, the local identification of the demand provides an opportunity for Western engagement to tailor appropriate solutions that may ensure systematic internalisation.

Society and the Military

In all six countries, efforts to overcome negative imagery of military and society interaction have been made and have led to some success. This does, however, not imply that the information and media policy in all countries has come to full fruition, nor that civilians and non-governmental experts participate massively in security sector reform.

The new Defence Strategy, approved recently by the Albanian Parliament, acknowledges for the first time in an official document the need for the participation of civil society and public opinion in the discussion and drafting of new defence and security policies: 'The role of public opinion, the media and civil society in drafting, discussing, and implementing the strategy on national defence and security policies, is necessary.'[45] In Bulgaria, a coalition of NGOs, media specialists and academics actively participate in the monitoring and even preparation of security sector reform. In Croatia there are encouraging signs but more from the part of media than from the part of civil society, especially NGOs, and not so much from the defence establishment which still labours under postwar traumata.

Thus the cascading of the norm of expert civilian knowledge and scrutiny of the security sector has proceeded unevenly. Some institutional resistance to such measures remains in place in the region. Yet the progress made, particularly in Albania, Bulgaria, and to a lesser degree in Croatia suggests that the internalisation process is underway.

The Media, Civil Society – and Business

The most advanced countries in security sector reform terms are also often the ones with the most competently engaged civil societies and media. The Bulgarian Defence Ministry has been very active in out-sourcing activities which belong in the defence economy sphere; a lot of experience has already been gained in NGO-Defence Ministry cooperation in the area of organising public discussion and debate on defence policy, defence reform and modernisation as well as the practical participation of NGOs in resettlement of demobilised soldiers and in information campaigns. The role of unions of retired military, veterans, alumni associations and youth organisations are very prominent.

Irrespective of the fact that there is a limited tradition of NGOs and civil society in general in Croatia, citizens' civil engagement for solving both individual and community problems has not been a common practice among the vast majority of citizens in Croatia. Most citizens still consider the government/state responsible for solving their problems, including in the military area, making no distinction between defence and security.

Civil society in Romania is relatively vibrant but still lacks resources. A section of the Romanian media has been privatised and is relatively independent. Even though Romania's constitution guarantees access to information, governmental officials can hamper direct contact with ministerial officials. Many state institutions were reported not to apply Law 544/2001 regarding free access to public information, even though the law was introduced in December 2001.

Thus, the norms have cascaded in the region and are being internalised but to differing degrees. The promotion of civil society and the media is another area where the norms have cascaded and have resulted in action but not the wholesale internalisation of the desired norm. Yet, the trajectories herein show positive efforts towards further construction of appropriate practices and networks, rather than being negative and un constructive or even deconstructive.

Conclusion

Faced with European states which had endured Communist rule based on the use of military and intelligence services as arbitrary instrument of social control, the capacity to change the security sector to accompany democratic aspirations and concomitant institution rebuilding was of great importance: not least as the acrimony resulting from 'police state' actions by such organisations had alienated the civilian population. Similarly, the transition process of old (pre-1991) and new (post-1991) states which had endured civil instability and state repression, often due to Cold War proxy wars and power politics, with the same end results of disillusion and social discontent, meant that the formation of a stable security sector was at a premium for the consolidation of democratic processes worldwide.

Furthermore, in the vacuum accompanying regime change, the degree of organisation and coercive means in state security agencies relative to other institutions made them an obvious ally or creator of criminal organisations against the residual regulatory capacity of the state. Given the capacity of transnational criminal networks to interact and market goods and services in a globalised era, such alliances could result in international isolation and civilian persecution within a polity either by design or by default.

Hence, the critical problematic became the modulation of civil-military and civil-security agency relations through the creation and consolidation of institutions which guaranteed the transparency and existence of necessary instruments for the normative management of the state's coercive means.

The programmes detailed in South East Europe vis-à-vis security sector reform indicate a practical reality both to the theoretical norms and the transfer process outlined and the hypothesised outcome of their three stage emergence. As stated in the section on 'Security Sector Reform Norms Transfer to South East Europe', the very act of NATO and imminent NATO and EU accession of several countries in Central and South Eastern Europe itself inductively suggests the articulated norms were transferred to the satisfaction of their creators; at the very least, in form if not substance, beyond the former boundary of the defunct Iron Curtain. As per the section considering 'Has Security Sector Reform Norms Transfer to South East Europe Occurred?', in South East Europe the process of promoting self-analysis of the critical elements of security sector reform norm transfer, with varying but similar results, has allowed the cascading and internalisation of

security sector reform norms. Degrees of internalisation vary across space and time as inter-related factors such as population, economic means, governmental traditions, education and societal structures are broached. It is critical that external agencies catalyse the gap between norm entrepreneurs' arts of persuasion and the norms cascade wherein the principle actors are states and international organisations through the mobilisation of (primarily methodological) strategies and appropriate instruments. The disconnect between ideal and reality, between spirit and letter, can be addressed in this way. Self-assessment served as such a method.

The very process of engagement and norm transfer between parties is of course mutually reinforcing in this context. Analysis and constructive criticism allows the formulation of strategies to internalise ever more substantively the full breadth of security sector reform norms across society: the very place where they are meant to matter. Furthermore, the conditionality of aid represents (and notably has represented) an expectation that a mutually accepted and valid norm can be implemented and integrated into a polity's decision-making and institutional structures, heralding the fullest possible interaction with international society. In this way security sector reform norm transfer it is a facet of the global governance agenda and realities.

Transparency in aims and means allow greater international organisation participation, an accelerant to change. The internalisation process is ongoing and ever-varying as formal accession to various institutions progresses, on the basis of NATO and EU accession so far, incrementally, the specific dynamic between international organisations' and a particular states' relations altering as time progresses. But the trajectories are set towards a substantive aspiration to security sector reform region-wide.

The discourse on security sector reform itself, even the very existence or entering into an international discourse on security sector reform, indicates that a security sector reform norm exists in an epistemic sense. The applicability of security sector reform as a conceptual norm is relatively recent, but derives its strength from its internal consistency with other norms such as civil society, transparency in political decision-making and accountability.

Authors who deplore the absence of a clear definition of security sector reform and clear norms for its implementation fail to acknowledge its nature. To embark on security sector reform is the norm, therefore, to join an open-ended yet structured discourse in cooperation with the very

organisations one intends to join. The distinction between 'first' and 'second' generation reform steps[46] is thus – though striking – ultimately misleading. It departs from the expectation of an unilinear development along given lines. In fact, the reference system ('good practice') is itself on the move, and is itself simultaneously an abstract statistical field.

If security sector reform is a transfer of norms, then, it is not to be mistaken for a rigid system of rules aimed at homogenising a nation's values in order to better integrate and control it. Rather than imposing strict, prefabricated standards, the international community seeks to suggest agenda items, or rather: the agenda, for reforms. Security sector reform as such is a norm then, to which individual states are invited to subscribe. How they are going to meet the requirements of the norm is largely left to themselves, as long as they stay within the statistical field of good practice. The decision to embark on security sector reform, in cooperation with the Euro-Atlantic community and with an objective to ultimately join at least some of its institutions and organisations, is itself the acceptance of a norm.

Apart from the long list of different objectives which all governments claim to have in the implementation of reforms, they also have another thing in common: the absence of a well-defined assessment and reporting process on the implementation of the security sector reform programmes. Scholars and practitioners addressing the issue of success and failure of reforms and adequacy of reform plans often therefore have to rely on their own observations, interviews with officials they may know, and vague feelings in the population on whether things went 'right' or 'wrong'.

The security sector is and will remain a politically sensitive area. This, however, is not to imply that only the organs directly dealing with the security sector and its reforms, the executive, ought to be involved in its oversight. In mature democracies there is not only a separation of powers in implementation and oversight functions, but the civil society itself takes enlightened interest in security sector oversight and reform matters, for the security sector is no longer a state within the state, providing for itself and those illegitimately in power, but serves the human security interests of each and every citizen who considers it its own. The security sector and those in charge of it therefore have an interest to provide transparency.

All authors participating in the South East Europe Defence and Security Sector Governance and Reform Self Assessment Process discussed in this chapter suggested that security sector reform is well under way in their home countries, though the final status of implementation remains on many accounts unclear. This may be explained by the scarcity of information

available, but also by the sheer size of the task and its complexity. It is in the nature of security that only in crises does the level of progress in security sector reform become fully revealed.

Notes

1 See Berger, P.L., and Luckmann, T., *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (Penguin: Harmondsworth, 1967). For the constructivist agenda in international relations theory see Wendt, A. E., 'Anarchy is What States Make of It: The Social Construction of Power Politics', *International Organization*, vol. 46, no. 2, (Spring 1992), pp. 391–425.

2 See Ruggie, J.G., 'What Makes the World Hang Together? Neo-utilitarianism and the Social Constructivist Challenge', *International Organization*, vol. 52, no. 4 (Autumn 1998).

3 Finnemore, M. and Sikkink, K., 'International Norm Dynamics and Political Change', *International Organization*, vol. 52, no. 4 (Autumn 1998), p. 891.

4 Risse, T., 'International Norms and Domestic Change: Arguing and Communicative Behavior in the Human Rights Area', *Politics and Society*, vol. 27, no. 4 (December 1999), p. 529.

5 Risse, 'International', p. 529.

6 Finnemore and Sikkink, 'International', p. 895.

7 Ibid.

8 Ibid., p. 891.

9 Raymond, G.A., 'Problems and Prospects in the Study of International Norms', *Mershon International Studies Review*, vol. 41 (1997), pp. 214.

10 Rawls, J., 'Two Concepts of Rules', *Philosophical Review*, no. 64 (January 1955), pp. 3-32 and Schweller, R.L., and Preiss, D., 'A Tale of Two Realisms: Expanding the Institutions Debate', *Mershon International Studies Review*, no. 41, p. 3. in Raymond 'Some Problems', p. 214. Emphasis in original.

11 Raymond, 'Problems', pp. 215–16.

12 Ibid., p. 206.

13 See 'Glossary' in Born, H., Fluri, P.H., and Lunn, S., (eds), 'Oversight and Guidance: The Relevance of Parliamentary Oversight for the Security Sector and its Reform: A Collection of Articles on Foundational Aspects of Parliamentary Oversight of the Security Sector', *DCAF Document*, no. 4, (Geneva Centre for the Democratic Control of Armed Forces, DCAF: Geneva, 2003, forthcoming).

14 'Glossary' in Born, Fluri and Lunn (eds), 'Oversight' (forthcoming).

15 For further information on security sector reform see also Born, H., Caparini, M., and Fluri, P. (eds), *Security Sector Reform and Democracy in Transitional Societies* (Nomos: Baden-Baden, 2002).

[16] Germann, W., and Edmunds, T., (eds), *Towards Security Sector Reform in Post Cold War Europe – A Framework for Assessment*, (NOMOS: Baden-Baden, forthcoming). See particularly Ghébali, V., 'The Normative Contribution of the OSCE to the Democratic Control of Armed Forces: The Added-Value of the OSCE Code of Conduct on Politico-Military Aspects of Security'.

[17] *Partnership for Peace Framework Document*, (10 January 1994). Available at:
 <http://www.nato.int/docu/basictxt/b940110b.htm>.

[18] Chapter 1, Purposes of Enlargement, *NATO Study on Enlargement*. September 1995. See <http://www.nato.int/docu/basictxt/enl-9502.htm>.

[19] Biason, L., 'A Collection of International Norms and Criteria: A Reference Tool' in Germann and Edmunds, *Towards*.

[20] Copenhagen European Council – 21–22 June 1993, 'Presidency Conclusions, Relations with the Countries of Central and Eastern Europe' available at:
 <http://www.europa.eu.int/enlargement/ec/cop_en.htm>. These conditions also figure in the Treaty of Amsterdam which enshrines the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law as a constitutional principle common to all Member States (new article 6(1)). The Intergovernmental Conference has amended Article O (new Article 49) so that membership was conditional upon respect of Art. 6(1). See Briefing No. 20 'Democracy and respect for human rights in the enlargement process of the European Union' available at:
<http://www.europarl.eu.int/enlargement/briefings/20a2_en.htm>

[21] Agenda 2000, § 9. In the resolution Agenda 2000, the European Parliament stated that 'all applicant countries which do at present meet the criterion of a stable democratic order, respect for human rights and the protection of minorities laid down at Copenhagen, have the right to open the reinforced accession and negotiating process at the same time'. Available at: <http://www.europarl.eu.int/>.

[22] *Code of Conduct of Politico-Military Aspects of Security in Budapest*, CSCE Summit, Budapest, (5-6 December 1994) § 20. Available at:
<http://www.osce.org/docs/english/1990-1999/summits/buda94e.htm>.

[23] *Charter of Paris: A New Era of Democracy, Peace and Unity*, CSCE Summit, (19–21 November 1990). Available at: <http://www.osce.org/docs/english/1990-1999/summits/paris90e.htm>.

[24] See, for example, Born, Fluri and Lunn (eds.), 'Oversight', (forthcoming).

[25] To complete the accession process – SiM and BiH are still in – Council (Parliamentary Assembly and Council of Ministers) must assess each candidate's qualifications 'on its own merits'.

[26] See <http://www.stabilitypact.org/stabilitypactcgi/catalog/cat_descr.cgi?prod_id=409>.

[27] *Stability Pact for South Eastern Europe*, 2003, p. 2.

[28] Romania and Bulgaria were admitted to full negotiations on membership at Helsinki 1999 summit.

[29] An amount of EUR 4.65 billion is allocated for period 2002–06 to support reforms.

[30] Finnemore and Sikkink, 'International', p. 895.

[31] Edmunds, T., 'Security Sector Reform: Concepts and Implementation', in Germann and Edmunds, see note above.

[32] Findings published in Fluri, P.H., and Trapans, J., (eds), *Defence and Security Sector Governance and Reform in South East Europe: A Self-Assessment Study Volume I; Albania, Bulgaria, Croatia*, (CCMR for DCAF: Belgrade/Geneva, 2003); Fluri, P., and Trapans, J., (eds), *Defence and Security Sector Governance and Reform in South East Europe: A Self-Assessment Study Volume II; FYR of Macedonia, Moldova, Romania* (CCMR for DCAF: Belgrade/Geneva, 2003); Donais, T., and Fluri, P., (eds), *Defence and Security Sector Governance and Reform in South East Europe. Volume III*, forthcoming. The study does not comment on Serbia and Montenegro where Security Sector Reform is nascent, or Bosnia and Herzegovina which was not part of the project.

[33] Bumçi, A., 'Security Sector Reform in Albania', in Trapans and Fluri*, Defence,* Vol. 1., pp. 23–43; see also Mustafaj, B., *Albanian Human Development Report 1998* (UNSECO 1998), pp. 78.

[34] As Bumçi argues vis-à-vis Albania, it is remarkable in that 'during the democratic experiment of the last decade the army has clearly not shown any praetorian tendencies, which is in line with its tradition. And this is not the case because of the proper establishment and functioning of democratic institutions. On the contrary, the Albanian democratic experiment has been far from successful. Albania has not yet passed the test of free and fair elections. The conduct of all the parliamentary elections, except those of 1992, has been challenged by the losing party and has been below democratically-established standards. Contested election results have been accompanied by institution-building which has lacked legitimacy and consensus and has been politicised. Due to the polarised political atmosphere and the ongoing political struggle and insufficient economic resources, the Albanian state could very well be characterised as a weak state. However despite all this, the military has not been a factor in Albanian politics. Nor has the military used the exploding situation in Kosova to demand greater support and a greater say in government.' In Bumçi, 'Security', p. 25.

[35] Shalamanov, V., 'Security Sector Reform in Bulgaria', in Fluri, P.H., and Shalamanov, V., *Does Security Sector Reform Work?*, (Sofia, 2003), pp. 173–91. There is a common perception in Croatia that the admission into the MAP is the confirmation of Croatia's maturity in fulfilling the criteria and standards of behaviour of the Euro-Atlantic structures – NATO and the EU, which are not only military but also civil. See Staničić, M., 'Security Sector Reform in Croatia', in Fluri and Trapans, *Defence*, vol. I, pp. 333–47.

[36] 'Thus after the coming to power of a left-wing coalition, 1,500 officers of different ranks were purged from the armed forces, among them around 400 officers who had received education and training in the West in 1992–96. We need to qualify the way the political forces have used the military by comparing it with the other two security institutions – the police and intelligence service. See Bumçi, 'Security', p. 25.

[37] Vankovska, B., 'Security Sector Reform in Macedonia', in Fluri and Trapans, *Defence*, Vol. II, pp. 13–35.

[38] Chirtoaca, N., 'Security Sector Reform in Moldova', in Fluri and Trapans, *Defence*, Vol. II., p. 165.

[39] Muresan, L., 'Security Sector Reform in Romania', p. 304.

[40] Bumçi, 'Security' in Fluri and Trapans, *Defence*, Vol. 1, p. 26.

[41] Shalamanov, V., 'Civil Military and Inter-Agency Cooperation in the Security Sector in Bulgaria', in Fluri and Shalamanov, *Does Security Sector Reform Work?*, p. 83. In the past,

the armed forces had covered all security/defence-related services up to the Central Committee of the BCP and its Politburo *in extenso*. See Shalamanov, ibid., pp. 83–4.

[42] Vankovska, V., 'Security', p. 32.

[43] Cvirtila, V., 'The Parliament and the Security Sector', in Trapans and Fluri, *Defence*, Vol. 1, p. 361.

[44] Vankovska, B., interview with members of the OSCE mission in Macedonia (December 2002), cited in Vankovska, 'Security', p. 31.

[45] As argued by Cili, H., 'Security and Defence – Two Unfamiliar Issues for Media and Civil Society', in Fluri and Trapans, *Defence*, vol. 1., p. 124.

[46] For a proffered distinction between and advocacy of 'first' and 'second' generation reforms see Edmunds, T., Forster, A., and Cottey, A., 'The Second Generation Problematic: Rethinking Democracy and Civil-Military Relations in Central and Eastern Europe', *Armed Forces and Society*, vol. 29, no. 1 (Fall 2002), pp. 31–56.

PART III

SECURITY SECTOR GOVERNANCE
IN A GLOBAL CONTEXT

Chapter 6

Civilian Control and Democratic Accountability of Nuclear Weapons[2]

Hans Born

Introduction

One might argue that the best form of control of nuclear weapons is their total elimination. After the end of the Cold War, it seemed that this optimal control situation was nigh. Many positive signs of progress towards global nuclear disarmament were witnessed. Indeed, the period between the end of the 1980s and the first half of the 1990s, could be regarded as a 'golden age of arms control' which started in 1987 with the INF Treaty banning ground-based theatre nuclear weapons in Europe.[1] In 1991, US President Bush and Soviet President Gorbachev decided to eliminate the shorter range tactical nuclear weapons. Furthermore, START I and II agreements were signed between Russia and the US in 1990 and 1993 respectively, resulting in major strategic nuclear weapon disarmament.[2] In 1994, Russia and the US de-targeted their nuclear weapons leading to US President Clinton's famous statement that 'for the first time since the dawn of the nuclear age, there is no single Russian missile pointed at America's children'.[3] Later on, in 1995, the Non-Proliferation Treaty (NPT) was extended indefinitely and only four countries now remain outside the NPT: Cuba (without a nuclear programme), India, Israel, Pakistan, and since January 2003, North Korea. Additionally, in the beginning of the 1990s, six states decided to get rid of their nuclear weapons or to stop their nuclear programme. Argentina and Brazil decided to end their nuclear programmes; Belarus, Kazakhstan and Ukraine's Soviet era nuclear weapons were withdrawn to Russia (as the USSR's legal successor); South Africa gave up its nuclear arsenal just before

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the regime change.[4] Last but not least, North Korea's nuclear programme was frozen from 1994 onwards (allegedly until 2002), when it signed the 'Agreed Framework' with the US.

In contrast to this process of de-emphasising nuclear weapons, a counter-trend has also taken place. In spite of substantive arms reductions, the five recognised nuclear states have maintained and modernised their nuclear weapon capabilities. Additionally, nuclear weapons capabilities have gained in importance in Asia, namely in the Middle East, South Asia and Northeast Asia. After their nuclear weapon tests in May 1998, India and Pakistan became nuclear states; Israel maintained its strategy of 'nuclear ambiguity'; and Iran and North Korea seemingly began to try to acquire nuclear weapon capabilities.[5] Furthermore, the Comprehensive Test Ban Treaty (CTBT), after opening for signature in 1996, has still not entered into force, and, most importantly, the US has so far refused to ratify the treaty. In May 2003, the US Congress authorised the underground testing of a new range of tactical nuclear weapons.[6] In contrast, the US and Russia signed an agreement in the same month, May 2003, to cut the strategic arsenals from current levels of between 6,000 to 7,000 warheads to between 1,700 and 2,200 over the next year.[7] This was the first major disarmament agreement for almost 10 years and one can only hope that it heralds a new period of further disarmament.

Oversight the state of current affairs, almost 15 years after the end of the Cold War, nuclear weapons continue to hold a prominent place in the security concerns of both nuclear weapon states and non-nuclear weapon states. This chapter does not focus on proliferation, assessing regional balances of nuclear power, nor on analysing the role of nuclear weapons in post Cold War foreign policy. Rather, it aims at opening the 'black box of decision-making' in each nuclear weapon state. The chapter focuses on the capacity of political authorities to exercise oversight over nuclear weapons. More precisely, the main question is what roles various domestic political actors can play in the control and oversight of nuclear weapon- related decisions and programmes in the countries under study. In the past, the debate on the issue of nuclear weapon control has been dominated by a narrow perspective on the command and control of nuclear forces.[8] This chapter (which is a starting point for a research project) aims at broadening the debate by exploring the whole spectrum of political control and oversight, going beyond the mere command and control of nuclear weapons by the head of the executive. The analysis includes the specific issues of civilian control and democratic accountability which are two cornerstones of

security sector governance (see Chapter One). Therefore, not only the executive and the military, but also parliament, the judiciary and civil society are taken into account.

Civilian control and democratic accountability of nuclear weapons is a scarcely researched domain, with only a few authors focusing on domestic political oversight structures. Most of these studies are on the case of US and focus on civilian control alone.[9] Some studies have a focus on emerging nuclear states.[10] Of particular note is the research of Robert Dahl, wherein he explores how democracy and the management of nuclear weapons can be combined, about which Dahl is rather sceptical.[11] Interestingly, some authors analyse domestic political stability and civilian oversight in relation to nuclear proliferation in emerging nuclear weapon states as well as how democratic control could be conducive to disarmament.[12]

For at least three reasons the issue of civilian control and democratic accountability control of nuclear weapons is relevant. Firstly, the need for political control is not only a point of concern in transitional or authoritarian states, but also in consolidated democracies like the US. Dahl claimed that decisions on nuclear weapon capabilities largely escaped the control of the democratic process.[13] Therefore, an initial reason can be found in the need for learning from best practices and procedures about how political authorities attempt to control their nuclear weapons across new and old nuclear weapon states. A second reason is that the issue of political control has maintained its relevance in the post-Cold War period, particularly so in the aftermath of 9/11, due firstly to the growing perceived need to restrict the proliferation of weapons of mass destruction to so-called rogue states and terrorist networks and secondly due to the apparently arbitrary, and unaccountable, lowering of the nuclear threshold to 'counter' such weapons at the expense of more credible, but detail and management intensive, conventional strategies. Thirdly, analysis of political control of nuclear weapons is relevant because of the relationship between the domestic political situation and nuclear weapons. For some, a democratic domestic situation, including parliamentary investigations, transfer registers, open debates about nuclear policies, provides transparency about a state's capabilities and intentions, which reduces the uncertainty regarding political intentions, development and use of nuclear capabilities.[14] Others think that a civilian-dominated government is less prone to pre-emptive strikes against emerging nuclear states than governments dominated by the military, while some are of the opinion that generals are mostly careful when starting a military campaign.[15]

In this chapter, the focus is on both recognised nuclear weapon states, being China, France, Russia, the UK and the US, as well as *de facto* nuclear weapon states as of July 2003, including India, Israel, and Pakistan, who are not members of the NPT.[16] Therefore, countries not included are those that have renounced their nuclear weapons, e.g. South Africa, Argentina and Ukraine as well as countries abstaining from acquisition (e.g. Germany, Sweden and Switzerland), or countries which allegedly are trying to acquire nuclear weapon capabilities, e.g. Iran and North Korea. One should bear in mind that researching nuclear weapon programmes is not an easy task, neither in well-established democracies nor in authoritarian states. The main reason is that academic research on nuclear weapon programmes is impeded by confidentiality measures which normally surround nuclear weapon programmes. And it is even harder to research countries which deny that they have a nuclear weapon capability at all (e.g. Israel).

The structure of the chapter is as follows. Primarily, by analysing the decision-making processes, the most important decisions as well as problems of control will be identified. Afterwards, the role of the various political actors in exercising oversight of nuclear weapons will be discussed. Special attention will be given to the democratic and civilian control of nuclear weapons. Finally, a preliminary overview will be given on the state of affairs of political control of nuclear weapons in selected nuclear weapon states.

Controlling Nuclear Weapons

Questions arise about the control problem itself. What type of decisions about nuclear weapons should particularly be controlled? Decisions about nuclear weapons can be analysed from two points of view relevant to the exercise of political control of nuclear weapon decision-making: firstly, the characteristics of the decisions; and, secondly, the phases of the nuclear weapon cycle. The aim of this section is to unpack the decision-making process of nuclear weapons from these two points of view.

Characteristics of Decision-Making

Decisions about nuclear weapons have some common characteristics, since they deal with issues of national security and may have enormous consequences. The common characteristics of decisions on nuclear weapons are: multi-faceted decision-making; peace-time versus war-time decisions;

decisions based on imperfect knowledge; dependence on moral, technical and political knowledge, and the embedding of such dependence in domestic and international contexts.

(1) Multi-faceted Decision-Making Decisions about nuclear weapons are multi-faceted as they are not a problem in terms of military strategy only, but also in terms of international relations, natural environment, energy, public health, safety and finance. These decisions are linked to different problems and consequences, and, therefore, require not only military knowledge or expert knowledge about fissile material, but also other types of experience and knowledge.

(2) Peace-Time versus War-Time Decision-Making A distinction has to be made between peace time decision-making and wartime or crises decision-making. Peace-time decision-making is focused on procedures, guidelines, doctrines and policies and occurs in a more relaxed timeframe. In crises or war-time, decision-making is time pressed and taken under high stress. States with a long standing experience of nuclear weapons have structured and made decision-making routine in terms of who is authorised to do what under special circumstances. The extent to which the procedures for using nuclear weapons, developed in peace-time, will be used in the reality of a crises or war, when confusion, uncertainties and emotions about the use of the ultimate weapon may lead to a less rational decision-making process, is an open question.

(3) Imperfect Knowledge This leads us to the next characteristic: decisions about nuclear strategy are based on imperfect knowledge, in particular about the intentions and capabilities of other nuclear weapons states.[17] Decisions on nuclear weapons are based on threat perceptions, alerts and estimations about how certain nuclear strategies will work out and affect the behaviour of the 'opponent'. Decisions on nuclear weapons are preceded by value judgements about the acceptable risks and costs of certain strategies.

(4) Moral, Technical and Political Knowledge Nuclear decisions require at least three types of knowledge or understanding: moral knowledge, technical knowledge and political knowledge.[18] Moral knowledge is concerned with questions related to the justification of using nuclear weapons. While moral knowledge focuses on the intended and unintended objectives of nuclear weapons, technical knowledge deals with the technical means to reach those objectives. Technical or instrumental knowledge concerns the accuracy, capabilities and reliability of nuclear forces. Political knowledge deals with the intentions of leaders of other

states and the risks they are prepared to take as well as knowledge about their own political objectives and knowledge about how various policy alternatives could contribute to certain policy objectives.[19]

(5)Embedded in Domestic and International Context Last but not least, major decisions about nuclear weapons are taken in the domestic and international context. Concerning the international context, a state's commitments to international treaties such as the NPT and CTBT are parameters for the intentions and capabilities of other states. As regard the domestic context, nuclear weapons' decision-making is based on the government's intentions and capabilities as laid down in official documents such as national security strategy, nuclear strategy and military doctrines. Additionally, the nuclear weapons cycle shows that decisions in each phase may depend on decisions taken in other phases.

Especially relevant for political control is the distinction between peacetime and wartime decision-making. There is no absolute certainty that guidelines and polices developed in peace time will be followed or that they will work in wartime. Additionally, nuclear weapons decision-making is so complex that it requires various types of knowledge, e.g. moral, technical and political knowledge. Therefore, it is virtually impossible that one type of expert, be it a nuclear specialist or military professional, can claim a monopoly of knowledge ('nuclear priesthood').[20] Moral knowledge concerning the justification of having nuclear capabilities and how they are used is more accessible to the laymen and general public than other specialist forms of nuclear weapon knowledge.

Phases of the Nuclear Weapon Life Cycle

The decisions about nuclear weapons take place in what can be called the 'nuclear weapon cycle'. This cycle includes the decisions in every phase of the birth, life and death of nuclear armament. The phases are portrayed in Table 6.1. This model of the nuclear weapon life cycle is constructed for analytical purposes. Neither are all these phases necessarily taken step by step, nor in this order.

Table 6.1   Nuclear weapon life cycle: a decision-making perspective[21]

Phases	Activities, considerations
1. Decision to have a nuclear weapon	Four possible reasons: - Threats to national security - Advancing parochial domestic and bureaucratic interests - State's symbol of modernity and identity - Nuclear leverage
2. Nuclear strategy	- No first use policy - Negative and positive security assurances - Nuclear threshold - International treaties
3. Procurement of nuclear weapons,	- Purchase - Illegal acquirement (e.g. theft) - Research, development, test, prototype - Production, stockpiling - Modernisation
4. Deployment and employment	- Providing personnel - Security procedures and systems - Command and control systems - Interpretation of intelligence and alert policy - Force protection - Selection and assignment of targets - Tests to check effectiveness and security

The initial decision The first important decision is to develop nuclear weapon capabilities. Sagan distinguishes three reasons why governments want to acquire nuclear weapon capability.[22] Firstly, concerned about its security, a state can decide to build nuclear weapons to increase national security against foreign threats, especially nuclear threats. From the perspective of an emerging nuclear weapon state, having a nuclear weapon capability can be used to deter existing nuclear weapon states from interfering in internal or regional affairs. Additionally, instead of getting its own nuclear capabilities, a state may seek to acquire a positive security assurance (PSA) from a nuclear weapon state. Alternately, a state may decide that its own and international security is best served by abstaining from nuclear weapons as proliferation leads to a more insecure world. A second reason for going nuclear may be found in the domestic context. Nuclear weapons may be used as political tools to advance parochial

domestic and bureaucratic interests.[23] A third reason is that nuclear weapons provide a powerful symbol of a state's modernity and identity. Norms and shared beliefs about the history and future of a state may motivate governments to pursue a nuclear weapon capacity. 'Nuclear weapon leverage' may be included as the fourth reason for acquiring nuclear weapons, in that it may be an important bargaining chip. A state can promise to stop its nuclear weapon programme, providing that it gets economic assistance or other forms of help, as North Korea currently attempts to achieve.[24]

Nuclear strategy The chosen nuclear strategy is an issue of military means to be related to political ends.[25] The nuclear strategy is an expression of the state's intentions and is restrained by its nuclear capabilities, its commitment to international treaties, and the interplay of the various domestic actors. Based on threat assessments, a nuclear strategy is derived from the national security strategy and is often connected to the capacities of conventional forces. Fortunately, since the nuclear strategies of the existing nuclear weapon states were never tested in practice, any analysis of nuclear strategy is in fact a study of the non-use of these weapons.[26] It would be beyond the context of this chapter to discuss all aspects of nuclear strategies, therefore the focus is on a brief summary of four decisions which are important for nuclear strategy and political control: adoption of a no-first use policy; negative (and positive) security assurances to other states; the importance of the 'nuclear threshold'; and states' commitment to international treaties.

Firstly, the no-first use policy and how to deal with the first use of nuclear weapons by other states or sub-national groups is of particular relevance at this moment. Some nuclear weapon states have explicitly denounced the first use of nuclear weapons (e.g. India and China), whereas other states keep the first use option open (e.g. Pakistan, Russia, US, and France). Secondly, the no-first use policy relates to the issue of positive and negative security assurances. A negative security assurance (NSA) given by a nuclear weapon state implies that it will not attack a non-nuclear weapon state. A positive security assurance (PSA) implies assistance of a nuclear weapon state in the event of attack or threat of attack with nuclear weapons.[27] Thirdly, the nuclear threshold is relevant for political control since it indicates 'the point at which restraints on nuclear employment are abandoned'.[28] A state has to decide whether nuclear weapons will be used if attacked with nuclear, bacterial, biological or conventional weapons. States which follow the policy of no-first use declare that they only use nuclear

weapons when directly threatened by a nuclear attack. Other states, like the US, have the policy that nuclear weapons can be used in the event of an attack by weapons of mass destruction.[29] The fourth element of nuclear strategy is the commitment to international treaties, for example the NPT and the CTBT. These types of treaties influence a chosen nuclear strategy as they limit the options available, such as the possibility to test nuclear weapons or the use of specific types of nuclear weapons.

Concerning these strategic decisions, doubts exist about the extent to which the implementation of strategy can be under firm control in times of escalation and crises. Based on debates during the Cold War on nuclear weapon strategy, Lawrence Freedman discusses two opposing views. [30] One view (as expressed by Hermann Kahn) is that governments can be in control of each decision on the escalation ladder, 'all the way to the final apocalyptic "spasm war"'. Therein, the issue for governments would be how to dominate each escalation level and how to put the responsibility to go to a higher level onto the shoulder of the 'opponent'. A contrasting view, e.g. that advocated by Thomas Schelling, doubts that the implementation of nuclear strategy in times of emergency can ever be fully under control, even by the highest political authorities because in the fog of war decisions are made under great stress and time pressure. They are based on incomplete information due to disrupted lines of communication, lack of time, and general confusion. These elements put limits on the possibility of being fully in control of decisions in times of emergency.

Another important element of nuclear strategy formulation is that, especially in Western democracies, mainly civilians are involved in its formulation rather than the military. This is because most issues concerned belong to the domain of international relations and the logic of high level political decision-making in times of emergency, instead of the employment of force along traditional lines. [31]

Acquiring and producing nuclear weapons Nuclear weapons are highly complex devices and are difficult to acquire.[32] This is especially so for emerging nuclear weapon states, since NPT member states try to limit the proliferation of materials and know-how necessary for building a nuclear explosive device and the means of delivery.[33] A state needs to acquire significant research and financial resources as well as production facilities to further their nuclear weapons programme. Nuclear weapons demand major management and technical teams in order to run programmes which will only pay-off in the long term. Therefore, only politically stable regimes are able to sustain the long duration of a complex nuclear weapons programme.

Unstable governments result in leaders who are preoccupied only with the problems of the present and who are most likely not able to generate sufficient continuity for a nuclear weapons programme. Therefore, a certain 'social-political equilibrium is necessary'.[34] Buying or stealing nuclear explosive devices and the means of delivery might reduce the acquisition problems involved, but cannot eliminate all the challenges related to procuring nuclear weapons. At this stage of the nuclear weapon cycle, the major decision is to develop a specific type of nuclear weapon, for example, hydrogen (thermonuclear) weapons, and tactical nuclear weapons or low yield nuclear weapons (so-called 'mini nukes'). Additional decisions of political importance include assigning the organisational responsibility for the research (e.g., laboratories under military or civilian responsibility) and deciding on testing of the nuclear weapon.

After research and testing, the government has to decide whether to take the nuclear weapon into production, which is a very complex and costly phase. The main political decisions relate to building production plants and stockpile facilities, setting targets for the amount of nuclear weapons, and deciding which agency will be responsible for producing and stockpiling nuclear weapons. For example, major questions are: is the same agency or ministry responsible for both activities? Is this agency also responsible for deployment and employment? For example, in the US, it is not the military but the National Nuclear Security Administration (NNSA), which is part of the Department of Energy, that is responsible for designing, building and maintaining nuclear weapons. The UK is an interesting case in point because the government decided during the 1990s to put the responsibility for manufacturing and maintaining nuclear weapons in the hands of a private company.[35]

Regarding the phase of acquiring and producing nuclear weapons, three issues are relevant for the civilian control. Firstly, in addition to adopting strategy documents, laws and executive orders, political authorities can use budget control for deciding which type of weapons should be researched and produced as well as which weapons should be taken out of production and stockpiled. Secondly, weapon procurement is not only about readiness, but also about safety. Safety means preventing unauthorised use as well as preventing handling accidents. To this extent, some countries have taken special measures such as storing the weapons unassembled or under the custody of a civilian agency, away from the military.[36] However, a trade-off between readiness and safety exists since non-assembled nuclear weapons are not ready for instant use. Another safety-related issue is

stockpiling small nuclear explosives such as tactical weapons or so-called 'suitcase nukes'. These categories of nuclear weapons are especially problematic from a political control perspective because they were produced in huge quantities during the Cold War, they are small as well as highly portable and easy to smuggle out of a facility and a country.[37] A third aspect of decision-making with regard to acquiring nuclear weapons is the protection of the natural environment, the health of employees involved and civilians living in the proximity of nuclear (testing and production) facilities. Public concerns about radioactive contamination exist in relation to nuclear accidents, radioactive waste from nuclear plants and testing facilities.[38]

Deployment and employment is the last phase considered in this analysis. This phase of the nuclear weapon cycle concerns personnel management, security procedures and systems, developing secure and survivable command and control systems, providing and maintaining security for the nuclear force (hardening of silos and depots, redundancy of systems, defence of the force, and adequate dispersion), selection and assignment of targets as well as modernisation of the nuclear weapons arsenal, procedures and doctrines.[39] The control issue of deployment and employment is not only about who pushes 'the button'. Rather, by ordering the use of nuclear weapons, a decision is transmitted through the chain of command, going through various political and military levels, checked by multiple security measures. Additionally, it is imaginable that, due to perceived security threats, political authorities can order the nuclear forces to go to a higher stage of readiness (nuclear alerting) in times of crisis, and only at the highest level of alert, nuclear weapons will be used.[40] Political leaders in the executive have to decide whether they want to exercise direct control over the possible use of nuclear weapons, or that they also want to have control over the (pre-)targeting of weapons, the specific nuclear options as well as control over the means of terminating a nuclear conflict. About each of these decisions, political leaders have to consider whether they want to exert direct control or to delegate the authority to lower (military) echelons.

Concerning deployment and employment, political leaders face the so-called 'always/never' dilemma.[41] On the one hand, political leaders would like to avoid accidental use and unauthorised use of nuclear weapons. Accidental use refers to accidents whereas unauthorised use refers both to people who have legal access to nuclear weapons (e.g., military personnel) but are not authorised to use them, as well as to their unauthorised use by third parties such as terrorist groups. Unauthorised use can be avoided by taking negative control measures, such as physical and electronic protection

of the command and control system as well as the stored nuclear weapons, the 'two-man' rule (at least two men are needed for any action), the codes and locks on nuclear weapons (so-called Permissive Action Links [PALs]), code-management, selection and monitoring of personnel involved, separating the warning system organisation from command system organisation, non-deployment of nuclear weapons (held in stockpile only), as well as storing nuclear warheads under the responsibility of a special agency separate from the army.[42] On the other hand, political leaders would like to rely on nuclear weapons at all times during crises and war. The reliance on nuclear weapons can be endangered by surprise attacks or more specifically decapitation attacks which disrupt command and control systems, the delivery systems or the weapons themselves. The assurance that nuclear weapons can be used at all times can be enhanced by various so-called positive control measures, such as redundant communication networks, protecting command and control communication against electromagnetic impulses, protection of launching platforms and positive control launch measures (e.g. bombers in the air, submarines on patrol) as well as, most important, pre-delegation of authority from the political level to the military level.

The always/never dilemma constitutes a trade-off since the positive and the negative control strategies are to some extent contradictory.[43] Excessive focus on negative control measures and risk-avoidance, contradicts positive control measures which aim at readiness of nuclear weapons. From a political control perspective, the type of command and control system in place is relevant. It is possible that political leaders lean more on negative control measures in times of peace and stability and more on positive control measures (higher level of readiness) during times of crises and war. This aspect, the position and role of political leaders in nuclear weapons states, is the issue of the next section.

Applying Civilian Control and Democratic Accountability to Nuclear Weapons Programmes

After identifying the main decisions and issues in the nuclear weapon cycle, this section focuses on the actors as the second part of opening the 'black box' of nuclear weapons' decision-making. Having security sector governance in mind (see Chapter One), including both civilian control and democratic accountability, a broad range of actors who might play a role in

governance of nuclear weapon states is taken into account: political executive (i.e. president, prime minister, minister of defence and senior civilian officials in government), military, parliament, judiciary, and civil society. Table 6.2 gives an overview of the possible roles of these actors in performing oversight of nuclear weapons states.

Table 6.2   Possible roles of political actors in each phase of the nuclear weapon cycle.

Objects of Control: Subjects of Control and Accountability:	Decision to have or not to have nuclear weapons	Strategy, doctrine, declatory statements	Procurement: research, production, stockpiling	Deployment and employment
Executive	Decision-making	Drafting and approval of new strategies	Deciding which agency is responsible for research, production and stockpile	Authorisation of use; deciding on command and control procedure
Military	Gives advise to executive	Co-drafting new strategies	Specifying needs; possibly stewardship over nuclear arsenal	Command and control
Parliament	Budget control to initiate or halt nuclear weapon programme; hearings to solicit independent opinion	Approving new strategy; ratifying international treaties	Control of procurement through budget control; hearings for soliciting independent advise	Approving laws as legal framework for command and control; declaration of war; budget control
Judiciary			Settling legal disputes between government, citizens and military/civilian personnel	Settling legal disputes between government, citizens and military/civili an personnel
Civil society	Pressure on government and political parties, lobbying	Independent research on strategy, lobbying	Independent research new nuclear weapons, lobbying	Pressure and independent research, lobbying

Executive

In controlling nuclear weapons, it is the head of state (president or prime minister) who ultimately decides upon the use of nuclear weapons. Previous analysis has shown that civilian control is not only about pushing 'the button', but also the civilian control of a wide range of decisions in the entire nuclear weapon cycle. Civilian executive leaders have to decide up to which level they would like to control nuclear weapons in each phase of the cycle.

Feaver distinguishes delegative and assertive civilian control as two main strategies for control.[44] The delegative style gives great autonomy to the military commanders to execute nuclear policy according to their professional views. The political authorities set out the broad political objectives and the military get the resources and autonomy to carry out the set policy. In return, the military keeps out of political decision-making. Assertive control would be exercised if the political authorities not only decide upon weapons use, but also decided about their storage, targeting, execution of their use, and the preferred strategic options therein.[45] This implies a centralisation of control at the highest body of political authority. Both strategies have their problematic features. The delegative control approach presumes a clear delineation of political and military responsibilities which is impossible because the use of nuclear weapons has consequences that go far beyond the battlefield. In contrast, assertive civilian control is problematic in case of a surprise or 'decapitation' attack, in which the command and control possibilities of the president or prime-minister are destroyed.

Military

The military is not the only executive agency, but one of the most important agencies responsible for implementing the nuclear strategy, especially in the deployment and employment phase. Military professionals enjoy a certain degree of autonomy which is necessary for performing their duty. This autonomy, or discretionary power is, on the one hand, enlarged due to delegated powers (in extreme cases pre-delegation to launch nuclear weapons), due to the complexity of the work (difficult for outsiders to understand) and due to secrecy laws which shield off a large part of their function from the public eye. On the other hand, the discretionary power of the military is limited by civilian control and because various activities of the nuclear weapon cycle are performed by non-military personnel, such as

nuclear scientists or civilian nuclear weapon strategists. Therefore, the nuclear weapon cycle is not exclusively a domain of the military, and important aspects of nuclear weapons states, notably strategy, research and production are often in the hands of civilians.

As mentioned in Chapter One, good governance assumes that the military operates professionally and within the borders set by law. However, various scholars have expressed their concern that professional military organisations – because of common biases, inflexible routines, and parochial interests – display patterns of organisational behaviour that are likely to lead to deterrence failures and deliberate or accidental failures, be it in established democracies or in transitional democracies.[46] Unwritten rules and 'work-arounds' in large and complex organisations such as the military may lead to less-than-desired organisational behaviour.[47] However, the commentators do not assert that the military is willingly disobeying the civilian authorities. Rather they emphasise that large complex professional organisations may have their own dynamics because they pursue their own agenda, seek to protect their autonomy and defend their interests. This is a relevant issue for civilian control when, in the light of the post-Cold War security environment, civilian authorities want to reform their nuclear arsenals. Sagan asserts that military organisations are unlikely to render an adequate nuclear deterrent, unless professionally managed through a strong civilian checks-and-balances control system.[48] As already mentioned, a proper check-and-balances system includes, among others, the 'two-men rule', PALs, and code management. Another element of the check-and-balances system is to make a distinction between *de jure* control, *de facto* control, and custody.[49] The military has *de facto* (or physical control) if they are in charge of a specific operation (the actual use of nuclear weapons), or if the nuclear weapons are physically stored by the military itself. The military loses physical control if nuclear weapons are stockpiled by another agency, for example, in the US until the mid 1950s, the Department of Energy was responsible for storing nuclear weapons which had, therefore, physical control of nuclear weapons. Regarding custody, the military may have physical control over nuclear weapons by stockpiling them, but does not have *de facto* control if the nuclear weapons are locked and someone else, e.g., political authorities posses the codes.

Parliament

The parliament fulfils various functions in relation to security policy in

general and nuclear weapons in particular. Parliament is (co-)lawmaker, exercises oversight and scrutiny, controls the budget, represents the people, and elects or sacks governments (especially in a parliamentary system).[50] The possibility for parliament to fulfil these functions varies between political systems. Generally speaking, a parliament has more influence in a parliamentary system and less influence in presidential systems and Westminster-type political systems.[51] Very little reference is made in the nuclear weapons literature to the role of parliament in nuclear weapon states.[52] Relevant parliamentary powers include the power to declare war, budget control, law-making and ratifying international treaties.[53]

The right of parliaments to declare war and to terminate war activities is codified in constitutions of most democratic states. As the use of nuclear weapons has devastating and far reaching consequences, it is difficult to imagine that nuclear weapons will be used outside a formal state of war, and therefore, without a parliamentary declaration of war. This might prohibit the executive or the military from launching a surprise pre-emptive attack against potential enemies, without consulting parliament in advance.[54] However, in most countries, it is not disputed that the executive has the power of responding to sudden attacks and that it is up to the executive to decide which weapon is appropriate to respond to attacks. A second parliamentary power which concerns the entire nuclear weapon cycle, is the power of the purse, that is, authorising the use of public funds for the procurement and deployment of nuclear weapons. Most decisions on nuclear weapons have major financial implications. For example, the US government spends 35 billion dollars each year on maintaining the nuclear arsenal alone, not including research, production or deployment.[55] Especially important is the power to authorise procurement of a new nuclear weapon system. By using this power, Parliament can block or approve research, production and stockpiling of specific types of nuclear weapons. Many parliaments are supported in performing budget control by independent budget offices that audit the government's financial accounts. A third power concerns the legislative function of parliament. Via the law-making power, parliament is in the capacity to structure the oversight of nuclear weapons, by pointing out the responsibilities of parliament, president/prime-minister, minister of defence, other ministers, military top leaders as well as independent audit offices. Additionally, via freedom of information laws, it can decide which relevant documents are accessible to the public and when. This is an important tool for post-accountability as exercised by journalists, academics and NGO representatives concerning nuclear weapons in the

recent past. A fourth way for parliaments to influence nuclear weapon policy is by ratifying international treaties on nuclear weapons, such as the CTBT or the NPT. By acceding to these and other treaties, parliaments limit the possibilities for governments to pursue certain nuclear options. Finally, in representing the people at large, parliaments have to balance different needs and demands. It has to scrutinise proposals of government concerning nuclear weapons not only under national security criteria but also its consequences for public finance, environment, health and international relations.

With a view of a due democratic process, it is important that parliament uses these powers in order to fulfil its constitutional function. Without parliament playing a meaningful role, the crucial decisions on nuclear weapons are left to a small circle of policy makers in the executive. However, effective oversight requires sufficient information and expertise in parliament. In this respect, a first obstacle is that nuclear weapons programmes are shielded by secrecy laws,[56] making it difficult or sometimes impossible for parliamentarians to exercise oversight. Acknowledging that national security concerns require a certain degree of confidentiality, parliament could decide to give parliamentary defence committees access to confidential information. A second obstacle for effective parliamentary oversight is that nuclear weapons constitute a complex field of security policy, including issues such as nuclear research, missile technology and strategy. In order to have access to independent expert opinion, some parliaments, like the UK parliament and the US Congress, organise hearings and invite experts to give their opinion on pending issues.[57] However, as already mentioned, not all knowledge on nuclear weapons concerns technical knowledge, but also moral and political knowledge. One doesn't need to be a nuclear scientist in order to grasp the moral dimension of many decisions on nuclear weapons, e.g. targeting, first use, or nuclear threshold.

Having powers, information and expertise are necessary but not sufficient elements for effective parliamentary oversight. A last element is the willingness to hold the executive to account. Due to party discipline or general public disinterest in security policy, parliaments may refrain from exercising oversight of the government's security policy.[58] For example, only in 1969, a quarter of a century after the US had started its nuclear weapon programme, in an unprecedented vote, the US Senate voted evenly about a new anti-ballistic missile system which the government wanted to deploy. Though the Senate adopted the proposal, it became clear that the

Senate's automatic support for new nuclear weapon systems could not be taken for granted anymore.[59]

Judiciary

With regard to nuclear weapons, the role of courts is to decide on legal matters concerning nuclear weapon states. The courts' role is dependent on the political and legal context of a specific country. Little information is available on this issue. Courts can play four types of roles. A first role involves legal disputes between citizens and the government concerning, for example, freedom of information law (citizens wanting to declassify documents), environmental or health problems caused by (neighbouring) nuclear plants and military bases with nuclear weapons. A second role lies in legal disputes between the government-as-employer and its (former) military or civilian employees previously involved in the nuclear weapon cycle who, for example, have suffered radiation effects after testing of nuclear weapons. Thirdly, courts may rule where people are suspected of illegal acts regarding nuclear weapons, for example, handing over secret documents or nuclear weapon material illegally to third parties. Finally, in some countries courts may adjudicate disputes between parliament and government or between (local – state) levels and ministries of government.

Civil Society

A strong civil society is an element of democratic security sector governance (see Chapter One). The question is to what extent members of civil society, be it citizens, academics, or advocacy NGOs are in the position to exert influence over nuclear weapon policy. As is the case with parliamentarians, members of civil society have very restricted access to information on nuclear weapons due to secrecy laws. This is especially difficult if governments of nuclear weapon states pursue a strategy of nuclear ambiguity, that is to deny that any nuclear weapon capability exists or to give little or no information about its intentions or nuclear arsenal. For example, traditionally the UK government is rather unwilling to release information on strategic matters and Israel denies altogether that it has a nuclear weapon capacity.[60] Secrecy measures as well as the complexity of nuclear weapons have led to serious doubts among scholars whether civil society can play a meaningful role at all. According to Dahl, citizens have 'abandoned' decision-making over nuclear weapons to a few specialists, a

process which he calls 'alienation of authority' because no public discussion takes place about the policy and future of nuclear weapons.[61]

Nevertheless, the voice of civil society, especially in democratic nuclear weapon states, has been heard on several occasions in recent history. Anti-nuclear protest organisations raised their voices at the end of the 1970s against the deployment of the neutron bomb (an enhanced radiation weapon), and during the early 1980s against NATO's decision to deploy cruise missiles and ballistic missiles in five European NATO states. The massive protests prompted an intellectual climate in which new think tanks and research institutes emerged, focusing on the risks and consequences of nuclear war. Eventually, these protests spilled over to the political mainstream since centre and left-wing political parties could not ignore their protests. Though the direct influence of these protests was rather low, the anti-nuclear movement indirectly illuminated various problems of nuclear weapons and improved East-West relations due to innovative arms control proposals mitigating such protest.[62]

Additionally, research institutes played a role in shaping thinking on nuclear strategy, especially in the US where think tanks like RAND and the Brookings Institution published various influential reports. Freedman points out that the role of independent research institutes is facilitated if the 'demarcation line' between government and academics is not strict, e.g. as in the US where academics can work for the government and vice versa.[63] Occasionally, concerned nuclear scientists pleaded to include the public in debates about the future of nuclear energy and weapons: these included Albert Einstein, who stated in 1946: 'To the village square we must carry the facts of atomic energy. From there must come America's voice.'

Dynamics and Relative Influence

The role of each domestic group of actors is neither static nor given at any one time for at least four reasons. Firstly, the relative influence of the executive and parliament is dependent on the political system. Regarding defence and security affairs, generally speaking, the executive is rather strong in presidential and Westminster type of political systems, whereas the parliament is rather strong in parliamentary political systems. Obviously, both parliament and civil society play a marginal role in authoritarian political systems or in systems in which political rights and civil liberties are suppressed. Secondly, in comparison, in times of crises, the executive, and especially the military, play an important role in deploying and eventually

using nuclear weapons. Thirdly, the influence of each actor may vary in each phase of the nuclear weapon cycle. Parliament may be influential in those phases in which decisions are taken with major financial consequences, for example in the acquisition phase. Civil society may play a role in those phases in which government makes declaratory statements. Finally, the issue of emerging nuclear weapon states plays a role. Feaver argues that emerging nuclear weapon states do not have all the necessary sophisticated control mechanisms due to the high costs and technical complexity.[64] According to Sagan, governments of emerging nuclear states are dominated by the military who would be more prone to conduct nuclear pre-emptive attacks than civilian leaders, because military leaders prefer to attack before the opponent becomes too strong.[65]

Political Control of Nuclear Weapons in Selected Countries

Table 6.3   Nuclear arsenals in recognised and *de facto* nuclear weapon states

Country	Number of Strategic Warheads[66]	Number of tactical Warheads	Total number warheads	First Nuclear Testing	Maximum Reach[67]
China	282	120	402	October 1964	13, 000 km
France	348	--	348	Feb 1960	6, 000 km
India	--	--	(~30-35)*	May 1998	2, 000 km
Israel	--	--	(~200)*	No evidence[68]	1, 500 km
Pakistan	--	--	(~24-48)*	May 1998	2, 000 km
Russia	4, 951	3, 380	8, 331	August 1949	11, 000 km
UK	185	--	185	October 1952	7, 400 km
US	6, 480	1, 120	7, 600	July,1945	9, 650 km

*   By the number of deployed warheads. The stockpiles of India, Pakistan and Israel are thought to be only partly deployed.

In this section a preliminary and concise overview is given of political control of nuclear weapons in five recognised nuclear weapon states, i.e., China, France, Russia, UK and US as well as three *de facto* nuclear weapon states, that is India, Israel and Pakistan. For each country, a short overview

of the nuclear capabilities, strategy and political control system is given. Since the research for the data in this chapter is based on preliminary research, to be followed by in-depth case studies for each country, the focus is on the most essential elements of political control, i.e. the role of the head of the executive in controlling nuclear weapons.

China

Following its first nuclear test in 1964, China began a slow but steady process of developing a fully-fledged nuclear weapon infrastructure as well as a strategic and tactical nuclear arsenal.[69] The Chinese leadership has never officially revealed details about the size or composition of their nuclear arsenal that contains approximately 400 nuclear warheads.[70] China stands in sharp contrast to the rest of the nuclear powers in the context of nuclear doctrine. For almost three decades after it detonated its first nuclear weapon there was no coherent, public declared nuclear doctrine.[71] Presently, China's strategy of limited nuclear deterrence is aimed at precluding nuclear blackmail by any of the other nuclear weapon states.[72] Already in 1964, it announced publicly that it adheres to a no-first use policy. However, according to the Chinese Delegate to the United Nations Disarmament Conference, the no-first use pledge does not apply to Taiwan, since Taiwan is considered as Chinese territory.[73] Little is known about China's nuclear command and control system. It is believed that the authority to launch China's nuclear forces resides with the Chairman of the Central Military Commission, a position normally held by the President of China. The present leadership situation creates some confusion as to who is really in charge of the nuclear forces since Hu Jintao is China's current President, but the Chair of the Central Military Commission is held by Jiang Zemin, China's former President. The chain of command follows a set of procedures that provide Chinese leaders with confidence that an unauthorised launch would be unlikely. These procedures include a 'two-man rule' and the separate storage of nuclear warheads.[74]

France

France entered the 'nuclear club' in 1960 when it conducted its first nuclear weapon test.[75] The nuclear weapon programme included 210 nuclear tests between 1960 and 1996, helping to establish France as a world power as well as to guarantee its independence and grandeur.[76] In 2002, French

nuclear forces number 348 nuclear warheads.[77] The President of the Republic is the supreme head of defence policy. The mission, composition and alert condition of the nuclear forces is decided by the Defence Council, headed by the President. The Prime Minister is responsible for the general execution of the Council's decisions; the Defence Minister is in charge of the management and organisation as well as the readiness of the nuclear forces. As the Commander-in-Chief of the armed forces, the President is the only person empowered to order the engagement of nuclear forces.[78] The French President can unlock nuclear weapons wherever he is by transmitting a release code, however, safety checks such as the 'two-man' rule are in place.[79] Political consensus exists among the three biggest parliamentary political parties that France needs a nuclear deterrent, nevertheless, the Socialist Party was opposed to the nuclear testing in the South Pacific, which finished in 1996 after considerable international pressure. Over the years, a two-third majority (between 60-70 per cent) of the French public continued to support the nuclear weapon programme.[80] Influential think tanks are IFRI ('l'Institut français des relations internationales') and the Foundation for Strategic Research in Paris.

India

After testing a 'peaceful nuclear device' in 1974, India conducted five nuclear weapon tests in May 1998. Supposedly, India has approximately 30-35 nuclear warheads.[81] In 2002, India's nuclear strategy was still at a formative stage. The nuclear doctrine has been released in 1998 and remains at its draft stage.[82] Prime Minister Atal Behari Vajpayee declared in a policy statement in Parliament on August 4, 1998 that India's nuclear doctrine would be based on the concept of no-first use and that it would maintain a minimum but credible nuclear deterrent.[83] In January 2003, India's Cabinet lowered the nuclear threshold by declaring that it would retain the option of using nuclear weapons if it is attacked by biological or chemical weapons. India's draft Nuclear Doctrine states that 'the authority to release nuclear weapons for use resides in the person of the Prime Minister of India, or the designated successor(s) prime minister'.[84] The political leaders kept the military out of the process of research, testing and production ('weaponisation'), since India's military was neither informed about the developments concerning the 1974 or the 1998 nuclear tests. In January 2003, India announced the establishment of a formal command structure under civilian control, i.e. the Nuclear Command Authority, including a

Political Council, headed by the Prime Minister. The Political Council is the only body which can order a nuclear strike. As part of this new structure, India's Cabinet appointed a Commander-in-Chief to take charge of the nuclear arsenal. Generally speaking, India's control system is characterised as 'divided' control between civilians and the military, mostly because a civilian organisation is in charge of nuclear arsenal and the military is in charge of the delivery systems.[85]

Israel

Israel was the sixth nation in the world to acquire nuclear weapons and the first one in the Middle East. Israel pursues a policy of 'nuclear ambiguity' which can be described as publicly denying that it has weapons, strict confidentiality measures, and insulation from domestic politics.[86] It has been estimated that Israel has approximately 200 nuclear weapons. Israel has never publicly conducted nuclear tests, nor did it join the NPT. However, in 1995 Israel's Prime Minister Peres has said that his country was ready to give up its nuclear option if a comprehensive Middle East Peace agreement could be reached.[87] In 1998, Israel's Defence Minister declared that Israel would not be the first to introduce nuclear weapons to the Middle East, which could be regarded as a no-first use policy.[88] Israel's Prime Minister is the 'ultimate custodian' of the nuclear weapons. In times of crises, the War Cabinet is the formal forum to discuss the use of nuclear weapons. The Director-General of Israel Atomic Energy Commission is the chief nuclear executive. The nuclear weapon is considered as a weapon of last resort and a deep taboo rests on its use, even during the Yom Kippur War in 1973 when Israel's survival was under threat. When, in 1998, the Prime-Minister allegedly was considering to use nuclear weapons in case of an Iraqi biological or chemical attack, commentators in leading Israeli newspapers proposed a law that would implement a system of checks and balances concerning the Prime-Minister's decisions about using the nuclear weapon.[89] Despite the extreme state secrecy surrounding Israel's weapons, and the array of punitive measures deployed to protect such secrecy, some parliamentarians in the Knesset contentiously debated Israel's nuclear deterrence policy on 2 February 2000.[90]

Pakistan

Pakistan launched its secret nuclear weapon programme in 1972 and

acquired its first nuclear explosive device in 1987.[91] It conducted its first nuclear weapon test in May 1998, immediately after India's first nuclear weapons tests. Allegedly Pakistan possesses between 24 and 48 nuclear warheads which are aimed solely at India, and are meant to be used if India threatens the existence of Pakistan. Though formally the President and Prime-Minister would have the final authority over the use of nuclear weapons, the military is exercising a strong influence on the formulation of the nuclear doctrine. Supposedly, the military is strong enough to demand pre-delegation of authority from the Prime-Minister in order to use nuclear weapons during crises or war.[92] However, according to General Kidwai, Chief of the Strategic Plans Division, the control of nuclear weapons is guaranteed by a 'three-man' rule, implying that any decision about the use of nuclear weapons has to be decided upon by three persons. So far, according to the General, no pre-delegation has taken place from the President to the military. A National Command Authority (NCA) exists, under leadership of the head of government (President). In addition to the President, also represented in this body are the Prime Minister and Ministers of Foreign Affairs, Defence and Interior as well as the Chairman of the Joint Chiefs of Staff Committee and the agency responsible for the nuclear development programme. The NCA is responsible for planning, development, deployment and employment of nuclear forces.[93] Regarding the basic state of weaponisation, it is unlikely that sophisticated safety features are in place, such as PALs, electronic monitoring and other devices to prohibit the unauthorised use of nuclear weapons.[94]

Russia

Altogether, the USSR conducted 715 nuclear weapon tests from August 1949 until October 1990. Currently, Russia possesses 8,331 warheads. The new military doctrine, signed by President Putin in April 2000, pledges that Russia will not use nuclear weapons against NPT member states unless they attack Russia in alliance with a nuclear weapon state. Russia reserves the right to use nuclear weapons in case of large scale attack critical to its national security. According to the constitution of the Russian Federation, the President is in charge of all aspects of military policy, assisted by the Security Council. Council members include the President (chairman), Prime Minister, Defence Minister, Foreign Affairs Minister and the Director of the Federal Security Services (FSB). Compared to the US, the Russian President

does not have the sole authority to use nuclear weapons. Three people control the nuclear 'football' (which is the suitcase with release codes): the President, the Defence Minister and the Chief of the General Staff. Each of them can give permission for using nuclear weapons.[95] The collapse of the USSR resulted in vulnerabilities at each phase of the Russian nuclear weapon cycle and continues to pose major risks for theft and proliferation of nuclear fissile material, warheads, and missiles. To this extent, the US and Russia started programmes for dismantling outdated missiles and securing nuclear material coming from dismantled missiles. Nevertheless, problems and concerns remain. One of the major problems, from a control point of view, is the large arsenal of tactical nuclear weapons.[96] Precise data on this issue is lacking, but it is believed that during the Cold War the USSR had about 13,000 tactical nuclear weapons, compared to the current stockpile of 3,380. These weapons are difficult to control because they are small and easy to transport, making them a desirable object for terrorist groups and so-called rogue states. Therefore, some are concerned about what happened to the eliminated tactical nuclear weapons because no formal verification procedures were in place to ensure that the tactical nuclear weapons were in fact removed or destroyed.[97] In 1999, for the first time in history, a public opinion poll on nuclear weapons was held, showing that 75 per cent of the Russian public thought that nuclear weapons were essential to Russia's security.[98] Russian think tanks dealing with nuclear weapon issues include PIR (Centre for Policy Studies) and the Carnegie Endowment for International Peace Centre in Moscow.

United Kingdom

The UK conducted its first nuclear test in October 1952 and its last one in 1991. Altogether, the UK produced 834 warheads in that period. Currently, the UK has over 185 warheads. The UK Government remains reluctant to release information about its nuclear strategy.[99] The 2002 update of UK's Strategic Defence Review mentions that 'the UK's nuclear weapons are regarded as a means of deterring major strategic military threats' and warns 'the leaders of states of concern and terrorist organisations [that] all our forces play a part in the deterrence.'[100] In March 2002, the UK Defence Minister publicly stated that Britain would be prepared to use nuclear weapons against non-nuclear states under certain conditions, for example, if chemical or biological weapons were used against British forces.[101] The Prime Minister can only authorise the launch of nuclear weapons with the

assistance of at least one other person, most likely the Chief of Defence Staff. This 'two-man' rule is believed to operate throughout the entire nuclear command chain. The incomplete codes for authorising the use of nuclear weapons are held by both individuals and only when the two sections are brought together can a fully authenticated launch order be given.[102] In general, the control of the armed forces is based upon the royal prerogative, meaning that parliament and courts have only limited possibility to challenge the decisions made by the government. As a result, British citizens cannot challenge in court a decision of the government concerning the deployment of nuclear weapons in Britain or abroad.[103] According to public opinion polls, 58 per cent of the general public believes that Britain should keep its nuclear weapons until other nuclear weapon states get rid of their weapons.[104] Independent research is provided by think tanks like IISS (London), VERTIC (Verification, Research, Training and Information Center, London) and BASIC (British American Security Information Council, London and Washington DC). The anti-nuclear movement, among others CND (Campaign for Nuclear Disarmament, London) enjoyed especially broad support during the end of the 1970s and the beginning of the 1980s.

United States of America

The US conducted its first nuclear weapon test in July 1945 and its last test in 1992, when President Bush senior placed a moratorium on nuclear tests. With 7,600 nuclear warheads, the US has the largest deployed nuclear arsenal in the world. The new 2002 Nuclear Posture Review (NPR) of the Bush Administration acknowledged the necessity of adapting the nuclear arsenal to the post-Cold War period, and suggested drastic decreases in the number of warheads. However, the Bush administration wants to keep the dismantled nuclear warheads in reserve so that they can be redeployed if necessary. Nuclear weapons should not only deter, but can also be used on the battlefield and possibly as a first use, to respond to a great number of threats, such as biological, chemical or conventional attacks. The NPR makes clear that the importance of nuclear weapons increased with the Bush administration.[105] In 2003, after eleven years of halting nuclear testing, the US Congress approved funding for research and (possible future testing) on the so-called bunker-buster bombs with nuclear payloads.[106]

Information on the exercise of the National Command Authority concerning nuclear weapons is classified, therefore only estimates can be

made about how the President controls US nuclear arsenal. The President is believed to be the only one who can authorise the launch of nuclear weapons. A military aide is in the President's vicinity 24 hours a day, 365 days a year, with the briefcase with release codes. In case of an emergency that would require a nuclear response, the President would turn to the aide and open the briefcase to initiate the protocols that authorise the military nuclear chain of command to launch strategic missiles at pre-selected enemy targets.[107] He must discuss the situation with two or three of his closest advisors (presumably the Secretary of Defence and the Chairman of the Joint Chiefs of Staff) and transmit his decision, along with the codes, to the military commanders.[108]

Most likely, the use of nuclear weapons is preceded by different phases of nuclear alerting. There is little doubt that the President has the right to pre-delegate authority to launch nuclear weapons.[109] Recent declassification of documents at the National Security Archives showed that pre-delegation happened under Eisenhower and Kennedy, supposedly continuing until the late 1980s.[110] It is unclear to what extent pre-delegation from the President to military commanders currently occurs.

The US Congress has various oversight powers. Firstly, the Congress has the power to authorise or to withhold funds to be used in any phase of the nuclear weapons cycle, notably for research, procurement and maintenance of nuclear weapons. Secondly, it can hear experts from government agencies, NGOs, think tanks and universities on nuclear weapon issues. Thirdly, only the Congress has the power to declare war. Regarding the destructive consequences of nuclear weapons, it is difficult to imagine that the President would use nuclear weapons outside a state of war. However, few would doubt that the President has the right to respond immediately if the US came under attack. Additionally, the choice of weapon, is, nominally, a tactical question within the President's power as constitutional Commander-in-Chief, assuming he has the power to use force. Fourthly, it has to confirm appointments of senior civilian and military officials (this right is reserved to the Senate only, not to the House), e.g. the Defence Minister and his deputies, the Chief Executive and his deputies of civilian nuclear agencies such as the National Nuclear Security Agency (NNSA, part of the Department of Energy).

The NNSA is responsible for research, development, production, modernising and dismantling of nuclear weapons.[111] Another civilian agency relevant for nuclear weapons is the US General Accounting Office (GAO). This office supports Congress in assessing performance and accountability

of federal government, producing, among others, reports on the efficiency of the NNSA.[112]

Think tanks play an influential role in public debate and policy formulation in the US, notably RAND (Santa Monica), the Brookings Institution (Washington DC), NIPP (National Institute for Public Policy, Fairfax), CSIS (Centre for Strategic and International Studies, Washington DC) as well as FAS (Federation of American Scientists, Washington DC) and the Centre for Non-Proliferation Studies at Monterey. Furthermore, nuclear watchdog organisations exist, such as the Arms Control Association and the Los Alamos Study Group.

Conclusions

Often confidentiality measures, complexity, and time pressure in times of crisis are said to be reasons why nuclear weapon decision-making cannot be subject to due democratic process, leading to a small circle of decision-makers in the executive and the military alone deciding upon the use of these weapons of mass destruction. The analysis shows, however, that not all decisions are taken under acute time pressures, require highly specialist nuclear weapons knowledge or other military insight, nor that disclosure of the premises of decision making or strategic thinking would endanger national security. Furthermore, other decisions relating to possession of nuclear weapons, be they on procurement or deployment issues for example, not only have military implications but also major financial, moral and environmental consequences. Therefore, it is necessary that decision-making in a democratic state involves and balances all these aspects and guarantees that a system of democratic accountability is in place.

Additionally, the analysis shows that focusing on the 'button' is an insufficient and over-simplistic approach for analysing nuclear use decision-making. Decisions at each phase of the nuclear weapon cycle, from the decision to acquire nuclear weapons up to the potential use of nuclear weapons, provide opportunities for meaningful and substantive/firm civilian oversight and democratic control of the nuclear weapons cycle; both of which are cornerstones of security sector governance.

Both the framework of the nuclear weapon decision-making cycle and preliminary research on nuclear weapon states, show that parliament can play a meaningful role in decisions which require public funding, notably in the procurement phase of nuclear weapon programmes. Civil society,

especially research institutes and advocacy NGOs, can play a role in providing decision-makers in parliament and government with a second opinion, something which happened frequently in the recent past, especially after the end of the 1970s.

From a democratic security sector governance perspective, further research is required as to how various political actors do and can play a meaningful oversight role in decision-making on nuclear weapons.

Notes

[1] Walker, W., 'Memorandum', in, Foreign Affairs Committee, *Weapons of Mass Destruction*, Eight Report (London: Stationery Office of the UK Parliament, 2000).

[2] Baylis, J., O'Neill, R. 'The Contemporary Debate about Nuclear Weapons', in Baylis, J., and O'Neill, R., *Alternative Nuclear Futures: The Role of Nuclear Weapons in the Post-Cold War World* (Oxford: Oxford University Press, 2000).

[3] President Clinton quoted in Manning, R., 'The Nuclear Age: the Next Chapter', *Foreign Policy*, Issue 109, (Winter 1997).

[4] Arms Control Association, *The State of Nuclear Proliferation 2001*. Fact sheets available at: <http://www.armscontrol.org>.

[5] Kimball, D., 'Turning Iran Away From Nuclear Weapons', *Arms Control Today*, (July/August 2003), available at: <http://www.armscontrol.org/act/2003_07-08/focus_julaug03.asp>; 'Know Thine Enemy: Who's is Who in the Mass-Destruction Business', *The Economist*, (31 January 2002); Bernauer, T., Ruloff, D., 'Nächster Halt: Nordkorea?', *NZZ*, (9 March 2003).

[6] 'Congress Moves to Back Tactical Nukes'*, BBC News,* (13 May 2003).

[7] 'Leaders Sign Major Nuclear Arms Deal'*, BBC News,* (24 May 2003).

[8] For example, Blair, B., *The Logic of Accidental Nuclear War* (Washington DC: Brookings Institution, 1993); Bracken, P., *The Command and Control of Nuclear Forces* (Yale University Press, New Haven, 1983).

[9] Feaver, P. *Guarding the Guardians: Civilian Control of Nuclear Weapons in the United States* (Ithaca: Cornell University Press, 1992).

[10] For example, Lavoy, P., Sagan, S., Wirtz, J., *Planning the Unthinkable: How New Powers will Use Nuclear, Biological and Chemical Weapons* (Ithaca: Cornell University Press, 2000); Feaver, P., 'Command and Control in Emerging Nuclear Nations', *International Security*, Vol. 17, No. 3, (Winter 1992/93), pp. 160-187.

[11] Dahl, R., *Controlling Nuclear Weapons: Democracy versus Guardianship* (New York: Ithaca University Press, 1985).

[12] Sagan, S., Waltz, K. *The Spread of Nuclear Weapons: A Debate Renewed* (New York: Norton, 2003); Müller, H. 'Nuclear Disarmament: The Case for Incrementalism', in Baylis, J., O'Neill, R., *Alternative*, pp 125-144

[13] According to Dahl, '[T]he crucial choices about nuclear weapon strategy have been made by a very small group of decision makers, including those of the president, have been subject only weakly, if at all, to democratic procedures. Not subject to political debates, much less so controlled by public opinion expressed through elections and congressional actions. For all practical purposes, on these matters, no public opinion existed and the democratic process was inoperable.' In Dahl, R., *Controlling*, p. 34.

[14] Müller, H., 'Nuclear', pp. 139-142.

[15] Sagan, S., Waltz, K., *Spread*, p. 61-62.

[16] Nuclear weapon states are recognised by the 1968 Non Proliferation Treaty (NPT) if they 'manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January 1967' (NPT, Article IX, Section 3).

[17] Freedman, L., 'The First Two Generations of Nuclear Strategists', in Paret, P. (ed.), *Makers of Modern Strategy: from Machiavelli to the Nuclear Age* (Princeton, NJ: Princeton University Press, 1986), p. 759.

[18] Dahl, R., *Controlling*, pp. 13-14 and pp. 24-31.

[19] Ibid., p. 25.

[20] Ibid., p. 7.

[21] Based on Kincade, W., 'The United States: Nuclear Decision-making 1939-89', in Cowen Karp, R. (ed.), *Security With Nuclear Weapons? Different Perspectives on National Security* (Stockholm and Oxford: SIPRI and Oxford University Press, 1991), p. 21-56.

[22] Actually Sagan calls them models for explaining why states go nuclear, Sagan, S., 'Why Do States Build Nuclear Weapons: Three Models in Search of a Bomb', in *International Security,* Vol. 21, No. 3, Winter (1996/1997), pp. 54-86.

[23] Sagan, S, 'Why?', pp. 54-87.

[24] Saunders, P. *Assessing North Korea's Nuclear Intentions*, (Monterey: Institute of International Studies, 2003); O'Neill, R., 'Memorandum' in Foreign Affairs Committee, *Weapons.*

[25] Freedman, L., 'First', p. 735.

[26] Ibid., p. 735.

[27] Simpson, J., 'Memorandum', in Foreign Affairs Committee, *Weapons.*

[28] Freedman, L., 'First', p. 762.

[29] '[Nuclear Weapons] provide credible military options to deter a wide range of threats, including WMD [Weapons of Mass Destruction] and large-scale conventional military force', in: Rumsfeld, D., *Nuclear Posture Review Report*, submitted to Congress on 31 December 2001, p. 7.

[30] Freedman, L., 'First', pp. 762-767.

[31] Ibid., p. 735.

[32] Nevertheless, it is not extremely problematic to build a crude nuclear explosive device, but it is another matter to render it operational, reliable and safe. Additionally, sub-national groups are allegedly able to build radiological bombs or 'dirty bomb', that is radioactive material detonated by a conventional explosive. See, for example, 'First, take some uranium…', *The Independent*, (30 July 2003); 'Al-Qaeda and the Bomb', *Jane's Intelligence Digest*, (3 July 2003).

[33] Cirincione, J., *Deadly Arsenals: Tracking Weapons of Mass Destruction*, (Washington DC: Carnegie Endowment for Peace, 2002), p. 35.

[34] Sagan, S., Waltz, K., *Spread*, pp. 10-11.

[35] See the website of Atomic Weapons Establishment Management Ltd, available at: <http://www.awe.co.uk>.

[36] The US (until mid 1950s) and the USSR (until well into the 1960s) stored nuclear weapons in this way. Presumably Israel is storing nuclear weapons in this manner, Feaver, P., 'Command', p. 167 and Walker, M., 'Recommendation', p. 58.

[37] For example, former Russian National Security Adviser General Aleksandr Lebed, claimed that 86 of 132 Russian mini nuclear bombs ('suitcase bombs) of the Russian nuclear arsenal were unaccounted for, something which was denied by President Putin, see Ross, B, 'Portable Terror: Suitcase Nukes Raise Concern', *ABCNews*, (8 November 2001); Highfield, R., 'Security Plea for Britain's Atom Sites', *Daily Telegraph*, (22 September 2001).

[38] Examples of problems with nuclear testing and production: the fire in the UK Windscale (latterly renamed Sellafield) nuclear plant in 1957; the Chernobyl disaster in 1986; and radioactive contamination of the former USSR nuclear test range at Semipalatinsk region in Kazakhstan, where approximately 500 tests were conducted between 1949 to 1990. See UNDP Report on Kazakhstan, available at: <http://www.undp.kz>.

[39] Kincade, W., 'United States', p. 22.

[40] The US alerting system of the armed forces is called defence condition (DEFCON), ranging from DEFCON 5 (peacetime) to DEFCON 1 (outbreak of war is imminent).

[41] Feaver, P., *Guarding*, pp. 12-28; Feaver, P., 'Command', pp. 163-168.

[42] Feaver, P., *Guarding*, p. 166; Sidhu, W., Cloughley, B., Hawes, J., Schaffer, T, *Nuclear Risk Reduction Measures in Southern Asia*, Report 26 (Washington DC: Henry L. Stimson Center, 2002); Bracken, P., *Command*, p. 22-23.

[43] Feaver, P., 'Command', pp. 166-167.

[44] Feaver, P., *Guarding*, pp. 7-12, based on the US experience.

[45] Ibid., p. 11.

[46] For example Sagan, S., Waltz, K., *Spread*, p. 47; Feaver, P., *Guarding*.

[47] Feaver, P., *Guarding*, pp. 22-26.

[48] Sagan, S., Waltz, K., *Spread*, p. 47.

[49] Feaver, P., *Guarding*, p. 31 and p. 36.

[50] Born, H. (ed.) *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices*, Handbook for Parliamentarians nr. 5, (IPU/DCAF: Geneva, 2003).

[51] In Westminster type of political systems, e.g. UK and Canada, the government dominates the parliamentary agenda via its majority party in parliament. On the relationship between political system and the use of force, see Born, H. and Hänggi, H. (eds.), *The Double Democratic Deficit: Parliamentary Accountability and the Use of Force under International Auspices* (Aldershot: Ashgate, 2004 [forthcoming]).

[52] If reference was made to parliaments, it was mostly in a piecemeal fashion, to the US Congress.

[53] Born, H., *Parliamentary.*

[54] Such was the position of the US War Department in a 1947 Memorandum: 'We are prevented by our form of government and our constitutional process from launching surprise attacks against potential enemies', quoted in Freedman, L., *The Evolution of Nuclear Strategy* (Houndmills: Palgrave Macmillan, 2003), p. 34.

[55] Schwartz, S. (ed.) *Atomic Audit: The Costs and Consequences of US Nuclear Weapons*

since 1940 (Washington DC: Brookings Institution, 1998).

[56] Laws which a parliament has to approve in the first place.

[57] For example, UK Parliament hearings on weapons of mass destruction, see Foreign Affairs Committee, *Weapons*.

[58] See Born H., *Parliamentary*.

[59] Freedman, L., *Evolution*, pp. 320-321.

[60] Ibid., p. 492.

[61] Dahl, R., *Controlling*, p. 3

[62] Freedman, L., *Evolution*, p. 381-383.

[63] Freedman, L., *Evolution*, p. 492.

[64] Feaver, P., 'Command', p. 167.

[65] Sagan, S., Waltz, K., *Spread*, p. 61; This explanation is contested by Waltz, who argues that civilian and military leaders do not differ in this respect, see Sagan and Waltz, *Spread,* p. 135.

[66] Data taken from Kristensen, H., Handler, J. 'Appendix 10A: World Nuclear Forces' in SIPRI, *SIPRI Yearbook 2002: Armaments, Disarmaments and International Security*, (Oxford: Oxford University Press, 2002), Table 10 A. 1, p. 526.

[67] Data taken from: Cirincione, J., *Deadly*, p. 99.

[68] Though no evidence exists that Israel has ever carried out a nuclear test, observers believe that a suspected nuclear explosion in the southern Indian Ocean on 22 September 1979, detected by an American Satellite, was a joint South African-Israeli test. See Farr, W. 'The third Temple's holy of holies: Israel's Nuclear Weapons', The Counter-Proliferation Papers, Future Warfare Series No. 2, US Air Force Counter-Proliferation Centre, Maxwell Air Force Base, Alabama, September 1999. Available at:
<http://fas.org/nuke/guide/israel/nuke/farr.htm>.

[69] Cirincione, J., *Deadly*, p. 141.

[70] Ibid., p. 141.

[71] Pande, S., 'Chinese Nuclear Doctrine', Strategic Analysis: A monthly Journal of the IDSA, March (2000) vol. 23, No. 12.

[72] Godwin, P., Schulz, J. 'Arming the dragon for the 21st century: China's defense modernization program', *Arms Control Today* (December 1993).

[73] Nacht, M. 'Nuclear Issues', in Binnendijk, H., Montaperto, R. (eds.), *Strategic Trend in China*, (Washington DC: National Defense University Press, 1998).

[74] Command and Control – China Nuclear Forces, available at:
<http://www.fas.org/nuke/guide/china/c3i>.

[75] Cirincione, J., *Deadly*, p. 165.

[76] Sagan, S., 'Why?'.

[77] SIPRI, 2002, p. 548.

[78] 'Décret no. 96-520 du 12 juin 1996 portant détermination des responsabilités concernant les forces nucléaires.'

[79] Kanwal, G., 'Command and Control of Nuclear Weapons in India', *Strategic Analysis*, (January 2000) Vol. 23, No. 10, p. 8.

[80] According to opinion polls in 1984 and 1996, in Sinnott, R., *European Public Opinion and Security Policy* (Paris: European Union Institute for Security Studies, 1997).

[81] Cirincione, J., *Deadly,* p. 191.

[82] Ibid., p. 195.

[83] Kanwal, G., 'Command'.

[84] Draft Report of National Security Advisory Board on Indian Nuclear Doctrine, August 17, 1999. Available at:
<http://www.indianembassy.org/policy/CTBT/nuclear_doctrine_aug_17_1999.html>.

[85] Sidhu, W., 'India's Nuclear Use doctrine', in Lavoy, P., Sagan, S, Wirtz, J, *Planning*, p. 157.

[86] Korb, L. *The Quiet Bomb; Book Review of A. Cohen's "Israel and the Bomb"* (New York Times, 1 November 1998).

[87] Gozani, O., 'Israelis Will End Nuclear Option after Peace Deal', *Daily Telegraph*, (27 December 1995). See also Steinberg, G., 'Middle East Peace and the NPT Extension Decision', *Non-Proliferation Review*, Fall (1996), Vol. 4, no. 1, pp. 17-29.

[88] Kristensen, H., Handler, 'Appendix', p. 565.

[89] Cohen, A., 'Nuclear Arms in Crisis under Secrecy: Israel and the Lessons of the 1967 and 1973 Wars', Lavoy, P., Sagan, S, Wirtz, J., *Planning*, pp. 104-124.

[90] Steinberg G., 'The Knesset's Nuclear Farce', *Jerusalem Post*, 18 February 2000.

[91] Cirincione, J., *Deadly,* p. 207.

[92] Cheema, Z, 'Pakistan's Nuclear Use Doctrine and Command and Control', in Lavoy, P., Sagan, S., Wirtz, J., *Planning*, p. 130.

[93] Cotta-Ramusino, P., Martellini, M., *Nuclear safety, nuclear stability and nuclear strategy in Pakistan: A concise report of a visit by Landau Network – Centro Volta*, 21 January 2002, available at: <http://lxmi.mi.infn.it/~landnet/Doc/pakistan.pdf>.

[94] Cheema, Z., 'Pakistan's, pp. 172-173.

[95] Waller, J. 'Changing the Nuclear Command', *Insight on the News*. Vol. 17, Issue 7, (February 2001), p. 14; Collina, T. 'Nuclear Terrorism and Warhead Control in Russia', *Survival*, vol. 44, no. 2, (Spring 2002), p. 75.

[96] Cirincione, J., *Deadly,* pp. 116-117.

[97] Ibid., p. 113.

[98] Orlov, V., Safranchuk, I. 'Nuclear Weapons: the Russian Public Speaks', *Bulletin of the Atomic Scientists,* (January/February 2000), vol. 56, nr. 1, pp. 16-18.

[99] Freedman, *Evolution*, p. 492.

[100] *Strategic Defence Review: A New Chapter*, July 2002, available at:
<http://www.mod.uk/linked_files/SDR_New_Chapter.pdf>

[101] Archer, T., *Telos or Brick Wall: British Nuclear Posture and European Defence Integration*, Working Paper No. 36 (Helsinki: The Finnish Institute of International Affairs, 2002) p. 6.

[102] Twigge, S., Scott, L. 'Learning to Love the Bomb: The Command and Control of British Nuclear Forces', 1953-1964", *The Journal of Strategic Studies*, Volume 22, Number 1, (March 1999), p. 42.

[103] See, for example, Lord Reid, *Chandler v. Director of Public Prosecutions* [1964] AC 736. In this case, a person protested in vain against the use of a British airfield by the US Air Force, whose aircrafts were capable of carrying nuclear weapons. in: Rowe, P. 'Military Law in the United Kingdom' in Nolte, G., (ed.), *European Military Law Systems* (Berlin: De Gruyter, 2003), pp. 833-834.

[104] Sinnott, R., *European*.

[105] Schaper, A., 'Die Aufwertung von Kernwaffen durch die Bush-Administration' in: Hauswedell, C., Weller, C., Ratsch, U., Mutz, R and Schoch, B. (eds), *Friedensgutachten 2003* (Hamburg, Lit Verlag, 2003), p. 142.

[106] Squitieri, T. 'Bush Pushes for New Nukes', *USA Today*, (6 July 2003).

[107] Waller, J., *Changing*, p. 14.

[108] According to former US Defence Minister Robert S. McNamara, see McNamara, R., Blight, J., 'The Threat of Annihilation is Still Real', *Los Angeles Times*,(24 June 2001).

[109] Feaver, *Guarding*, p. 48.

[110] Blair, B., *Logic.*

[111] Available at: <http://www.nnsa.doe.gov>.

[112] Available at: <http//www.gao.gov>.

Chapter 7

Violence against Women as a Challenge for Security Sector Governance

Marie Vlachová and Léa Biason

Introduction

The awareness that the world has not become more secure after the end of the Cold War created a strong need, both in political practice and theoretical thinking, to revise the state-related and military-centred concept of security which had dominated throughout the Cold War period. The nature of war has changed from inter-state to mostly intra-state conflicts like those in the past decade in Rwanda, Chechnya, Bosnia and Herzegovina, and Kosovo. The sources of insecurity became largely internal – with ethnic, religious and political groups fighting over rights and resources. Moreover, in many developing countries, paramilitary, guerrilla or private forces were formed to defend local community interests which however operated outside the rule of law, thereby increasing the serious deficiencies in the state's security system. The re-emergence of old conflicts, the appearance of new threats such as international terrorism and the negative effects of globalisation have resulted, among others, in a new focus on vulnerable segments of population such as women, children and aging people, but also men and particularly young males in conflict-torn societies. This new focus turned the attention of international organisations and non-governmental organisations (NGOs) to the issue of gender-based violence, i.e. to violence that is predominantly committed by men, but not only against women.[1] Women are not the only group of the population to be exposed to the insecurities of the present world.[2] However, the magnitude and the variety of recent forms of violence that increasingly and exclusively target female victims fully justify the attention accorded to gender issues by the international community.[3]

Indeed, there is enough evidence today to show that it is mainly women who suffer the most in gender-based violence in the context of wars

and conflicts, poverty, the activities of organised crime and in their private lives. The variety of types of violence range from direct forms of violence in wartimes, such as sexual assault, displacement, trafficking and dangerous actions against women's health, like the intentional infection with HIV/AIDS. It also includes indirect violence through discrimination, marginalisation and poverty which are exacerbated in times of conflict and lead to women's increased vulnerability. At the same time there is an intensified awareness of the magnitude of domestic violence, for example wife battering and marital rape, which are widespread in both developing and developed countries.[4] Recently the scope of domestic violence has broadened to include traditional forms of violence against women, such as 'honour killing', female infanticide, female genital mutilation etc., through the special attention given by the international community to these forms of violence.[5]

Gender-based violence has brought into focus the question of the responsibility of governments, security institutions and the international community. A number of international institutions, in particular the United Nations (UN), have recognised the gravity of the problem, as evidenced by the fact that problems in trafficking in women, displacement of women as a consequence of wars, atrocities committed against women during wars in Africa and former Yugoslavia have been put on their agenda.[6] Generally, the remedy pursued has been in the area of awareness campaigns of the consequences of women's suffering and obstacles to their empowerment, effective implementation of existing international laws and revisions of national legislation to end impunity, the increase of women's representation at policy decision-making, and full support to civil society organisations dealing with peace efforts at all levels. The effectiveness of actions at the international level can only be ensured in combination with the responsibility for and ownership of solutions by national states within their institutions, and particularly within the security sector. However, gender-based violence cannot be eradicated within security sector actions alone, the security sector itself being traditionally represented by institutions with gender bias. A larger framework is needed to comprehend the complex character of gender-based violence and to reorient research and analytical activities from the mere monitoring of atrocities and injustice to a full understanding of its root causes.

This chapter examines the nature of women's consumption and access to security. It aims at suggesting a minimal conceptual framework for dealing with the complexity of gendering security issues. The first part

indicates the limits of the state-centred security concept in understanding gendered violence, and suggests instead the use of the concept of human security as a general analytical and research framework. The second part is devoted to the definition of gender-based violence and its most frequent forms illustrating its complexity, gravity and magnitude. The third part of the chapter examines the connections between gender-related violence and the security sector governance, taking a particular interest in how security sector reform which aims at the improvement of security sector governance could contribute to the reduction of gender-based violence against women. The chapter concludes with a brief suggestion of how security sector reform could be reconsidered from a gender perspective.

Human Security as a Framework of Analysis for Gender-Based Violence[7]

In theoretical thinking current threats and risks have prompted attempts to revise the traditional meaning of national security as primarily a protection of states and to introduce a broader concept of security, one that is oriented to the protection of people from 'critical (severe) and pervasive (widespread) threats and situations'.[8] There were theoretical attempts to go beyond a state-centred concept of military security and to understand security as a process focusing on the individual, but still maintaining the state responsibility for the protection of people. New perspectives were included in the conceptualisation of security, for instance the notion of vulnerability of certain groups of society, as well as issues regarding the promotion of public awareness of security/insecurity, and making use of findings from psychology and sociology. Nevertheless, the studies undertaken by Barry Buzan, Ole Waever, Johan Galtung, Ken Booth, Bjoern Moeller and others remained mainly restricted to the academic and the expert community.[9]

The 1994 Human Development Report represents a turning point in the re-conceptualisation of security. Here a universal, preventive and 'people-centred' political approach is articulated, namely human security, accentuating two main aspects – safety from such chronic threats as hunger, disease and repression, and protection from sudden and harmful disruption in the patterns of daily life.[10] The purpose of the report was not to identify a specific agenda but to shift the perspective of security thinking from states and territorial defence to people as the point of reference, and thus to offer alternative solutions. Within the academic and research community the

concept has not been accepted without a number of doubts, having to do with its broadness, vagueness, incoherence and relatively low value in terms of its practical use. Nevertheless, this conceptualisation continued – there were attempts to connect human security with the dominant approach to state security in Europe,[11] to analyse its links to human development,[12] and to core human values,[13] or to quantify the insecurity and violence in the present world by proposing a human security index.[14] Some authors saw the breadth and all-inclusiveness of the concept as an advantage, enabling such complex issues as basic material needs, human dignity, and democratic practice to be brought together.[15] Some tried to narrow it down to a research category, which could help in understanding military and non-military threats to societies, groups, and individuals.[16]

In the late 1990s the concept of human security became an important dimension of foreign policy of some 'middle powers' which, for various reasons, wanted to gain a stronger international status through the promotion of innovative ideas. In 1999, the Human Security Network (HSN) was launched in Norway, representing a group of like-minded countries which, at the Foreign Ministers level, wanted to maintain a dialogue on human security.[17] The Network is an informal and flexible foreign policy platform for the participating states with strong links to civil society and academic institutions focusing on security issues.

At the Millennium Summit in September 2000, United Nations Secretary-General Kofi Annan declared human security principles to be the priority objectives for the United Nations in the near future.[18] The governments of Japan, Canada, Norway and Switzerland strongly supported the concept both politically and financially, Japan having advocated the establishment of a UN Trust Fund for Human Security. In 2002, the Commission on Human Security was founded within the United Nations, under the chairmanship of the former High Commissioner on Refugees, Sadako Ogata and Nobel Prize economist, Amartya Sen. The main aim of the Commission is to develop the concept as an operational tool for policy formulation and implementation. The Human Security Report published in May 2003 in New York represents the first step towards fulfilling this goal.[19]

The human security concept is a vision with a practical aim, seeking methods to coordinate the international community's dispersal efforts in order to create an international coalition of states and non-state institutions on humanitarian issues and to meet the urgent needs of people who are at the margins of the security 'net' developed by present security institutions. In spite of its eclectic character, the vagueness of its definition and the breadth

of topics included in the concept, it has already attracted much political, expert and academic attention. The reasons are both practical and idealistic.[20] The orientation to humanitarian issues which lies at the heart of human security goes back to the modern European tradition of civilising warfare and helping war victims by means of humanitarian law and aid. The long-time experience in UN peacekeeping of Canada and Norway and their mediating role in negotiations between developing countries and the Bretton Woods institutions also contributed to a consensus over the salience of humanitarian issues. Moreover, the ill-fated UN mission in Rwanda in 1994, led by Canada, strengthened the need for conflict and humanitarian crisis prevention. The role the United Nations and NGOs have been playing in humanitarian assistance during the post-Cold War conflicts may be considered as another important factor of prioritisation of humanitarian issues in international policy. And last but not least, the political reputation of the most respectful politicians such as the former Canadian Foreign Minister Lloyd Axworthy or the former UN High Commissioner for Refugees, Sadako Ogata, in shaping the concept and advocating it also played a role in the international recognition of human security.

Since there is no unanimously accepted definition of human security, it seems to be more useful to qualify it through its principles, which may encapsulate the concept's basic characteristics.[21] Human security is people-centred, meaning that the focus is put on external aggression and the state's efforts to prevent them have been shifted to the protection of people from violent conflicts, international terrorism and deprivation caused by impoverishment, pollution, ill health, and illiteracy. In an interdependent world, peace and development are interconnected: poverty and deprivation often lead to violent conflict and poverty intensifies in wartime. Due to the widespread nature of the threats, the range of actors dealing with human security is much greater. Apart from the state, which still plays its important security role, a broad set of regional, international and nongovernmental organisations are considered to be involved in managing security issues. The concept pays attention both to the protection of people from the aforementioned threats and to empowerment, being concerned both with safeguarding and expanding people's vital freedom. Protecting people from critical and pervasive threats is of the same salience as empowering them to take charge of their own lives.[22] Protection refers to the norms, policies and institutions essential to a 'top-down approach', such as the rule of law and democratic governance. Empowerment underscores the role of people as actors and participants and implies a 'bottom-up' approach. Human security

does not seek to supplant state security, but rather to complement it. 'States cannot be secure if people's security is at stake, but neither can people be secure in the absence of strong, democratic and responsible states, as collapsed states illustrates.'[23]

Any concept of security has to deal with threats, victims and those who hold the responsibility and capability to deal with them. The Commission on Human Security report, published in 2003, identifies six key issues threatening the lives and well-being of people in the present world: violent conflicts, people on the move as 'collateral damage' of wars and conflicts, post-conflict reconstruction and its security needs, economic, health and educational security. Of these areas of people's lives affected by threats, the most vulnerable individuals or groups can be elicited. Putting extreme vulnerability at the core of human insecurity helps to identify beneficiaries, gives the concept of human security moral justification and contributes by suggesting concrete policy strategies.[24] Since vulnerable groups are indirectly identified by human rights law, humanitarian law and international refugee law, the idea of vulnerability makes a useful connection between victims of insecurity and human rights. Furthermore, it contributes to the understanding of the links between development and security. While the 1994 Human Development Report does not distinguish clearly between process (development) and the end-state (security), both terms are treated more sensitively in the UN Commission on Human Security 2003 Report. Although both security and development are concerned with the same phenomena ('basic freedoms that people enjoy'), the first one focuses on expanding opportunities for people, while the second one concentrates on the downside and the risks. Human security, in its broad definition, gives a special dimension to human development taking into account how the advantages of growth are distributed in the population and paying attention to individuals and groups and their access to developmental benefits. In practice it means that even if the society as a whole has been enjoying economic growth, some of its own members can feel very insecure and that they are discriminated against in their access to benefits.[25] This approach is very important when dealing with the countries in transition to a market economy. The transition is considered as painful, but generally positive from the point of view of long-term development. The human security approach points to the facts which are sometimes hidden behind liberalisation, democratisation and economic privatisation, such as a high rate of invisible gender-based violence in the domestic sphere, trafficking in women and children, a flourishing sex industry, etc. Local governments are usually

reluctant to acknowledge the violence as an area of concern, or insist that existing laws are sufficient for women's protection.[26]

The Commission on Human Security 2003 Report, is a gender-, race-, religion-free document, but offers a general framework for gendering security issues.[27] Although it only casually refers to women's issues, its basic principles can be effectively used in any analysis concerning gender and security.[28] Defining women as a group that is extremely vulnerable to present security threats, and analysing different effects of wars and other massive threats on men and women, means following the principle of people-centred security. The span of threats and risks seems to be of some advantage when dealing with gender, since it offers a chance to see the partial forms of gender-based violence, whether affecting women or men as a part of broader processes of the present world. Giving the same salience to people's protection and empowerment justifies the attention which should be paid to the often invisible contribution of women to peace-building and the recognition of the ways and methods women use when they are put in charge of the well-being of their families and communities. The idea of the necessity to enlarge the range of actors dealing with human security makes the growing number of specifically female-oriented non-state organisations an integral part of the international security community, focusing on their character, operating level and contribution. The principle that the security sector is in charge of people's protection would appear to be vital for any analysis of the roles women play in security institutions and for understanding the roots of the violence women suffer when these institutions lose their protective powers and capabilities, reminding us of the broader aspects of security such as poverty, development, and globalisation.

Structure and Forms of Gender-Based Violence Against Women

Gender-based violence caught the attention of feminist studies a long time ago, but was only recently recognised as a valid concern by the international community. The atrocities of recent wars committed against women on the losing side in conflicts have raised questions about the roots and causes of gender-based violence. Answering these questions means dealing with gender and violence as two interconnected notions, and to structure violent behaviour according to its perpetrators, victims and aim(s). This section sets out to explain the term 'gender-based violence' and to describe the most frequent forms of violence against women, both in war and peacetime.

Analysing gender means exploring male and female positions within the hierarchal structure of society and the roles women and men play in society. Gender is widely understood as a social construct, based upon basic biological differences between the sexes which differentiate men and women according to gender roles learnt during socialisation processes and expectations regarding their proper behaviour, attitudes and activities. As such, men are socialised mainly for assertiveness, autonomy, authority and responsibility and women for submission, dependence, care and love.[29] Feminism is divided into two main currents that differ according to their view of the importance of biological differences between male and female characteristics in shaping their respective behaviour. Feminism categorises gender as essentially being biologically determined behaviour, strengthened by a long development of patriarchal cultures, and considers gender behavioural patterns such as violence in men and nurturing in women as inherent and immutable. Feminism in its broader form understands gender as a social construct, suggesting that male and female roles are flexible and open to change. This latter current coincides more with the analysis of gender roles in security and the security sector, since the active involvement of women in recent wars has eroded stereotypes of women as submissive, peace-loving beings, unable to engage in violence. Women took part in all wars in modern history and proved to be as efficient killers as men. In the Rwanda War in 1994, a substantial number of women participated actively in the genocide of political opponents, behaving as cruelly and ruthlessly as their male counterparts.[30]

Generally, violence is any intentional behaviour aiming at causing physical or mental harm to the victim. It can be a violent action, a threat or coercion or a deprivation of freedom or basic commodities of an individual. Johan Galtung differentiates between direct (personal) and indirect (structural) violence, the latter being committed by states and institutions. 'There may not be any person who directly harms another person … The violence is built into the structure and shows up as unequal power and consequently as unequal life chances.'[31] In another study, Galtung is even more concrete in stating, '[t]hus when one husband beats his wife there is a clear case of personal violence, but when one million husbands keep one million wives in ignorance there is structural violence'.[32] Galtung's typology of personal and structural violence helps to define the whole scope of the forms of gender-based violence, ranging from physical assaults to deprivation issuing from their inability to satisfy basic needs in any situation of restricted resources. Women and girls in poverty circumstances are often

victims of economic and sexual exploitation. Their rights are ignored and they lack access to education, jobs, social services and reproductive health care. Adolescent girls are particularly at risk of early pregnancy, HIV/AIDS and sexual abuse. Moreover Galtung brings a notion of cultural violence, turning attention to the fact that most forms of violence, whether personal or structural, are legitimised by ideological, political, religious and other means.

The UN General Assembly Declaration on the Elimination of Violence against Women of 1993, which can be considered as the first international document recognising women's specific vulnerability to certain types of violence, brings a very broad definition into which both public and private spheres are included.[33] The scope of violence encompasses:

> 'physical, sexual and psychological violence occurring in the family and in the general community, including battering and sexual abuse of children, dowry-related violence, rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women, forced prostitution, and violence perpetrated or condoned by the state.'[34]

In the Beijing Platform for Action, the core document of the Beijing Fourth World Conference on Women, violence against women is considered to be a violation of human rights and an obstacle to the objectives of equality, development and peace. A wide scope of types of violence is classified according to the place of its occurrence (home, community, workplace with specific focus to female migrant workers, state).[35] Cynthia Cockburn created a typology based upon the stages which a society experiencing war had to undergo and described the most frequent types of gender-based violence in the course of war preparation, outbursts of conflict and post-conflict reconstruction. Such an approach enables one to recognise the changing patterns of behaviour of a prewar society and the accentuation of masculinity accompanying militarisation and armament, which not only silences war opposing voices but tends to a renewal of a patriarchal ideology 'deepening the differentiation of men and women, masculinity and femininity, preparing men to fight and women to support them in doing so'.[36]

Another typology of violence was brought by the World Health Organisation (WHO) whose definition encompasses all kinds of violent

actions that damage the health or well-being of individuals, groups or communities.[37] According to its nature, violence can be physical, sexual and psychological. Deprivation and neglect are also considered as damaging to one's health and well-being. According to the object, violence can be self-directed (suicidal behaviour and self-abuse), interpersonal – targeting family and intimate partners, and (or) collective (social, political or economic).[38] These definitions are gender-free, but there are specific kinds of violence against women that the WHO report recognises, such as wife battering, female genital mutilation, sexual trafficking, sexual violence, witchcraft accusations (in Tanzania for instance), and some other traditional customs that result in sexual violence towards women.[39]

Gender-based violence can be conceptualised as any intentional act done in privacy or publicly, causing both physical and mental harm to an individual, mostly but not exclusively to women, committed predominantly but not exclusively by men in order to preserve the existing hierarchy of unequal gender relations and benefiting from them. Gender-based violence is legitimised by patriarchal culture, and it is global in scope. Recently there has been a significant shift of spheres where the violence committed in the privacy of families and urban back streets, is now committed publicly and includes violence against women in wars and conflicts. The violence can be committed both by individuals or institutions, in both cases, the intrinsic reason is endemic gender inequality.[40]

In the following, the main characteristics of violence that occur both as a consequence of violent conflicts and those ascribed to the private sphere are briefly discussed. There will be no differentiation between violence perpetrated or conducted by state actors and that committed by individuals in the private sphere since violence has serious consequences whether it is committed publicly or privately, during or after war, or in peace.[41]

Sexual Assault (Rape, Forced Prostitution, Sexual Slavery, and Torture)

Rape is seen as an instrument of war, as emanating from specific conflict strategies of the enemy. As such rape, forced impregnation and forced sterilisation have been used to forward policies of ethnic cleansing and the destruction of ethnic, cultural and national identities. Further reasons and motivations underlying the perpetuation of sexual assault and rape by soldiers and the armed forces are provided in an in-depth analysis by Susan Brownmiller who stated that rape is a means to show the victorious strength over the adversary and prove the success and masculinity of soldiers, to

demonstrate that the defeated men cannot defend their own women – and thereby humiliate the enemy and as a prize or as part of the 'war booty'.[42]

In recent wars there was an increased brutality in rapes to include torture, mutilation, cruel and degrading acts in order to humiliate and punish women not only for their complicity or for protecting the adversary but as symbolic acts of humiliation of the defeated enemy. The brutality in sexual violence is derived from the fact that it has been considered as a means of asserting dominance over the enemy – as an 'act of aggression against a nation or a community'.[43] Women and girls – as young as five years of age and as old as eighty are prone to abduction by armed militias and forced to provide sexual services and domestic labour for some period of time. The case of 'comfort women' enslaved by the Japanese Army during the Second World War is a historical example. However, there are many more recent ones: the conflict in Congo has revealed the systematic rape and sexual violence against women committed by militias and armed forces. In the past four years, more than 1,600 rapes were committed in war-ravaged Congo-Brazzaville, a third of the rape victims were teenagers.[44] During the 1994 genocide campaign in Rwanda led by Hutus against the Tutsi community, thousands of Tutsi women were raped.[45] Rapes as part of ethnic cleansing have taken place in the Yugoslav wars and in Chechnya. Although war rapes have been recognised as a war crime by the International Criminal Tribunals, there are serious social and cultural barriers in collecting evidence on this occurrence, since many women are reluctant to report crimes of sexual assault, fearing stigma and retaliation. Rape and sexual assault are also committed by peacekeeping forces sent to protect or implement peace agreements. For example, evidence showed an increase in the number of cases of prostitution involving children aged 12–18 who were recruited by soldiers in the UN Observer Mission in Mozambique in 1992.[46] In 2003, British soldiers practising military manoeuvres were accused of raping local women in remote parts of northern Kenya. In spite of the fact that the rapes have been claimed repeatedly from 1983 victims, only in 2003 did the UK MOD start investigations which could lead to legal action against individual soldiers.[47]

These crimes against women during conflict are prohibited by international humanitarian law and human rights law.[48] Recently they have been recognised as crimes engaging the individual responsibility of state actors such as military personnel in international war crimes tribunal such as the International Criminal Tribunal of Yugoslavia and Rwanda. In perpetuating these crimes the armed forces, guerrilla and militia men are

therefore in breach of international law. An essential problem is that some societies still consider rape and sexual exploitation as an inevitable by-product of war.[49]

Displacement

The nature of contemporary conflicts centred on local and ethnic rivalries with the civilian population caught between warring parties has led to specific vulnerabilities of women who are forced to flee from their homes, communities and abandon their livelihoods. As a deliberate political and military strategy for ethnic cleansing, the armed forces and rebel groups perpetuate violent gender-based sexual assault, murder and terror in order to attain the objective of mass displacement.[50] Thus, women make up the majority of internally displaced persons and refugees, representing 80 per cent of the estimated 19.1 million refugees and asylum-seekers in the world in 2001.[51]

Furthermore, women may be separated from their families and communities, forced to provide sexual services by soldiers, rebels and humanitarian workers in return for food, safe passage, documentation, assistance and protection.[52] Though encampments are built for protection and safety, women and girls' security has been inadequately provided. Often they have to travel long distances and along military encampments in search of firewood, water, traditional foods and herbal medicine, and this exposes them to the dangers of abduction for forced recruitment in the military, to provide sexual services or domestic work and exposes them to the effects of landmines.[53] Reports have also shown that domestic violence increases with the militarisation of societies and in camps. The proliferation of small arms, unemployment of men, lack of shelter and basic commodities, as well as war traumas have led to arms being used against women and children.[54]

The international refugee system recognises refugees as politically active asylum-seekers. Most of them are, by the very nature of this definition, men. Such a situation has two consequences: first it is much more difficult for women to achieve the status of asylum-seekers; and secondly, it neglects those persecutions to which female refugees are exposed exclusively, such as rape, low access to scarce commodities, trafficking etc. Women, whose prosecution may not be political but cultural or of a gendered nature, may find it difficult to deal with authorities in charge of asylum-seekers. Women are often refused individual identity documents, which are frequently only issued to husbands or male relatives. Moreover,

upon returning to their homes, women refugees are sometimes unable to prove their identity and often deprived of liberty of movement or access to essential services and are unable to claim their property or their right to inheritance.

Trafficking in Women

Armed conflict, the militarisation of society and humanitarian crises serve as catalysts to trafficking in human beings. The International Organisation for Migration (IMO) has estimated the number of women and children being trafficked across international borders to be between 700,000 and 2 million.[55] According to Human Rights Watch, in Bosnia and Herzegovina alone, there were about 2,000 victims listed during a three year research, with the majority of the girls coming from Ukraine, Moldova and Russia.[56] Although women, children and men are victims of trafficking in human beings, it is however mostly women and children who are affected by this crime as it has most recently been linked to forced prostitution and sexual slavery.[57] Humanitarian law defines trafficking in human beings very broadly to encompass all important aspects of this complex crime such as:

> '[…] recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.'[58]

Perpetrators of trafficking regard trafficked persons as merely an object of exploitation and a commodity and thereby alienate the person's inherent dignity and humanity and gravely violate her/his human rights. Trafficked women and children are subjected to sexual slavery such as rape by traffickers, bar owners or relatives and to forced unprotected sexual intercourse, as well as the denial of food.[59]

Several factors contribute to the increase of trafficking. A study has shown the interconnections of internal and external conditions such as prewar systems of gender inequality, the development of war economies,

and the deterioration of livelihoods which are aggravated by the insecure situation of societies in transition whose population thrive on poverty, breakdown of social networks and law and order.[60] In such societies corruption is rampant and leads to the proliferation of criminal syndicates wherein law enforcement authorities such as the police, border guards and military personnel act in complicity.[61] This is a grave dysfunction of security wherein perpetrators of violence commit crimes without fear of justice – arrest, prosecution or conviction – as those who are in charge of justice are often part of the criminal circle. An important dysfunction that needs to be addressed is thus the problem of accountability of the security sector for such complicity.

A close connection has been made between trafficking activities and peacekeeping missions which reiterates the same dysfunctions of law and security forces. There have been reports that the presence of peacekeeping officers has increased the demand for trafficked persons for sexual services, prostitution and domestic labour and in certain cases the evidence has shown the implications of peacekeeping officers in activities of trafficking such as in Angola, Bosnia Herzegovina, Mozambique Kosovo, East Timor, Sierra Leone, Democratic Republic of Congo and Ethiopia and Eritrea.[62]

HIV/AIDS and other Health Hazards

Sexual exploitation in warfare has taken on a new dimension with the spread of HIV/AIDS. War-torn societies suffer the consequences of the destruction of infrastructure and social networks that lead to health problems for women, men and children through the spread of infectious diseases and epidemics, food insecurity and lack of access to health facilities. Due to women and girl's sexual and reproductive roles, they are more physically vulnerable than men and adolescent boys. Problems affecting women's health are derived from the deep inequality and discrimination that women and girls suffer in the prewar societies which are intensified at times of conflict and wherein new problems arise. A grave problem that touches on human and national security is the spread of HIV/AIDS, an association recognised by the UN Security Council in its Resolution 1308.[63]

It is a well-known fact that globally women and girls are disproportionately affected by HIV/AIDS. Statistics show that among the 33.6 million people living with HIV/AIDS, 14.8 million are women; among the 5 million newly infected adults in 1999, 2.3 million are women; 2.1 million people died of AIDS in 1999 and 1.1 million of them were women.

There are half a million infections in children under the age of 15, most of which have been transmitted from mother to child, 55 per cent of adult infections in sub-Saharan Africa affect women, 30 per cent in Southeast Asia, 20 per cent in Europe and USA. In Sub-Saharan Africa, women are more likely than men to be infected with HIV/AIDS. Infection rates among young women are four times as high as those of young men in some countries and women and adolescents have the highest rates of new HIV infection. [64]

Women and girls are particularly vulnerable and prone to contracting the disease through rape and sexual violence as an instrument of warfare which, in certain cases, are deliberately committed with the intention of infecting victims with the deadly disease as part of a military strategy.[65] Risks for women are increased due to poverty and desperate needs for survival wherein women are forced to trade sex for food, water, safe passage and protection.[66] Armed forces from rivalling parties and peacekeeping soldiers may be sources of HIV/AIDS or may be infected and become a source of infection upon return. During post-conflict reconstruction, women have the responsibility of caring for family members affected by the disease, which could prevent girls from going to school and women from contributing to the work force, thereby weakening the economic and social participation of the population at a crucial time of national revival.

Other health hazards concern the war-torn environment set-up wherein the destruction of hospitals and break down of services lead to increased maternal mortality during pregnancy, childbirth and breastfeeding. The use of chemical warfare and environmental hazards exposes women to long-term health problems such as birth defects, cancer and problems with reproductive health. In cases of famine and food shortages such as in camps, women and girls are discriminated against and are prone to inequitable food distribution and therefore suffer the consequences of malnutrition. Evidence is shown in a Bangladeshi refugee camp wherein girls aged less than five years were dying at 3.5 times the rate of boys.[67]

Domestic Violence

Domestic violence is defined by the World Health Organisation as 'any behaviour within an intimate relationship that causes physical, psychological or sexual harm to those in the relationship'.[68] This definition is supplemented by the definition of the UN Special Rapporteur on Violence against Women as being committed by an 'individual related through intimacy, blood or law'

and as an offensive act in the private sphere which 'targets women because of their role within that sphere or as violence which is intended to impact, directly and negatively, on women within the domestic sphere'.[69] Several studies have confirmed that it is predominantly women and girls who suffer domestic violence.[70] Domestic violence against women and girls may occur at different stages in their lives. These include acts of physical aggression, psychological abuse, sexual coercion and other controlling behaviours such as isolating a person from their family and friends, monitoring their movements, and restricting their access to information or assistance. Other forms of domestic violence against women also include sex-selective abortions and female infanticide; in the childhood and adolescent stage, girls may suffer female genital mutilation, incest, differential access to food, medical care and education, forced prostitution and sexual abuse; in the reproductive phase women may undergo physical, psychological and sexual abuse by intimate partners, dowry abuse and murder such as honour killing.[71]

The magnitude of the problem is demonstrated by statistical studies which show that in 48 population-based surveys carried out around the world by the World Health Organisation, between 10 and 69 per cent of women were reported as having suffered physical aggression by an intimate male partner at some time in their lives.[72] Studies from Australia, Canada, Israel, South Africa and the United States indicate that 40–70 per cent of female homicides were perpetrated by their husbands or boyfriends.[73] The United Nations Population Fund has reported that 60 million girls are missing from various populations, chiefly in Asia, due to sex-selective abortions, infanticide and neglect. Two million girls between the age of 5 and 15 are brought into the commercial sex industry each year, and at least 130 million women have experienced female genital mutilation and another two million are at risk of this each year. Thousands of women have died from 'honour' killings in Western Asia, North Africa and parts of South Asia – with at least 1000 women being murdered in Pakistan alone.[74] Domestic violence does not only concern developing countries as indicated by the findings of a survey, according to which one woman in five in the EU has suffered violence from her male partner at least at some time in her life and that '25% of all violent crimes reported involve a man assaulting his wife or partner'.[75] The impact on security is underlined by the serious health consequences of domestic violence.

Studies have underlined several factors leading to domestic violence such as cultural, individual, community and societal factors. An important

factor in certain societies is the traditional notion of male honour which is based on the female's sexual purity. In these societies, if a woman has been defiled through rape or voluntary sex outside marriage, she is considered to have brought dishonour to the family, in which case the honour can only be redeemed by killing the woman in question. Cultural notions of proper gender roles of men and women also lead to a justification or accepted violence against women in diverse societies.[76] Among the individual factors, poverty, a history of violence in the family and alcohol abuse are cited as possible causes of domestic violence.[77] In general, impoverished communities with limited formal legal sanctions tend to demonstrate high cases of domestic violence.[78] The concentration of economic and decision-making power in the hands of men, the absence of all-women work groups, the eruption of war and social transition, proliferation of small arms and breakdown of security and political systems and endemic structural inequalities between women and men can be considered preconditions of domestic violence.[79]

In spite of its gravity, the response from state institutions to domestic violence is inadequate due to distorted cultural and societal norms on gender roles, deeply embedded traditional customs, and the prevailing notion of impropriety of state interventions into private lives of its citizens. Violence against women is alarmingly high in certain states which, according to country studies by Human Rights Watch in Russia, Jordan, Pakistan, Peru, South Africa and the United States, is often due to a grave security dysfunction such as illustrated by the 'indifference of state officials and the failure to seriously investigate and prosecute cases of violence'.[80] Indeed, studies revealed the highly inadequate response of the police, military guards and prison staff to domestic violence cases or violence against women in custody or other forms of detention. A major problem lies in the fact that their social and cultural mentality tends to misjudge such cases as a private or family matter and thus outside their competence.[81] Yet, violence against women is a violation of women's human dignity and consequently women's human rights.[82] Under international human rights law, states have the obligation to prevent domestic violence and protect victims. This obligation is derived from its due diligence to ensure the protection and respect of human rights and guarantee equal protection under the law. [83]

Gender-Based Violence and Security Sector Governance

Both women and men are exposed to atrocities of armed conflicts, but the ways they experience them differ substantially. It is mainly men who wage wars, fight and die in them, while women's usual role is to suffer from fear, abuse, and poverty, or to flee to save their own life and that of their children.[84] These different roles have not changed for millennia, maybe with the exception of the fact that in present wars, which have a greater impact on civilians, women are more at risk of being killed than ever before. The different roles men and women play in wars specifically, and in security generally, have become so deep-seated within societies, that only under the pressure of appalling news from conflict areas, mainly those from the territory of the former Yugoslavia, has women's exposure to war violence been broadly recognised by both the international institutions, and national governments as a grave problem deserving special and constant attention. War atrocities committed against women turned attention to gender-based violence as such, and the need for more profound analysis of its roots and causes has emerged.[85]

There is a consensus among experts on gender that the primary root of violence against women is the patriarchal structure of society, based on men's domination and women's submission, on division between public (politics) sphere belonging to men, and private (family) sphere, ascribed to women. This patriarchal pattern of power division exists all over the world and impacts on gender disparities in education, health care, jobs and salaries, as well as on the inequalities between men and women in their participation in a political life.[86] The inequity becomes especially visible in a postwar situation, when resources are scarce. The disparity also reflects the ways wars are waged and fought, and results in unequal access to protection for men and women. There are many more women among civilian casualties, refugees, among those who are tortured and sexually abused in the chaos of war, and consequently among the HIV/AIDS positive. Another reason behind the violence, which emanates logically from the previous one, is a low participation of women in all the processes where crucial decisions about security and peace issues are made, and where – due to women's absence – the sensitiveness to gender issues has been at a very low level.

The relatively limited awareness of politicians and broader public of the geographical scope, and increasing magnitude of some forms of gender-based violence, such as trafficking, is another reason for the pervasiveness and persistence of the violence. In spite of numerous books, reports and

information provided by various international organisations and NGOs carrying out field research, there is a lack of reliable data, statistics and in-depth analysis on gender-based violence. Even methodologically well carried out surveys are not reliable since most of the data is not comparable and the true size of the violence in different regions with different cultural backgrounds is difficult to estimate. That said, the data allows one to conclude that the problem is widespread across cultures, religions, societies and irrespective of social, economic and political conditions; but only very cautious conclusions can be drawn as concerns any comparisons of countries, regions and continents. The lack of reliable data and statistics showing the true character of the problem contributes to insufficient public knowledge and awareness about its baleful consequences and high costs for communities and societies.[87] Official national or even cross-national statistics on the well-being of populations through which the basic gender disparities and the level of gender inequality could be estimated are rarely gender-differentiated, and most of the evidence of gender-based violence is based upon 'witness stories', which represent an excellent groundwork for increasing the media coverage of the problem, but which are often refused by policy-makers as reliability and validity lacking.

Impunity for violent acts against women, whether in public or private spheres, has been another repeatedly mentioned reason why gender-based violence has been such a persistent aspect of human behaviour. Many violent and criminal acts against women can be ascribed to the fact that laws are not put into practice, the justified needs of women are neglected, and impunity towards perpetrators exists due to the biased approach of judiciary officials. The problem of impunity indicates that violence against women can also be considered as a result of a lack of ability to fulfil their missions, by the security institutions, including the judiciary, which are responsible for the protection of inhabitants.

Cases where security forces not only fail to protect women against violence committed by fighting sides or criminal gangs (or aggressive partners), but when they themselves are the perpetrators of the violence, are not exceptional. Border guards, national governments and regional/local authorities, the police, peacekeepers in post-conflict areas – all these institutions failed to prevent criminal gangs from developing a very lucrative trade with the women trafficked for sex industry or slave work.

War atrocities against women are often committed by national forces, whether regular or guerrilla ones. Moreover, the privatisation of violence makes some of the forces unaccountable to national institutions controlling

the security sector, and renders bringing the perpetrators of violence against women to court difficult, if not impossible.

Domestic violence – which is not only widespread in so-called 'macho' societies, but also in countries with developed civil liberties including women's rights, such as the United States and Canada – can be considered as a result of the inability of state institutions to deal effectively with it. Under international human rights law, states have the obligation to prevent domestic violence and protect victims, and a scope of measures for state institutions such as the police, justice, health and welfare departments have been created, but in reality very few states have implemented these measures.[88] The security institutions, in this case namely the police, do not show enough effort and willingness to overcome pervasive cultural mentalities and tend to misjudge domestic violence as a private or family matter, or they lack the expertise and understanding for the complicity of this form of gender-based violence.

The responsibility security forces and security institutions have in the eradication of gender-based violence, and the fact that they often fail to do so, indicates that an exploration of gender-based violence from the point of view of the security sector in order to contribute to knowledge about relationship of these two phenomena makes sense. It would seem that the time for such research has come. The concepts of security sector and gender-based violence have more in common than is evident at the first glance. Both concepts were elaborated within the international development community after the end of the Cold War in order to cope with new challenges, threats and opportunities such as peacemaking, conflict prevention and reform of post-totalitarian security forces.

New wars at the beginning of the 1990s turned the attention of the development community to the atrocities committed on civilian population. The relatively successful inclusion of gender ideas into security studies and development strategies contributed to the recognition that gender-related violence is politically unacceptable, and that societies can profit from women's contribution to peace negotiations, peace-building and post-conflict reconstruction. Similarly, the security sector concept arose from the lessons learned by donors providing for aid in the reform of armed forces, donors who came to the conclusion that a holistic, all security sector encompassing approach has been most effective.

Furthermore, there is a lot of empirical evidence about the gender-based violence that has been committed recently all around the world and collected by various NGOs operating in conflict areas. There is a clearly

declared resolve of the international community to eliminate the violence, and this is expressed in numerous documents of the UN, the EU and international financial institutions. The conceptualisation of the security sector based upon empirical knowledge of the post-Cold War security developments has also progressed significantly. In recent publications, there has been a significant shift from a military-centred notion of security to the safety of citizens, whose everyday-life security is given nearly the same importance as national defence. The expert community devoted to security issues has increasingly supported the need to understand the security sector in a wider sense, as those organisations and activities concerned with the provision of security for citizens.[89] The set of actors responsible for the protection of the population has been broadened to include civilian institutions, both state and non-state, which have the obligation and the right to formulate and manage security policy. Thus a country's security sector can include quite a broad range of actors, such as the organisations authorised to use force (armed forces, police, paramilitary forces, border guards, civil defence forces, national guards, militias etc.), the bodies of civil management and oversight (president, national government, parliamentary committees, ministries of defence, foreign affairs and of internal affairs etc.) and a wide set of civil society organisations and groups such as the media, professional associations, research organisations, advocacy groups, non-governmental organisations. Justice and law enforcement institutions such as the judiciary, justice ministries, penitentiary institutions and correctional services, human rights commissions and ombudspersons, form another important group of actors involved in executing the control of security sector. Undoubtedly, non-statutory security forces, i.e. guerrilla armies, private militaries, private bodyguard bodies, political parties militias etc., must also be included in the sector.[90] In some countries, informal/non-statutory groups, such as organised crime syndicates, powerful local families in rural areas or various informal advisors, may influence the formal decision-making, and must therefore be taken into consideration.

The introduction of the security sector concept primarily aims to elaborate the best practices of how to reform a totalitarian or authoritarian sector into forces and institutions that are able to function properly within a market economy and democratic regime, according to the standards developed in Western democratic countries. An ultimate goal of any institutional reform is good governance, which is considered as a basic precondition of proper functioning of the sector in question. Experience in development aid shows that:

> '[h]istorical burdens, adverse international economic conditions such as falling raw material process or other external factors, though important, do not have a decisive impact on the achievement of a higher quality of life in the countries concerned. In light of this fact, coupled with uneasiness caused by irresponsible rulers in a number of countries, the matter of 'governance' has come to the forefront of the debate over development policy.'

Therefore more and more donors have become willing to locate their aid and funds to the countries where the conditions for the reform of a given sector can guarantee that democratic governance is taken into consideration.

Existing projects, policies and programmes of the development agenda can operate as examples of how to engender security. The implementation of gender-related projects, policies and programmes within the development community opens up possibilities for gendering security. One of the tested and recommended programmes designed especially for developing countries are sector-wide approaches that offer a strategy on building up and implementing a coherent policy in gender equality at the national level, making use of the potential of national sectors, mostly national governmental authorities and groups in civil society, and linking them effectively with international donor agencies.[91] The main goal of sector-wide approaches is to contribute to national human development objectives by focusing on the development of a coherent sector, defined by an appropriate institutional structure and national funding programmes. Sector-wide approaches are oriented more to increase of national ownership than to waiting for donors' help. By stressing the principle of wide partnership, both of state and non-state institutions, the method is considered to be a very powerful tool for connecting bottom project levels to high policy levels. Sector-wide approaches offer the possibility of recognising gender mainstreaming as a process which needs to permeate the whole sector programme. Thus gender issues are not interpreted simply as the inadequate access of women and girls to services and resources, but as a necessity to implement development programmes with respect to gender-sensitive needs and demands. Sector-wide approaches are more challenging than single-issue projects since to attract a broad scope of partners would require meticulous analysis of gender issues, which helps in overcoming the lack of general and yet diagnostic documents. The necessity of establishing a

partnership between governmental and civil society organisations means to define the role of governments, NGOs, women's organisations and the private sector very precisely, and to increase the level of accountability and responsibility of the partners. There is a challenge of maintaining a level of coherence while at the same time ensuring a government commitment to decentralised planning and governance at the local level. Regular monitoring and evaluation of sector-wide projects can only contribute to overcome a lack of information, reliable statistics and data in gender issues. Seemingly, such sector-wide projects have a real chance of attracting donors to the issues of engendering security.

Security sector governance can be seen as the capacity of governments and other actors to formulate and implement certain policies in security and defence issues. Whether this capacity is executed in favour of people's well-being or not depends on the form of political regime. Democratic governance has been constituted by legitimacy of government, accountability of political and official elements of government, by competence of governments to formulate policies and deliver services, and by respect for human rights and rule of law. These democratic governance principles are of great importance for engendering security. They represent ideal criteria according to which the state of integration of gender-sensitive approaches to security policy and agenda can be measured. Moreover, these fundamental principles – participation, rule of law, transparency, responsiveness, consensus orientation, equity and inclusiveness, effectiveness and efficiency, and accountability – can be translated into 'best practices' in the process of engendering security sector agenda.[92] The recommendations of the international community, as for instance expressed in the UN Security Council Resolution 1325 on Women, Peace and Security, aim at achievement of these principles, accentuating empowerment and the integration of women into decision-making as well as into security sector forces, and ending impunity of violence via joint efforts of civil society and the international community in monitoring, recording and addressing these crimes. The full implementation of the Resolution calls for transparency and accountability of those complicit in trafficking in women and children, as well as for application of international law on women's protection against crime. The efficient management of resources invested in humanitarian assistance and post-conflict reconstruction in order to ensure that women profit directly from the aid via so-called gender budgets has been another example of a good governance principle applied in the gender-sensitive security agenda.

The call for joint efforts from all major actors of the international community, such as the UN Secretary-General, the UNIFEM, UNFPA and UNDP, and many others has been in full concordance with the necessity to understand the governance both in national and international contexts.[93] Here the closer cooperation of all actors, both international and national is requested. Trafficking in women and children is an example of a complex problem that cannot be eradicated without joint efforts by governments, security forces and international institutions. The approach based upon engendering security should analyse how to use security institutions' potentials and powers, how to divide responsibilities for dealing with violence, how to address issues of poverty that lie at the basis of the victims' willingness to undergo risks of 'advantageous labour or marriage abroad' offered by traffickers, and how to face the well-developed net of criminal gangs operating in human trafficking.

The question of why security should be gendered must be followed by the question of how to do it. Four basic methods can be suggested:

- to increase the awareness of the problem of gender-based violence among politicians, security sector representatives, and the public;
- to empower women through integrating them in the security sector;
- to change the institutional culture of the security sector in the direction of greater salience given to gender-related issues, i.e. incorporation of gender-related issues at all levels of the sector and integration of gender issues in the curricula of military academies; and
- to enhance cooperation between security sector institutions and non-state organisations, especially those dealing with violence against women.

Any research on engendering security will have to deal with the elucidation of these methods, addressing the different roles that men and women play in the security sector as victims of the violence, as perpetrators as well as protectors and guardians of vulnerable groups. The special attention should be paid to 'feminine' values women can add to the peace processes, and to the advantages of their inclusion into up to now prevailingly male world of security institutions. The crucial issue which deserves special attention is the examination of the costs societies pay for women's exclusion from decision-making and the executive activities of the sector. Most of the literature has concentrated on women's suffering and injustice, while evidence about the benefits and profits societies could have

if women were given the chance to participate more on security processes has been scarce. Women contribute to security as peacemakers, bringing in new approaches to peace, endeavouring to overcome ethnic divisions and the dehumanisation of enemies in the quest for peaceful solutions.[94] The most influential and effective of women's actions for peace are found at the grassroots level as women express their views on peace, non-discrimination, accountability and the respect of human rights.[95] However, in spite of the significant progress of the women's peace movement, women often find themselves excluded from formal peace processes due to obstacles stemming from societal concepts of traditional gender roles, lack of access to resources and institutional support and stereotype ideas of gender areas of expertise viewing peace processes as male domain for male discourses and practices.[96] This disproportion between achievements at the grassroots level and women's participation in policy and diplomacy at both national and international levels could be addressed within the agenda of engendering the security sector.

We are aware that doubts might arise as to the compatibility of the two concepts. The security sector is a relatively new concept and gender-based violence is a vast set of information, mostly of an empirical nature, firmly connected with gender studies, but lacking in-depth theoretical elaboration. At one extreme, gender is a very complex, highly politicised concept, belonging to feminist thinking, which has always been rather critical towards state establishment. At the other extreme, the nature of the security sector is power-related, hierarchical and male-dominated. Another obstacle can be seen in the salience of regional aspects of gender-based violence. Although gender-based violence is pervasive, the practical agendas have various forms in different countries, ranging from the demobilisation of female combatants in some African post-conflict countries, to women's participation in newly established political structures of the countries in transition, to issues of women's employment in security and defence structures and the risks it brings during combat deployment of troops. Furthermore, the inclusion of gender in security issues can be considered as another 'burden' to a security sector building process overloaded with unsolved theoretical and practical issues. The recent practice indicates that when security sector reform has been started in transition and post-conflict countries, women and their rights have often been left behind the official agenda.[97]

The complex character of gender inequality and the ways men and women participate to the 'consume of security' can be seen as another

difficulty. Security sector reform could serve as an illustrative example. On a general level authoritative and totalitarian states are much less efficient in the provision of protection for their inhabitants than democracies. During the twentieth century democides were far more common under totalitarian, authoritarian or failed states than in democracies.[98] However, that does not mean that democratic reform of security sectors after the regime change brings more security to a majority of citizens, or even enhances the unequal position of women in terms of their access to security. The reality can be just the opposite, with borders opened to organised gangs involved in trafficking people, arms and drugs, with a pervasive net of the black economy, with an influx of immigrants, and with the pauperisation of broad segments of societies unable to cope with demands of free market. As women are more exposed to poverty, they become first victims of increasing unemployment, worsening health care and the overall failure of the social services, especially in those countries of transition with collapsing economy. Recent studies evidence that economic and social situation of many women in post-communist countries has worsened in comparison with the previous regime, which had endorsed women's emancipation because of both ideological and economic reasons. Even in the countries of Central Europe where the consequences of the economic transition were not as drastic as in Russia and the countries of the former Soviet Union, women have lost many of their rights to participate on political life.[99] Security as an inevitable value of human life encompasses much more than just 'security from fear' (of criminality, wars, terrorism), and if 'security from want' cannot be provided to all citizens, reformed security sectors, even under democratic governance, do not contribute much to secure societies.

The last obstacle that deserves at least a brief mention is the real position of civil society actors in societies. The activities of NGOs operating in security areas such as small arms, war-affected children, landmines, the promotion of the International Criminal Court, and the inclusion of women in post-conflict countries into political bodies, form a crucial element in the struggle against gendered violence. On a declarative level, the invaluable expertise, energy and commitment devoted by civilian actors has been acknowledged, but in practice their influence in formulating, managing and controlling security policy has not been awarded sufficient recognition. One of the reasons for this can be ascribed to the fact that governance structures and their powers and responsibilities have not been geared to integrate gender issues. To subject security sector affairs to public scrutiny meets with a strong resistance from the side of bureaucratic structures who jealously

protect their 'area of expertise', not to mention the deeply seated culture of secrecy surrounding security issues.

These obstacles to the elaboration of gendering security sector call for in-depth research, which would evince the plethora of connections between the security sector and gender, and disclose why and when the security forces and actors lose their ability to protect all groups of citizens, and how to overcome the reticence in national security sectors *vis-à-vis* the inclusion of gender issues into their agenda and women into their structures.

Conclusion

There is a common understanding that the issues of gender-based violence need to be thoroughly analysed in order to rethink the complex relationship between security and gender and to gain a better understanding of the roots of the uneven consumption of security among men and women.

We proposed the human security concept as a basic politico-analytical framework for the conceptualisation of gender-based violence. The people-centred character of human security helps to identify the vulnerable groups within societies, and its shift of focus from state security to security of people widens the range of state actors to a rich net of civil society bodies. The concept connects the protection of people with their empowerment, accentuating the importance of giving people an opportunity to take charge of their own lives. Furthermore, the concept leaves enough space for the security sector without which the security of individuals and communities would be unachievable.

The human security concept appears to be too broad and vague for the analysis of gender-based violence. From this perspective, we may conclude from the discussion set out in this chapter that proper functioning of the security sector in accordance with the principles of good governance could facilitate the reduction of gender-based violence against women. The ways in which to integrate more women into security institutions, and how to change the institutional culture so that the security sector is more sensitive to women's needs, should all be dealt with. There is a need to revise national legislation according to existing international human rights and humanitarian laws and overcome the obstacles to this realisation. Since justice remains elusive to many female victims of violence, the issue of the impunity of perpetrators and low accountability of those responsible for the security of citizens should be given special attention. The emergence of a large number

of UN agencies and international and local NGOs providing humanitarian aid to the civilian population in crisis areas and enabling women to make a substantial contribution to peace-building and postwar reconstruction opens the question of the relationship of these private agents in security to the security sector. A profound study of the barriers in cooperation between state and non-state actors in national, regional and international levels would represent another necessary topic of interest. Research on gendering security sector would contribute to a better understanding of the roles women play in security, summarising experiences and lessons learned, and aiding the quest for effective remedies to gender-based violence.

Notes

[1] See the General Assembly Declaration on the Elimination of Violence against Women (CEDAW), which in 1993 recognised that women are extremely vulnerable to violence in armed conflicts. The role women can play in negotiating peace agreements and in reconstructing war-torn societies has been accentuated in the Security Council Resolution 1325 (2000). In 1998, the Commission on Human Rights began to systematically collect the evidence on violence against women committed around world (see Coomaraswamy, R., *Report of the Special Rapporteur on Violence against Women, its Causes and Consequences*, E/CH.4/1996/53, 1996, § 23 and § 28). See also the European Parliament resolution A-0250/1997 Violence against Women, and the World Bank publication *Engendering Development*, (Oxford University Press: Oxford, 2002), especially pp. 49–50, 77, 119.

[2] Gender-based violence is not however a synonym for violence against women alone, since men are also exposed to war atrocities and various discrimination occurring in peacetime. A trend of gender studies devoted to masculinity pays special attention to violent acts against men perpetrated by other men. The awareness of violence against both genders offers a unique opportunity for research and policy making to move beyond the common narrative of 'men as perpetrators and women as victims', and begin to envision them as partners in the solution by equally placing men and women into strategies of prevention and intervention. Furthermore, violence against men indicates that gender-related violence is an extremely complex and multi-dimensional problem which should be viewed from a broader perspective.

[3] See UNSC Resolution 1325 (2000): Report of the Secretary-General on Women, Peace and Security. S/200'/1154. Rehn, E., and Sirleaf, E.J., *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building*, (New York, 2002): UNIFEM, 2003; Lindsey, C., *Women Facing War*, (ICRC: Geneva, 2001); United Nations Development Program (UNDP*), Gender Approaches in Conflict and Post-Conflict Situations*, (UNDP: New York, 2003); Burke, C., *Women and Militarism. Women's International League for Peace and Freedom*, available at:

<http://www.wilpf.intch/publications/womenmilitarism.htm>; Brown, L., *Sex Slaves: The Trafficking of Women in Asia*, (Virago: London, 2000); and Cockburn, C., *Gender, Armed Conflict and Political Violence*, available at:
 <http://www.genderandpeacekeeping.org/resources>.

[4] See for instance Dobash, R.E., and Dobash, R., *Violence Against Wives*, (Open Books: London, 1997); E. Schneider, *Battered Women and Feminist Lawmaking*, (Yale University Press, 2000); Kelly, K., *Domestic Violence and the Politics of Privacy*, (Cornell University Press: New York, 2002).

[5] 23rd Special Session of the General Assembly of the United Nations: 'Women 2000: Gender Equality, Development and Peace for the 21st Century' (5–9 June 2000). A/5-23/10/Rev. 1; see also Eltahawy, M., 'Heroes in the fight against a rite that maims women', *International Herald Tribune*, (11 February 2003), p. 4.

[6] Violence against women during recent armed conflicts was recognised as a violation of human rights at the Vienna World Conference on Human Rights in 1993. The Beijing World Conference on Women in 1995 identified women's suffering in armed conflicts as one of the twelve critical areas of concern to be addressed by member states, the international community and civil society. In 1998, the Commission on the Status of Women adopted conclusions, highlighting gender-sensitive justice and specific needs of women affected by armed conflict, as well as the need to increase women's participation in all stages of peace processes including conflict prevention, post-conflict resolution and reconstruction and disarmament issues. UNSC Res. 1325 issued in 2000 confirmed the readiness of the international community to deal with violence against women.

[7] The authors would like to thank Dorina Nastase for her helpful comments on the concept of human security.

[8] *Canada's Foreign Policy for Human Security*. Available at:
<http://www.dfait-maeci.gc.ca/foreignp/humansecurity/HumanSecurityBooklet-e.asp>.

[9] Buzan, B., *People, States and Fear: An Agenda for International Security Studies in the Post-Cold War*, (Harvester Wheatsheaf: London, 1991); Weaver, O., 'Securitization and Desecuritization', Lipschutz, R.D. (ed.), *On Security*, (Columbia University Press: New York, 1995); Buzan, B., Waever, O., and de Wilde, J., *Security: A New Framework for Analysis*, (Lynne Rienner: Boulder, 1998); Booth, K., 'Security and Emancipation', *Review of International Studies*, vol. 17, no. 4, pp. 313–26; Galtung, J., *Peace by Peaceful Means: Peace and Conflict Development and Civilization*, (International Peace Research Institute: Oslo, 1996); Galtung, J., 'Violence and Peace', in Smoker, P., Davies, R., and Munske, B., (eds), *A Reader in Peace Studies*, (Pergamon Press: Oxford, 1990).

[10] ul Haq, M., 'New Dimensions of Human Security' in *Human Development Report 1994: New Dimensions of Human Security*, (Oxford University Press: Oxford, 1994), pp. 22–40.

[11] See Rotschild, E., 'What is Security?', *Daedalus*, vol. 124, no. 3, pp. 53–98.

[12] See Leaning, J., Briggs, S.M., and Chen, L.C., *Humanitarian Crises: The Medical and Public Health Response*, (Harvard University Press: Cambridge, Mass, 1999); Leaning, J., Arie, A., and Holleufer, G., 'Conflict and Human Security', Paper prepared for the Commission on Human Security, available at: <http://www.humansecurity-chs.org>.

[13] See Hamson, F.O., *Madness in Multitude: Human Security and World Disorder*, (Oxford University Press: Ottawa, 2001).

[14] See King, G., and Murray, C.J.L., 'Rethinking Human Security', in *Political Science*,

Quarterly, vol. 116, no. 4, (Winter 2002).

[15] See Thomas, C., and Wilkin, P. (eds), *Globalization, Human Security, and the African Experience*, (Lynne Rienner Publishers: Boulder, CO 1999).

[16] See Paris, R., 'Human Security: Paradigm Shift or Hot Air?', *International Security*, vol. 26, no. 2, pp. 87–102. See also Moeller, B., 'The Concept of Security: The Pros and Cons of Expansion and Contraction,' Copenhagen Peace Research Institute (COPRI) Working Paper (2000); Alkire, S., *Conceptual Framework for Human Security*, (16 February 2002) available at: <http://www.humansecurity-chs.org/activities/outreach/frame.pdf >.

[17] The Network includes Austria, Canada, Chile, Greece, Ireland, Jordan, Mali, the Netherlands, Norway, Switzerland, Slovenia, Thailand and South Africa as an observer. Conferences at Foreign Ministers level were held in Bergen, Norway (1999), in Lucerne, Switzerland (2000), Petra, Jordan (2001) and Santiago de Chile (2002). The Network's current efforts include tackling issues such as the increasing universality of the Ottawa Convention on Anti-personnel Landmines, the establishment of the International Criminal Court, the protection of children in armed conflict, the control of small arms and light weapons, the fight against transnational organised crime, human development and human security, human rights education, the struggle against HIV/AIDS, addressing implementation gaps of international humanitarian and human rights law, and conflict prevention. See <http://www.humansecuritynetwork.org/menu-e.php>.

[18] UN Secretary-General Kofi Annan, *Millennium Report*, Chapter 3, pp. 43–4.

[19] *Human Security Now: Commission for Human Security*, (New York 2003). Available at: < http://www.humansecurity-chs.org/finalreport/FinalReport.pdf>.

[20] Suhrke, A., 'Human Security and the Interests of States', *Security Dialogue*, vol. 30, no. 3 (September 1999), pp. 265–76.

[21] There are many definitions of human security differing in complexity and precision. Some of the key values that these definitions refer to follow: freedom from fear and want, economic development, social justice, environmental protection, democratisation, disarmament, respect for human rights, the rule of law, the quality of life of the people in a society or polity, human dignity, freedom from pervasive threats to people's rights, their safety or their lives, human survival, well-being and freedom, the number of years of future life spent outside a state of generalised poverty, material sufficiency including food, shelter, education, health care, political participation, representation, protection of those who most vulnerable, elimination of inequalities, de-legitimacy of violence etc. See Alkire, S., *Conceptual Framework*.

[22] See *Human Security Now*, pp. 1–19.

[23] S. Ogata, Safeguarding Freedom: A new concept of human security*, International Herald Tribune*, (8 May 2003).

[24] A. Suhrke, 'Human Security and the Interests of States', *Security Dialogue*, vol. 30, no. 3 (September 1999), pp. 272–3.

[25] *Human Security Now*, p. 10.

[26] See *Bending the Bow: Targeting Women's Human Rights and Opportunities*, (Open Society Institute, Network Women's Program: New York, 2002), and Brown, L., *Sex Slaves: The Trafficking of Women in Asia*, (Virago Press: London, 2000).

[27] The UN has already dealt with violence against women, as in the *Human Development Report 1994* wherein violence against women is included in a sub-chapter, quite confusingly entitled 'personal violence,' and describing domestic and cultural violence and inequalities in

the distribution of basic commodities in impoverished countries. Generally, women are referred to as a group of the population with greater exposure to physical abuse than men. The *Human Development Report 2002* pays attention to what at that time was already well documented: the violence women suffered during recent wars. Gender has been included in the report's rich statistical material documenting both inequality in access to resources and showing rather a low level of women's participation in political decision-making. See UNDP, *Human Development Report*, (Oxford University Press, New York & Oxford: 1994), p. 31; and UNDP, *Human Development Report 2002: Deepening Democracy in a Fragmented World*, (Oxford University Press: New York & Oxford), p. 107 and part VII of Human Development Indicators.

[28] *Human Security Now*, pp. 23, 25 and 114–15 refers to rapes committed during wars and accentuates the gender imparity in education, pointing out the fact that 60 per cent of out-of-school children are girls and stressing the societal advantages of girls' education for the well-being of families in developing countries, in light of their future role as caregivers.

[29] See for instance Clarke, E.A., and Lawson, T., *Introduction to Gender*, (Sheridan House: New York, 1985) and Bonville, N., *Women and Men: Cultural Construct of Gender*, (Prentice Hall College Press: New York, 2000).

[30] Abeyesekera, S., *A Women's Human Rights Perspective on War and Conflict*, available at <http://www.whrnet.org/docs/perspective-abeysekera-0302.htmlY>. See also Tickner, J.A., *Gender in International Relations: Feminist Perspective on Achieving Global Security*, (Columbia University Press: New York, 1992) and Terriff, T., Croft, S., James, L., and Morgan, P.M., *Security Studies Today*, (Polity Press: Cambridge, 1999). Evidence of women's active participation in recent wars can also be found in documents on the African Rights website: *Rwanda - Not so Innocent: When Women Become Killers* (African Rights: London, 1995).

[31] Galtung, J., 'Violence, Peace and Peace Research', *Journal of Peace Research*, vol. 6, no.1 (1969), pp. 170–1.

[32] Galtung, J., 'Cultural Violence', *Journal of Peace Research*, vol. 27, no. 3 (1990), pp. 291–305.

[33] 'Any act or gender based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.' United Nations General Assembly*, Declaration on the Elimination of Violence against Women*, (20 December 1993), p. 5. Also available at: <http://www.un.org/documents/ga/res/48/a48r104.htm>.

[34] Ibid., p. 6.

[139] See *Women and Violence*, p. 2, available at: <http://www.un.org/rights/dpi1772e.htm>.

[36] Cockburn, C., *Gender, Armed Conflict and Political Violence,* available at <http://www.genderandpeacekeeping.org/resources>.

[37] Violence is '[t]he intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation.' In World Health Organisation (WHO), *World Report on Violence and Health*, (WHO: Geneva, 2000), p. 5.

[38] Ibid., pp. 6–7.

[39] *WHO Report on Violence and Health*, p. 157.

[40] INSTRAW, Men's roles and responsibilities in ending gender-based violence, available at <http://www. un-onstraw.org/en/research/mensroles/background.html>.

[41] The distinction between violence in public and private spheres, between personal and structural forms of violent behaviour against women may be relevant when dealing with solutions, remedies and practical programmes since any solution must be adapted to a concrete situation, in which concrete victims, perpetrators and those responsible for relief and punishment are involved.

[42] Brownmiller, S., *Against Our Will: Men, Women and Rape* (Simon & Schuster: New York, 1975), pp. 27–8.

[43] Byrne, S., *Gender, Conflict and Development*, BRIDGE Briefings on Development and Gender, (Ministry of Foreign Affairs of Netherlands, 1996), p. 16, cited in Lindsey, *Women Facing War*, p. 52.

[44] 'Rapist run amuck in Congo-Brazzaville', at the website Africa Online, available at: <http://www.africaonline.com/site/Articles/1,3,5230.jsp>.

[45] Human Rights Watch Documents on the Democratic Republic of Congo, *Sexual Violence in Eastern Congo*, (Human Rights Watch, 2002). Available at: <http://hrw.org/press/2002/06/congo0620.htm>.

[46] Machel, G., *The Impact of Armed Conflict on Children*, Report of the Expert of the Secretary General, submitted pursuant to the resolution adopted by the GA A/RES/48/157, 1996, A/51/306, p. 22, point 96.

[47] 'Kenyan women granted legal aid to sue MoD', *Guardian* (2 July 2003).

[48] See the Four Geneva Conventions and Additional Protocols I and II, particularly the Fourth Geneva Convention for international conflicts – Art. 32 prohibits states from engaging in acts of brutality whether by civilians or military agents. Additional Protocol I provides a comprehensive list of prohibitions. See also the International Convention on Civil Political Rights (ICCPR) – Art. 6 and 7, UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), Inter-American Convention on the Forced Disappearance of Persons (1994), Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (1994) and Convention on the Prevention and Punishment of Genocide (1948).

[49] Lindsey, *Women Facing War*, p. 52. An ICRC study has shown that certain villages have tolerated armed men who used young girls as sex workers because the village is protected by these armed men. p. 29.

[50] Annan, K., *Women, Peace and Security*, (UN Publications: New York, 2002). In contemporary conflicts civilians are targets wherein mass displacement is common. Kofi Annan, Report of the Secretary-General on protection for humanitarian assistance to refugees and others in conflict situation, 'the forced displacement of civilian populations is now often a direct objective, rather than a by-product of war' (22 September 1998), § 12 cited in Rehn, E., and Sirleaf, E.J., *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building*, (New York: United Nations Development Fund for Women, 2002), p. 22. Also available at: <http://www.unifem.undp.org/resources/assessment/table.pdf>.

[51] Rehn and Sirleaf, *Women, War and Peace*, p. 65. See also Annan, *Women, Peace and Security*, § 93.

52 UNHCR and Save the Children UK, *Sexual Violence and Exploitation: The Experience of Refugee Children in Guinea, Liberia and Sierra Leone; based on Initial Findings and Recommendations from the Assessment Mission on 22 October–30 November 2001*, (February 2002), cited in Annan, 2002, § 94. See also Lindsey, *Women Facing War*, p. 66.

53 'Report of High Commissioner for Human Rights on Systematic Rape, Sexual Slavery and Slavery-like Practices during Armed Conflict', E/CN.4/Sub.2/2002/28 and 'Note for Implementing and Operation Partners by UNHCR and Save the Children', cited in Annan, *Women, Peace and Security*, § 97–98.

54 Annan, *Women, Peace and Security*, § 55. See also Rehn and Sirleaf, *Women, War and Peace*, p. 16.

55 International Organisation for Migration (IOM), 'New IOM figures on the Global Scale of Trafficking', *Trafficking in Migrants Quarterly Bulletin*, no. 23, (April 2001). Human Rights Watch, 'Bosnia and Herzegovina: Traffickers Walk Free: Local Corruption and Presence of Internationals Exacerbate Abuses,' *HRW Documents in Bosnia Herzegovina*, (New York, 26 November 2002), available at: <http://www.hrw.org/ press/2002/11/bosnia1126.htm>.

56 Ibid.

57 Lindsey, *Women Facing War*, p. 56.

58 The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime (article 3 (a)), 2000.

59 Picarelli, J., *Trafficking, Slavery and Peacekeeping: The Need for Comprehensive Training Program: a Conference Report*, (UNICRI and TraCCC: Turin, 2002), p. 46.

60 Annan, *Women, Peace, and Security*, § 65.

61 Ibid. The example of Kosovo shows the corruption of police, border guards and peacekeeping officers which has led to the creation of well-organised trafficking whose victims are estimated to be up to 2000 women and children. Picarelli, *Trafficking*, p. 46.

62 See Rehn and Sirleaf, *Women, War, and Peace*, p. 71. Picarelli, *Trafficking*, pp. 47–9.

63 UN Security Council Resolution 1308 (2000) on the responsibility of the Security Council in the maintenance of international peace and security: HIV/AIDS and international peacekeeping operations, S/RES/1308 (2000), adopted by the Security Council at its 4172nd meeting on 17 July 2000, available at: <http://www.un.org/Docs/scres/2000/ sc2000.htm>.

64 WHO, *Women and HIV/AIDS Fact Sheet*, No. 242, (WHO: Geneva, June 2000), available at: <http://www.who.int/inf-fs/en/fact242.html>. See also Annan, *Women, Peace and Security*, § 74–5 and UN, 'Declaration of Commitment on HIV/AIDS, The UN Special Session on HIV/AIS: 'Global Crisis – Global Action' (UN: New York, 25–7 June 2001).

65 Annan, *Women, Peace and Security*, § 76. Sierra Leone – estimated 70–90 per cent rape survivors have contracted sexually transmitted diseases.

66 Lindsey, *Women Facing War*, pp. 111–12.

67 Toole, M., and Waldman, R.J., 'Refugees and displaced persons: War, hunger and public health,' *Journal of the American Medical Association*, vol. 270 (1993), p. 600 cited in Annan, *Women, Peace and Security*, § 69.

68 *World Report on Violence and Health*, (Brussels: 2002), p. 89.

69 Radhika Coomaraswamy, *Report of the Special Rapporteur on Violence against Women, its Causes and Consequences*, E/CH.4/1996/53, 1996, § 23 and § 28.

[70] *World Report on Violence and Health*, p. 89; Feminist Majority Foundation, Domestic Violence Facts, available at: <http://www.feminist.org/other/dv/dvhome.html>. According to the Feminist Majority Foundation, a recent study by the US Department of Justice showed that of those victimised by domestic violence women comprised 85 per cent while men comprised 15 per cent. It concluded that women are 5–8 times more likely to suffer violence from an intimate partner.

[71] Heise, L., 'Violence against Women: The Hidden Health Burden', *World Bank Discussion Paper*, (World Bank: Washington. D.C, 1994), cited in UNFPA, 'Ending Violence against Women and Girls', in *State of World Population 2000*, available at: <http://www.unfpa.org/swp/2000/english/ch03.html>.

[72] *World Report on Violence and Health*, p. 89.

[73] Ibid.

[74] Chapter 3, UNFPA, *State of World Population 2000*, available at: <http://www. unfpa.org/swp/2000/english/ch03.html>.

[75] European Union, EU, Gender Equality: European Campaign to Raise Awareness of Violence against Women, available at: <http://europa.eu.int/comm/employment_ social/equ_opp/violence_en.html>. The European Parliament has adopted a resolution in 1997 to promote a campaign for zero tolerance of violence against women. Since 1999 the European Commission has led a European campaign to raise awareness on violence against women.

[76] *World Report on Violence and Health*, p. 94. On 'honour killings' see also Jahangir, A., *Civil and Political Rights, Including Questions of Disappearances and Summary Executions: Report of the Special Rapporteur: Submitted Pursuant to Commission on Human Rights Resolution 1999/35*, E/CN.4/2000/3, (UN Commission on Human Rights: New York, 25 January 2000).

[77] *World Report on Violence and Health*, pp. 97–8.

[78] Ibid., p. 99.

[79] Ibid. p. 100.

[80] Human Rights Watch (HRW), 'What Will It Take? Stopping Violence Against Women: A Challenge to Governments', *Human Rights Watch Backgrounder*, June 2000, available at: <http://www.hrw.org/backgrounder/wrd/fiveplus.htm>. See also related HRW articles such as 'Peru: Law of Protection from Family Violence', *HRW Memorandum*, (March 2000), available at: <http://www.hrw.org/backgrounder/wrd/peru-women.htm>; 'Nowhere to Hide: Retaliation against Women in Michigan State Prisons', *HRW Report*, vol. 10, no. 2 (G) (July 1998). South Africa Violence against Women and the Medico-Legal System (August 1997), available at: <http://www.hrw.org/reports/1997/ safrica/>. 'Russia: Too Little, Too Late: State Response to Violence against Women', *HRW Report*, (December 1997), vol. 9, no. 13(D), available at: <http://www.hrw.org/reports97/ russwmn/>. 'Jordanian Parliament Supports Impunity for Honour Killings', *HRW Press Release*, (Washington: 27 January 2000), available at: <http://www.hrw.org/press/2000/ 01/jord0127.htm>.

[81] HRW, 'What Will It Take?'. In another HRW Report, in Uzbekistan, public officials reflect societal norms of perceiving separation as shameful and thus placing priority on preserving the family and reconciliation rather than protecting women's rights, a reaction which leads Uzbek women completely vulnerable and without recourse as far as leaving abusive relationships. HRW, 'Sacrificing Women to Save the Family? Domestic Violence in

Uzbekistan', *Human Rights Watch Report*, vol. 13, no. 4 (July 2001), available at: <http://www.hrw.org/reports/2001/uzbekistan/>. Corruption and stereotyping of gender in the judicial system and among the police were also mentioned in WHO, *Report on Violence and Health*, p. 109.

[82] Vienna Declaration and Programme of Action, World Conference on Human Rights, A/CONF.157/23 (12 July 1993).

[83] See Coomaraswamy, R., *Report of the Special Rapporteur on violence against women, its causes and consequences*, E/CN.4/1996/53 § 32–9 (6 February 1996). Relevant international documents for due diligence are CEDAW General Recommendation 19, Declaration on the Elimination of Violence against Women, Inter-American Court of Human Rights; ICCPR Art. 2; American Convention on Human Rights Art. 1. For equal protection of the law see ICCPR Art. 2(1), 3, 26; CEDAW Art. 2; African Charter on Human People's Rights Arts. 2–3; American Convention on Human Rights Arts 1 and 24; European Convention for the Protection of Human Rights and Fundamental Freedoms Art. 14.

[84] Skjelsbaek, I., *Gendered Battlefields: A Gender Analysis of Peace and Conflict* (PRIO: Oslo, 1997), pp. 5–8.

[85] Terrif *et al.*, p. 73; see also Sklejsbaek, I., and Smith, D., (eds), *Gender, Peace and Conflict* (SAGE Publications for International Peace Research Institute: Oslo, 1997), pp. 4–18.

[86] Terrif *et al.*, p. 88 ; see also *Engendering Development*, pp. 77–8.

[87] UN Development Programme reports can be considered as an exception since they bring a rich set of gender-sensitive data both from developed and developing countries.

[88] These rights are enshrined in international human rights law: Convention on the Elimination of Discrimination against Women (CEDAW) Arts. 2, 5, 6, 15 and 16; Universal Declaration of Human Rights UDHR) Arts. 1–5, 7, 8 and 16. International Covenant on Civil and Political Rights (ICCPR) Arts. 2, 3, 6–9, 23 and 26.

[89] See for instance Edmunds, T., *Security Sector Reform: Concepts and Implementation*, report for Geneva Centre for the Democratic Control of Armed Forces, DCAF (DCAF: Geneva, November 2001); Hendrickson, D., and Karkoszka, A., 'The challenge of security sector reform' in *SIPRI Yearbook* (Oxford University Press: Oxford and New York, 2002), pp. 175–230; and Ball, N., 'Transforming security sectors: the IMF and World Bank approaches', *Journal of Conflict, Security and Development*, vol. 1, no. 1 (2001), pp. 45–66.

[90] *UNDP Report 2002*, p. 87. Into the broader concepts of security the scope of instruments in achieving security at all levels has been widened as well, encompassing non-traditional diplomacy, intra-state conflict resolutions and various economic, political and social mechanisms.

[91] Bell, E., 'Emerging Issues in Gender and Development: an Overview'*, BRIDGE Report*, No. 58, (Institute of Development Studies, University of Sussex: 2000), available at: <http://www.ids.ac.uk/bridge/>.

[92] See for instance, Heiner Hänggi (ed.), *Practical Confidence-Building Measures: Does Good Governance of the Security Sector Matter?*, DCAF Working Papers, no. 107, (2003), pp. 8–9.

[93] Rehn, E., and Sirleaf, E.J., *Women, War, Peace*, pp. xvi–ixx.

[94] As Rehn and Sirleaf write 'when women are present, the nature of the dialogue changes. […] They represent different constituencies: those in need of education, of health care, of jobs and of land', Rehn and Sirleaf, *Women, War, Peace*, p. 81.

95 Sorensen, p. vi.
96 Annan, *Women*, § 179; § 168, Sorensen, p. 182.
97 al-Juburi, G., Women Excluded from Post-War reconstruction, Institute for War and Peace Reporting (IWPR), available at:
<http://www.iwpr.net/index.pl?archive/irq/irq_ 22_5_eng.txt>.
98 *UNDP Report 2002*, p. 87.
99 Corrin, C., *Gender and Identity in Central and Eastern Europe* (Frank Cass: London & Portland, 1999).

Chapter 8

Security Sector Reform from a Development Donor Perspective: Origins, Theory and Practice

Michael Brzoska

Introduction

Having only been created in the late 1990s, the term 'security sector reform' has rapidly spread in international discourses. It is now used in a number of contexts, ranging from its origins in the development donor community, to the debate on reform in the transition and post-transition countries of Central and Eastern Europe, to changes in the major industrialised countries of Western Europe.[1] The wide usage of the term suggests that the time was ripe for it. There was a clear need to find a new term for a plethora of phenomena and activities related to the reform of the state sector charged with the provision of security. The popularity of the term in development donor policy statements and debates, however, has not led to any widespread application of security sector reform on the ground, which, indeed, intrigues many observers. This chapter aims to clarify some aspects of the discussion on security sector reform. The emphasis is placed on the concept of security sector reform, its origins, links to other discussions and developments, as well as a critical assessment of its practice by development donor institutions. The first objective of this exercise is to contribute to a clearer understanding of the underpinnings of security sector reform, its origins, strengths and weaknesses. The second objective is to point at some gaps that hinder the further development of the concept of security sector reform.

The Origins of Security Sector Reform in the Development Discourse

The concept of security sector reform was first put forward to a large public audience in a speech by Clare Short,[2] Minister for International Development in the newly created Department for International Development (DFID) by the Labour government that came to power in London in 1997. The need for a comprehensive reform of the 'security sector' had been identified earlier,[3] but it was speeches given by Clare Short,[4] and the policy statements by her department[5] that made 'security sector reform' prominent both as a term and as a concept.

The time was ripe for it. Until the early 1990s, the constraints of the Cold War had put strong political caps on the development donor discourse on security-related issues. The development donor community had only begun to debate security-related issues intensely in the early 1990s. Furthermore, new demands on development donors, such as dealing with the aftermath of peacekeeping operations, were unfolding fairly rapidly in the 1990s.

The post-Cold War world presented a host of new challenges, but also opportunities, for development donors. Since the 1990s, the development donor community has permanently reassessed its own place in the post-Cold War world. With some of the earlier political constraints lifted, development donor agencies had more manoeuvring space, including security-related themes. However, there were also increased demands on development donors and expectations of their assistance, for instance with respect to conflict prevention, post-conflict rehabilitation, and, particularly after the terrorist attacks of 11 September 2001.

Security sector reform can be understood as an attempt to link together in one concept the opportunities of expanding development assistance into security-related fields and the challenges of new demands on development donors, and to provide both with a common vision. The vision is one of a security sector that would help facilitate human development, help to reduce poverty and let people, including poor people, further their options in life.

There are many sceptics both in development agencies as well as outside, who question whether security sector reform is a useful instrument for development policy.[6] Many critical concerns have been voiced, ranging from the observation that it is a European centre-left project[7] to the claim that it is devoid of much meaning as it ignores underlying causes of

insecurity in developing countries.[8] Security sector reform remains a contested concept.[9]

Some of the difficulties with the concept of security-sector reform stem from its diverse roots in related earlier discourses. The most important of these will now be briefly described in the following sections.

Military Expenditures in Development Donor Policy

Development donors first became collectively engaged with security-related issues towards the end of the Cold War. However, they did so without raising any security issues, focusing instead purely on fiscal matters. The reduction of military expenditures became an important theme in the development donor discourse of the early 1990s, heavily promoted by the IMF and the World Bank, plus some middle-sized donors as well as the US Congress.[10]

In the new, post-Cold War situation, a number of development donors became active and adopted strong policies on military expenditures. In addition to concern about high levels of military spending, relative to large financial demands for development projects, there was also substantial public pressure in many donor countries not to tolerate high military expenditures in countries which received cheap loans and grants. Why should taxpayers in countries providing development assistance be willing to indirectly subsidise military expenditures in developing countries? For instance, in 1991, the German government decided to reduce development assistance to countries that were 'overspending' on their military. A number of governments, such as Japan, discussed similar policies.[11]

However, it quickly became obvious that such conditionality was difficult to implement.[12] Despite long discussions and a powerful rationale, no internationally accepted standard or norm for the appropriate level of military expenditures or the ratio between military expenditures and official development assistance has ever been agreed. In addition, the reactions by recipient governments to what they perceived as development donor interference in military expenditures, whether in policy dialogue or as conditions on development aid, were uniformly negative. Decisions about the level of military expenditures were seen as a prerogative of national sovereignty. 'It was becoming apparent that in many cases the real issue was the inability of governments and their poorly resourced, inefficient and corrupt security establishments to provide for the physical safety and human security of their citizens.'[13]

Development donor concern with levels of military expenditures has not ended. The concerns about 'overspending' remain on the agenda for international financial institutions as well as for many development donors. A recent example is that of Zimbabwe. However, development donors have become more sensitive to the pitfalls of efforts to directly influence military expenditures. The main policy instruments of development donors have shifted. One of these is 'policy dialogues' with recipient countries, in which development donors make their concerns known, and an emphasis on increased transparency over data and decision-making. The perception or idea behind this approach is that it is predominantly dictators and authoritarian governments which maintain overblown security apparatus.[14] Both the IMF (International Monetary Fund) and the World Bank advocate that military sectors adhere to similar transparency requirements as the civilian parts of governments. However, arcane, the funding of military forces from seemingly civilian budget items, or off-budget, remains a frequent practice.[15]

The concept of security sector reform came in quite handy for development donors to keep the concern with 'overspending' alive, but at the same time relieve it of its 'neo-colonial' taint. Developing country governments themselves should decide, but on the basis of principles of transparency and accountability acceptable to development donors.

Post-Conflict Peace-Making and Conflict Prevention

As a number of development donors were discussing military expenditures as a development issue in the 1990s, they were confronted with the urgent need to address matters of physical security within development assistance work directly. The growing number of international peace-keeping missions, plus a wider spectrum of activities by development donors in postwar situations led to new challenges that left development donors with project that directly involved contact with uniformed forces, e.g. on demobilisation, demining, small arms control and policing. The costs of wars and post-conflict reconstruction also strengthened the impetus to develop more effective assistance for the prevention of violent conflicts.

While postwar situations obviously present particular obstacles to development and thus opportunities for development donors, it was and remains unclear where the mandates of development donors start and end. Post-conflict reconstruction and peace-building continue to be experimental

situations – for many development donors but also, for instance, peacekeepers.[16]

A number of development donors have gained experience in a wide range of postwar activities, including demobilisation, demining, police reform and judicial reform. Again, the concept of security sector reform came in handy to describe the range of activities about which peacekeepers, UN administrations and development donors needed to talk. It suggested a comprehensive approach, instead of one dealing with each of the mentioned issues separately. It also provided, even if only roughly, a perspective for the direction of change.

Security-related issues also were an obvious target for development donor activity in conflict-prevention. The behaviour of security sector forces themselves has often been described as a cause of conflict, or aggravating latent conflict into open conflict, both on a regional level as well as internally. A reformed security sector, including armed forces geared towards regional cooperation, police forces serving all people and a judicial sector that delivers justice, is clearly a contribution to conflict prevention. To leave this sector out of conflict-prevention activities would be dangerous. Slowly and reluctantly, at least some development donors expanded their envelope of activities with security relevance, generally from judicial reform issues to police forces, and, at least in a few cases, the control of military forces. The concept of security sector reform fits well in describing both the content and the objective of security-related activity in conflict prevention.

Governance and Public Sector Reform

A third root for the current usage of security sector reform is the concern with the improvement of the effectiveness and efficiency of the provision of government services. 'Governance' had been a primary concept of development policy from the early 1990s, and the reform of the provision of public services one of the major instruments of development policy. In the late 1990s, the focus was broadened to mean an effective, democratically controlled provision of state services.[17]

Until the late 1990s, development donors' efforts in governance reform largely excluded defence ministries, the military, police and other security sector institutions. The broader approach to governance reform focusing on service provision provided more space to bring security sector institutions in.

In fact, many developing states have worked on reforming the part of government charged with the provision of security for some time, even though this was not called security sector reform and efficiency had been more important than democratic accountability. Often, they had external advice for the improvement of efficiency and professionalisation of their uniformed forces from foreign countries, from foreign militaries, defence ministries, police forces and the like. Development donor agencies seldom had a part in these external support activities. They only reached this field in the late 1990s, under the new label of security sector reform.

An often-quoted 'best practice' case of domestic reform is that of South Africa. The post-Apartheid South African government was committed to a thorough reform of the military, the police and the judicial sector. The reforms included a complete overhaul of the legal framework, as well as many institutional changes, greater ethnic balance and professionalisation of administrations and forces. A major focus was the improvement of transparency, democratic accountability and participation of civil society in decision-making.[18] External assistance played some role, though the major players clearly were South African, who, however, often drew on experiences from other countries.

Relations to Other Debates

In addition to the three roots discussed above, i.e. debates on military expenditures, conflict prevention and post-conflict reconstruction and public sector governance, some other discourses in the development donor community have had an impact on the concept of security sector reform.
One such discourse was the older debate on civil-military relations.[19] Beginning in the late 1950s, a lively academic discourse began to produce a great number of studies on the conditions and effects of coup d'états, military rule and civilian control over armed forces.

Some of the providers of military assistance, such as the United States, also included civil-military relations in their training programmes for foreign military personnel. In the late 1990s, the US government founded centres which were dedicated to training foreign military personnel, but also bureaucrats, as well as representatives of the media and NGOs, on defence reform, including civil-military relations. These are set up on the basis of regional specialisation within the National Defense University in Washington, DC (Center for Hemispheric Defense Studies, Near East South

Asia Center for Strategic Studies, and the Africa Center for Strategic Studies).

The development donor community took little notice of both the relevant literature and corresponding training activities until the late 1990s. However, DFID and other development donors began to be exposed to these when they started to get more serious about security-related assistance work, and got into closer contact with the armed forces in their own countries, as well as armed forces and civilian defence reformers in developing countries. There is some obvious overlap between the issues on the civil-military relations agenda and what developed under the heading of security sector reform, particularly its governance aspect. However, important differences also exist. The older literature was concerned with military forces exclusively. Its focus was predominantly political – who was in charge – and sociological – how military people differed from civilian – but not development.[20]

Interestingly, the term security sector reform turned out to have an attraction for academics that had earlier predominantly focused on the more traditional research agenda of civil-military relations and military sociology. In a good part of the research on transition of armed forces in Central and Eastern European countries, the term security sector reform is now preferred to older concepts such as civil-military relations, in order to stress the broader economic, institutional and societal consequences of reform, including such 'second generation' instruments of the establishment of civilian control over the military such as demobilisation, defence industry conversion, and the formation of a civil-society capable of engaging in informed debate on security-related issues.[21]

Another important, though largely indirect, influence on the development of a concept of security sector reform has been the discourse on an expanded concept of security, particularly on the concept of 'human security'.[22] In recent years, the concept of human security has developed in two directions. The first essentially equates the objectives of human development and human security. It takes the view that achieving human security involves alleviating all types of insecurity that can afflict a person.[23] The second is more narrowly focused on protecting individuals and communities against violence. It views human security and human development as distinct yet complementary concepts, arguing that human security should be reserved for the objective to achieve freedom from fear of physical violence from other human being. Viewed from this perspective,

conflict, crime and repression receive primary attention in the human security agenda.[24]

Interestingly, the overlap between the two interpretations of the concept of human security is of particular importance for the debate on security sector reform. On the one hand, the concept gives somewhat more intellectual depth to the development donors' idea of reducing military expenditures. Here was a concept that justified looking hard at the level of military expenditures, on the basis of threats to the survival and health of people. In fact, the 1994 UNDP Human Development Report unambiguously argued for deep cuts in military expenditures.[25] On the other hand, by arguing that violence was one threat among many to peoples' lives, it helped the development donor community to take all threats, including those from violence, serious. When development policy needs to address all threats to human well-being, the development donors could also claim responsibility for all such policies, including ones addressing the protection from the threat of collective or individual violence.

Summary

The concept of security sector reform emerged in the late 1990s, bringing a number of converging concerns under one intellectual roof. The development donor community, for whose purposes the concept was first developed, needed a concept that intellectually justified its venture into security-related activities. The original justification, reducing military expenditures and turning the savings into development, had proven too narrow a focus.

In the 1990s, the demand in the development donor community, or at least by some of the actors, to find a concept to justify greater involvement in security-related issues, met with an opportunity for these actors to do so. The Cold War taboos on not alienating certain governments no longer held sway. Security policy in industrialised countries had to be reconsidered and reorganised – in a sense prompting security sector reform throughout the world.[26]

Obviously, both the interest to broaden activities into security-relevant areas, as well as the opportunities to do so, differed from donor country to donor country. It therefore comes as no surprise, that the term 'security sector reform' was created by the new Labour government in London. The United Kingdom has had a long history of military assistance programmes, which the government in London could give a new direction and

complement with a civilian programme at the same time. The donors which quickly followed, such as Norway[27] – with a focus on police activities – or the Netherlands,[28] are also reputed for their innovative approaches to development policy and their particular concerns about conflict-related issues.

With its many facets and connotations, the idea of security sector reform has expanded into areas far beyond development policy, for instance with respect to serving as concept for defence reform in transition countries.[29] In the wake of this expansion, efforts to refine the concept further as an instrument of development policy have not become easier. In addition, development donor practice of support for security sector reform has been slow to grow, thus providing little in terms of empirical underpinning for the conceptual development of the term. It can be argued today that the essence of security sector reform is even more contested than it was at the time of its creation in 1998.[30] Much of this difficulty stems from the success of the concept on one hand and a lack of donor practice on the other hand, and less on the concept as such.

Competing Paradigms for Security Sector Reform?

The concept of security sector reform has spread quickly from its origins in 1998, both within and outside of the development community. The purpose of this section of the paper is to illustrate the directions the debate on security sector reform has taken in the development community, that is among development donor organisations and academics, as well as NGO researchers writing on security sector reform as a development issue.

The debate on security sector reform in development donor policy since 1998 has been characterised by predominantly policy-oriented contributions. Both academics and development practitioners have added evidence to the importance of security sector reform for sustainable human development. A number of authors refined the lists of possible activities within the realm of security sector reform and analysed past experiences. There have been fewer publications aimed at the clarification of the concept. Looking at the body of literature there seems to be fairly little debate and disagreement, beyond some doubts expressed about the usefulness of a broad definition of the concept.[31] However, under the surface of broad agreement on the need for and basic principles of security sector reform some major

differences on priorities, timing and institutional arrangements come to the fore.

The most important of these differences is the relative importance attached to the provision of physical security versus the importance of a more democratic control over decision-making in the security sector. There are other differences in the debate, such as on the overlap between security sector reform and reform of the judicial sector,[32] or on the differences between the security sector and other sectors of the government.[33]

Poverty Reduction

Security sector reform was closely linked, from its start in the UK DFID's offices, to poverty reduction, the focus of international development policy at the beginning of the twenty-first century.[34] Poverty reduction has become the prime rationale for development donors. This is reflected, for instance, in the Millennium Goals, adopted during the Millennium Summit of the United Nations in September 2000. Targets numbers 1 and 2 read: 'Target 1: Halve, between 1990 and 2015, the proportion of people whose income is less than one dollar a day. Target 2: Halve, between 1990 and 2015, the proportion of people who suffer from hunger.'[35]

In the literature, there are a number of links, constituting intermediate objectives of security sector reform, between poverty reduction and security sector reform. The most important ones include:

1.   *Making more resources available for investment* in poverty reduction activities. One way to make such resources available is to reduce expenditures on security-related forces in developing countries.

2.   *Better protection of individuals and society.* One of the factors inhibiting economic development is insecurity about personal safety and the safety of property. Where crime and violence are rampant, growth rates are reduced. In addition to the direct destruction of people's livelihoods, crime and violence also reduce confidence in saving and investment. Studies suggest that poor people are more affected by crime and violence than more affluent people who have the means to procure private protection.

3.   *Improving the contribution of the security sector to conflict prevention and management.* Conflict is one of the major causes of poverty. Conflict prevention is thus a major instrument for reducing poverty. Security sector

reform can contribute, for instance by prioritising regional arms control, confidence-building measures and other activities aimed at reducing regional tension. However, as most conflicts today are internal, it also includes security-related policies that reduce internal tensions, arising for instance, between different ethnic groups. Security forces, such as the police, are often accused of aggravating such tension though they can also be a factor in conflict management, as is shown in various examples.

4.   *Greater participation in decision-making regarding security forces as well as access to justice and security.* As already mentioned, the participation of marginalised people in decision-making is seen as a crucial element in making policies more responsive to the disadvantaged groups in society. In the security sector, which is frequently not subject to much oversight and control, there is often a long way to go to make it more 'pro-poor'.

These four links between poverty reduction and military reform are fairly well established through academic research, even though some gaps remain. For instance, there is general agreement that the reduction of military expenditures does make more resources available for economic development;[36] however, in many cases no productive use is made of these additional resources, so that it is often the case that there is no effect on indicators such as economic growth. Similarly, while it can be shown econometrically that the simultaneous reduction of military expenditures in a regional security nexus is beneficial for all countries,[37] joint action is difficult to bring about. Econometric evidence also exists showing that increases in military expenditures generally do not deter civil wars.[38] If it comes to a war, this will generally have major negative economic effects. In conducting an econometric study, Collier found that during civil war, countries tend to grow around 2.2 percentage points more slowly than during peace times. Over an average civil war period of about seven years, this accumulates to 15 per cent of loss in GDP and approximately 30 per cent increase in the incidence of absolute poverty.[39] Stewart, Huang and Wang calculated an average annual growth rate loss of 3.3 per cent for a sample of 18 countries in conflict.[40]

There is much less concrete knowledge when it comes to other parts of the security sector. The best established link is that between crime and economic development. A number of studies, mostly from Latin America, provide a strong confirmation of the negative effect of crime on economic

growth, and income distribution.[41] Apart from this evidence, there are many country studies and analyses linking security sector reform and poverty.[42] Unfortunately, the four aforementioned intermediate objectives of security sector reform are not without internal contradictions. In particular, there are contending views – one prioritising the oversight and control over security forces, and another one – the provision of physical security.

The Provision of Security

Lack of physical security – threats to life, health and property – are acute problems which are experienced worldwide. People in both developed as well as in developing countries are concerned about armed conflict, terrorism, violent crime and war. In surveys of poor people's concerns, worries about physical violence generally rank high.[43]

It appears that the poor are more likely to be victims of violence than are people with higher incomes. Although data is hard to come by and not very reliable, empirical studies of the incidence of violence suggest that the victims include a larger share of the poor and disadvantaged than of those who are better off. This is true both with respect to violence in 'peace time', for instance from common criminality,[44] as well as during war.[45] In the extensive statistics on violent death collected by the World Health Organisation, for instance, low income per capita and unequal distribution of income are listed as major risks factors for violent death. Quantitative studies show higher homicide rates for countries with lower per-capita-income.[46] 'The security of persons, property and assets, and the protection of human rights are fundamental to sustainable development and a precondition for people to improve their lives, particularly the poor ... Poorly functioning security systems can create or destroy prospects for peace, social and economic progress.'[47]

Based on the diagnosis of an clear lack of security on the one hand, and the importance of a secure environment for development and poverty reduction on the other, almost all authors who make recommendations concerning security sector reform include the improvement of physical security as one of its major elements. Some authors however go further and effectively argue that the provision of security should be the priority of security sector reform. For instance, the Advisory Mission on the Control and Collection of Light Weapons in the Sahel-Sahara Sub-region organised by the UN Department for Disarmament Affairs in 1994 with the objective of investigating what could be done about managing the conflict that was

going on in Mali in the early 1990s, came up with the concept of 'security first'. 'Security first' comprised a set of policies linking 'micro-disarmament', that is small arms control and demobilisation, with national reconciliation, and economic development into a single comprehensive programme for nations emerging from war. While 'security first' rests on the idea of positive feedback among its various components, the creation of physical security through disarmament and improvement of policing is seen as precondition for further advances in the directions of building civil society and economic development.[48]

Authors advocating focusing first of all on security do not neglect to mention effective oversight and control over security forces. However, some authors' recommendations can be interpreted as suggesting that when faced with the choice, the priority should be on the provision of security even when it is not clear whether there is effective oversight and control. Some of the security sector reform programmes funded by governments focus on the provision of security. Thus the UK Government's 2003 Security Sector Programme on Afghanistan, funded to the extent of GBP 18 million by the Global Conflict Prevention Pool, allocates GBP 1 million to the Human Rights Commission, GBP 10 million for the interim payment of army salaries to the newly trained force, an unidentified amount of money for the secondment of a DDR (Disarmament, Demobilisation and Reintegration) expert to the UNAMA (United Nations Assistance Mission in Afghanistan) in Kabul and GBP 1.8 million for mine action programmes.[49]

Good Governance

While some authors stress the lack of physical security and the need for a greater provision of such security, others argue that the armed forces, police and other elements of the security sector are a major source of such insecurity and that therefore the priority must be given to the improving accountability and democratic decision-making, as well as oversight and control. In the absence of accountability, the security forces are liable to become agents of repression, disregarding human rights and willing to interfere in politics, protecting elites from the population at large, while failing to protect the state adequately from external threats.[50]

Increasing security forces, or their effectiveness, will fail to produce the desired outcome if oversight and control are deficient, or defective. Simply providing training to the police, for example, will not improve law

and order if the political leadership thwarts the efforts of the police force to bring criminals to justice.

Security sector reform in a governance perspective is not a one-sided concept. Civilian control over security forces is essential, but all institutions, including those charged with oversight and control, has to muster the test of being democratic, participatory and bound by the rule of law. In addition, the armed forces have to have the space to function as professional organisations and not be instruments of the political interests of those in civilian control. Professionalisation of the security forces 'implies acceptance of the roles and responsibilities of security forces in democratic societies and of the need for a clear distinction between the types of behaviour that are legitimate in discharging these responsibilities and those that are not'.[51]

The Special Case of Post-Conflict Reconstruction

As mentioned above, post-conflict work on security-related issues was one of the roots of the debate on security sector reform. Post-conflict situations provide the backdrop to the majority of activities nowadays subsumed under security sector reform. There is little contention about the need to restructure armed forces, police and other elements of the security sector following the cessation of hostilities. While essentially not different from security sector reform activities in other settings, post-conflict situations provide particular opportunities for security sector reform. The need to 'right-size' and reform the security sector after the end of conflict is almost universally accepted as an important element in postwar reconstruction.

Postwar security sector reform is typically intended to serve a number of objectives. Prominent among them is cost reduction through downsizing. Other objectives include a contribution to conflict resolution, for instance through the integration of various forces into one new armed forces, more effective provision of physical security, for instance through police reform, and crime prevention, for instance through the reduction of the number of small arms in society. Demobilisation, small arms control, and police reform are the activities that donors favour as immediate postwar activities with relevance to security issues.[52]

Postwar situations are 'windows of opportunity' for broader security sector reform projects. Many of the examples of wide-ranging security sector reform, such as South Africa, Bosnia[53] or Afghanistan[54] are from a postwar situation. This should come as no surprise, as postwar situations are generally fluid and result in changes in many areas. That makes it easier for

development donors to justify their own support of broader security sector reform efforts.

Summary

The debate on security sector reform over the last few years has added additional issues to those which are already encompassed in the original conception. The reform agenda, even if limited to a development perspective, has grown considerably.

While it has grown in width, it has not grown in depth, in coherence and clarity of objectives. The criticism of the concept which was expressed near to the time of its origin,[55] when it was seen as being intuitively 'right' at a general level but hard to conceptualise beyond a very general level, remains valid.[56] Poverty reduction provides a good, but broad framework, within which a great number of security-related activities can be usefully placed, but not well prioritised nor sequenced. Lists of actual or possible activities falling under security sector reform have grown in length. A good number of such lists can be found in the relevant literature.[57] While the recommendations are generally commensurate, there is little indication as to what should be done first under which specific circumstances. In fact, there is a general emphasis on the importance for comprehensive and consistent programmes, which obviously puts a great burden on those planning security sector reform activities.

Within the general umbrella of security sector reform, about which there is much agreement in the general literature, some divergences in views have become apparent. It is argued here, that the differences in priorities in security sector reform for development have two main causes: first, there are differences in the analysis of the major obstacles to development. As described above, some view the lack of the provision of any kind of security as the main problem, others believe that security sector forces are a source of insecurity. Often, authors have particular countries in mind when describing the general problems of security sector reform, thus generalising their claims, based on a single or a few specific cases.

A second cause of the differences in views results from differences in the actual understanding of the proper role of development donor institutions. Neither academics writing about security sector reform in a development perspective, nor development donors themselves, are decisive in their views. Some, such as the UK DFID see a fairly large mandate for themselves in security sector reform, even though acknowledging that there

are areas, such as training of military personnel, that are in the realm of other agencies, in this case the Ministry of Defence.[58] Others show far more restraint, such as the German development agency, the GTZ.[59] Also, a good number of development donors are not engaged at all in security sector reform. Correspondingly, some academics recommend a proactive role for development donors,[60] while others suggest caution.[61]

Despite the general recognition of security sector reform as an important issue in development policy, and the well developed literature attesting to this fact, combined with many suggestions for useful action, there is comparatively little in terms of comprehensive major programmes. The situation is actually mixed: there are a large number of partial programmes, which can be counted as being on the fringe of the security sector reform agenda, such as demobilisation and small arms control, a good number of programmes in areas of donor activity prior to the introduction of the concept of security sector reform, such as police reform and penal reform, and few projects in security sector governance. What is most glaringly absent is what is perceived, in the views of many observers, as the main contribution of the concept of security sector reform to the development debate on security-related issues: comprehensive programmes covering the breadth and depth of security sectors, programmes that give expression to the idea that security sector reform needs to be comprehensive and encompassing. The question discussed in the next section is why security sector reform practice has not taken off in a bigger way than it has.

The Practice of Security Sector Reform: Vision and Obstacles

The practice of security sector reform, including external assistance provided to this end, is a very mixed bag. A number of development donors have chosen from the suggested lists of activities, and initiated new projects, particularly in post-conflict situations. At the same time, there has been a tendency to rename some existing activities with the new, widely debated concept of security sector reform. As mentioned above, the universe of security sector reform activities now extends beyond its development policy origins and is used in a number of contexts where poverty reduction is not the main issue.

The growth in projects has been very uneven and has demonstrated little reference to the overall frameworks of security sector reform. Although projects ostensibly falling under the umbrella of security sector reform can

be found in many countries, there are only few countries where comprehensive frameworks seem to exist, the prime examples being South Africa, with a strong domestic constituency, and Sierra Leone, where the UK government has taken the lead.[62]

Development donors and others concerned with development policy and poverty reduction, need to refocus on the priorities of security sector reform as a development issue. Some help in this direction can be expected from further discussions of the nature and the concept of security sector reform as such. Yet, more importantly, development donor organisations and other relevant actors will have to strive for a greater convergence between the agreed normative objectives of security sector reform and the capacities for action by development donors.

There are several factors that currently limit the capacity of development donors to provide assistance of the type foreseen in the normative literature. One reason is the limited resources that are available for security sector reform among development donor organisations. A second factor is the frequent lack of an impetus for reform in recipient countries, which can be a question of capacity for reform, but more often is one of unwillingness to reform. So far, development donors have under-invested in thorough, country-specific analysis of the difficulties of security sector reform, and that is another reason for the gap between rhetoric and reality. One explanation for this is the uncertainty of many development donor institutions as to how far their mandates extend. In some cases, there is no clear division of labour with other relevant actors in development donor countries, such as ministries of defence or the interior. In many others there is simply a reluctance to enter unfamiliar fields of activities, which do not lie within the traditional spectrum of development projects.

Limited Resources of Development Assistance

One cause for eclecticism is the limited financial and institutional capacities of development donors. There are many factors limiting such capacities, as well as growing demands on development policy. At the same time, many development donor governments are cutting personnel. Fewer persons have to deal with more, and often more complicated issues. Few in development donor institutions have prior knowledge or experience of security-related issues.

In addition, security sector reform is, to some extent a victim of its own demands. 'Successful security sector reforms require the cooperation of

a wide range of actors-national and international, governmental and non-governmental, with a wide range of expertise.'[63] The danger of anything less than such a comprehensive approach, is, as Wulf[64] points out, that a partial activity may end up increasing insecurity instead of security. For instance, a training programme for police forces, even if focused on community policing, may actually backfire, when the judicial sector is unresponsive to police violations of human rights and in cases where no civil society organisations exist and possess the ability to check on police violence. In the absence of comprehensive programmes, which require, as shown by the Sierra Leone example, a lot of resources, donors generally shy away from all difficult programmes.

In this situation, it comes as no surprise that most security sector reform activities are to be found in post-conflict situations. The link between the reform of security forces and the promotion of development is most obvious in post-conflict situations, which also generally provide a facilitating political framework for security sector reform. In this case, the framework has generally already been planned, or is even underway, initiated and supported by national actors, and where applicable, peacekeeping forces. The demands for project design and coordination with local actors are generally less than in other situations.

Local Ownership

Comprehensive security sector reform, the 'ideal' type that is touted by most writers on security sector reform, requires what in development parlance is termed 'local ownership'. Development donors generally refrain from projects that lack a strong local base in developing countries. Without the commitment of national leadership to the process, security sector reform is apt to fail, or at best remain in the margins of the overall political process. It is not necessary for all relevant governmental actors to favour reform before external actors broach the issue. However, there need to be good 'entry points' and important reform-minded actors, without which security sector reform cannot become mainstream. 'The responsibility for undertaking security sector reform is ultimately the concern of governments and societies in developing countries. However, donors can provide assistance and form partnerships to support and assist reform processes.'[65]

Unfortunately, it is not easy to find such leadership, and this is particularly true in cases where the security forces are part of the problem, when, any interest in implementing changes among the powerful will be

quite limited. Local ownership for security sector reform will thus be most severely restrained where it is most needed, namely in cases where repressive governments are using the security forces to secure their regimes.[66]

Development donors have only limited opportunities for programmes even in countries where the powerful are not interested in security sector reform. Local groups in opposition to the government, independent-minded parliamentarians, and the media etc. can still provide for some 'local ownership', at least in cases where all diversity in opinions are not subject to the governments' repression. It often is possible to find local partners, such as human rights groups, who are working on issues that clearly fall under the security sector reform agenda, such as documenting police abuses, thus increasing the transparency about security forces. Nonetheless, for many bilateral and international development donors, whose activities within a country are based on framework agreements with local governments, it is difficult to offer direct support to such groups. Foundations and NGOs from development donor countries can generally only provide limited resources to compensate for this shortfall.

Differentiating Cases

To some extent, all countries need security sector reform, but it is obvious that there are also important differences with respect to the urgency of reforms, the priorities for reform, and the possibilities for development donors to support reform. For instance, Lilly *et al.*[67] differentiate five separate groups of countries:

- consolidating democracies;
- lapsing or stalled democracies;
- transitional democracies;
- conflict-torn societies; and,
- states under reconstruction.

As useful as this taxonomy appears for focusing attention on the differences among recipient countries, it obviously needs to be differentiated further. Security sector reform activities need to fit the circumstances of particular countries. The foundation for the assessment of such a fit is a thorough analysis of the deficits of security sectors in developing countries, as well as an ongoing review of security sector reform projects.

In general, there is a lack of analysis on the functioning of particular security sectors, their behaviour in crisis situations, their role in society, relations to other elites etc. The research situation is generally best with respect to the military and certain aspects of behaviour, such as human rights violations. The greatest *lacunae* are generally institutional and sociological aspects of police and other non-military security forces.

Development donors seem to only have invested limited resources into an improvement of the analysis of security sector reform deficits, needs, obstacles and opportunities. UK DFID has begun to fund a network, of which one objective is to initiate case studies.[68] Some of the traditional research institutions concerned with development research, such as the Clingendael Institute in the Netherlands, also sponsor relevant work.[69] DCAF's extensive series of papers on security sector reform, although by and large regionally limited to Europe and Central Asia, provides a number of good, relevant studies.[70] Increasingly, area specialists are acquiring expertise on security-related issues. However, many regional and development specialists are reluctant to enter what for many of them is a new world of expertise, as are many development donors themselves. There are still many institutional and personal barriers that limit the effective interaction between academics working on regional and development studies on the one hand, and security studies, including research on security forces, on the other.

The Place of Development Policy Actors

To a certain extent, the research community reflects the divisions that are also found among relevant government agencies in many donor countries. In many countries, development agencies, foreign offices, defence and interior ministries claim a certain amount of responsibility for at some parts of the broad security sector agenda. In at least some countries, the promotion of a security sector reform agenda by international development ministries is critically observed by other ministries.

In this respect, it is significant that the first major speech on security sector reform by Clare Short was given at the Royal United Services Institute in London.[71] It was clear for her that security sector reform, even with a clear development focus, would be regarded as an intrusion into terrain claimed by other agencies, particularly the UK Ministry of Defence. However, it was also clear to Ms Short and others in the development community, that security sector reform could not be successfully conducted

by development donor organisations alone. It needed the cooperation of other ministries, the defence ministries for work on defence reform, foreign ministries for conflict-related activities, ministries of the interior for police programmes and ministries of justice for projects in the judicial sector. Overall consistency in donor government policy towards a particular recipient country was clearly necessary.

The UK has been comparatively successful in bringing at least the most important ministries together to coordinate activities, after initial problems.[72] Two major inter-ministerial funds have been created and are administered jointly by DFID, the Foreign and Commonwealth Office and the Ministry of Defence, one addressing problems in Africa, the other concentrating on problems arising in the rest of the world. The UK example shows that cooperation among relevant ministries on security sector reform is possible, although, even in this case, friction remains frequent. That said, in many donor governments competition between development donor administrations and other parts of government are intense. Development ministries are sometimes seen by foreign offices to be invading into political territory, and doing so rich with resources that foreign offices generally do not have at their disposal. Cooperation between development ministries and ministries of defence, as well as ministries of the interior, is often also difficult, though for different reasons. One cause is competition for resources, another is different bureaucratic cultures. Also, local partners in developing countries may be different, and sometimes even be in conflict with each other. Development administrations are often perceived by the 'power ministries' as politically weak, and full of 'do-gooders', while in development assistance circles there often is an aversion against command approaches to problems, with which these ministries are identified.

Both power and culture can combine, resulting in the unfortunate outcome of limited coordination let alone cooperation among ministries in donor countries. Lilly *et al.* argue that 'adopting a security sector reform requires a major reorganisation of how donor governments conduct their external affairs so that the different instruments are mutually enhancing and not the reverse'[73] and that 'SSR implies in some respects as many changes in donor practice in terms of improvements in coherence and coordination as it does in aid recipient countries.'[74] Few donor governments have contemplated, let alone instituted, such far-ranging changes.

Summary

Development donor practice of security sector reform is constrained by a number of factors, including limited opportunities for reform in the security sectors of developing countries, lack of relevant capacity and knowledge in development donor institutions and competition with other ministries and agencies.

Inter-agency conflict is one important brake on the practice of security sector reform; another limiting factor is power politics in developing countries. Security sector reform, like any policy, has both winners and losers, and more often than not, powerful actors stand to lose from security sector reform programmes. Under such circumstances it is difficult to find local actors willing to support security sector reform, and who are in a position to actually implement it. Thus, it is easier to find local actors who are in opposition to those in government. That said, development donors often have difficulties in gaining support for their activities.

The obstacles standing in the way of comprehensive programmes of development donor support for security sector reform are powerful. They are difficult to overcome, except to a certain extent in post-conflict situations. Some of the obstacles have their origins in industrialised countries.

Conclusions

The concept of security sector reform was developed as a vision; a vision which was to link the provision of security and human development in a positive way. All too often, those charged with the provision of security do not provide such security, particularly to the poor, who are the main addressees of today's development policy, and who, in many cases, are actually the source of insecurity. While attempts to link security and development had been made previously, the concept of security sector reform was to be superior as it considered all those institutions involved in the provision of security in a comprehensive way, and by focusing all reform activities on the promotion of development goals, and in particular the reduction of poverty. However, the practice of development donor support for security sector reform activities seriously lags behind, despite such widespread agreement on principles.

Yet, it would be counter-productive to downscale the vision of security sector reform and lower objectives to the level of current practice.

Much of the attraction of the concept stems from its high level of normative ambition. Nevertheless, it would certainly be good if practical policies had brought an additional yardstick to their vision of a near-perfect security sector. The beginnings of such a yardstick have been developed in the recent discourse on security sector reform in the form of partial norms for elements of the security sector. According to the OECD's DAC Guidelines: 'There are no detailed road maps for donor support to security sector reform processes. There are, however, relevant internationally agreed principles, standards and laws.'[75]

These norms include some general standards, such as the promotion of human rights, transparency and accountability, but also some very concrete norms on the internationally accepted behaviour of police forms, arms control and civil-military relations. Some of these norms have a legal character; others are 'cultural' norms, meaning that they are widely accepted, although not enshrined in a legally binding document.[76] These kinds of norms can provide development donors with a measure to evaluate even partial activities in support of security sector reform. When one or more of these norms are strengthened, and none weakened, such activities are worthwhile. In a way, this approach is similar to the one of 'do no harm' for humanitarian assistance.[77]

Such a partial approach should not and cannot substitute for the comprehensive approach promulgated in much of the literature of security sector reform. However, it might help encourage development donors to become more active in a difficult area of development policy.

In this chapter, additional research on the functioning of security sector institutions and their links to societies at large have been identified as one of the current shortcomings of the security sector discourse. There is a growing body of literature on the normative aspects of the concept. While some contributions are controversial, there is a general agreement both on the overall validity of the ideas behind the concept of security sector reform, and the difficulties in deriving priorities for practical action.

Some additional progress is possible and needed on the conceptual level, for instance on typologies and taxonomies of countries. However, the greatest gap seems to be the dearth of any good analysis of security sectors and possibilities for reform in particular countries, analysis which links the normative suggestions in the security sector reform agenda with the realities on the ground.

The elements for this kind of research are already in place, yet what is lacking is the integration of various research traditions. Regional and

development specialists often have good insights into power structures, including the roles played by security sector institutions. However, they often lack knowledge on or interest in analysing the internal functioning of security sector forces, which is necessary to derive any proposals for purposeful activities. Further support for research joining these and other relevant fields is an important underpinning for successful future security sector reform activities. Such research would best be done cooperatively between experts from the relevant countries and international experts. As spelled out in the OECD's DAC guidelines: 'Both donors and partner countries need to invest in deepening and widening their understanding of security challenges and possible responses.'[78]

Notes

[1] See Chapters 1 and 3 in this volume, as well as Winkler, T., *Managing Change. The Reform and Democratic Control of the Security Sector and International Order*, DCAF Occasional Paper, no. 1, (October 2002).

[2] Short, C., *Security, Development and Conflict Prevention*, Speech at the Royal Defence College of Defence Studies, (London: 13 May 1998).

[3] See in particular Ball, N., *Security and Economy in the Third World* (Princeton: Princeton University Press, 1988) who also introduced the term 'security sector' for a comprehensive approach towards the institutions charged with the provision of state security.

[4] Short, *Security*; Short, C., *Security Sector Reform and the Elimination of Poverty*, Speech at the Centre for Defense Studies, (King's College: London, 1999).

[5] UK Department for International Development (DFID), *Policy Statement on Security Sector Reform* (DFID: London, 1999); DFID, *Security Sector Reform and the Management of Military Expenditure. High Risks for Donors, High Returns for Development* (DFID: London, 2000); and DFID, *Understanding and Supporting Security Sector Reform* (DFID: London, 2002).

[6] Williams, R., 'Africa and the Challenges of Security Sector Reform', *ISS Monograph Series*, No. 46 (Institute for Security Studies: Midrand, South Africa, 2000); H. Wulf, *Security Sector Reform in Developing Countries* (GTZ: Eschborn, 2000); and J. Chanaa, 'Security Sector Reform: Issues, Challenges and Prospects', *Adelphi Papers*, No. 344, (Oxford: Oxford University Press for IISS, 2002).

[7] Williams, *Africa*, (2000).

[8] Kayode, F., *Comments on the Human Security Aspects of the Poverty Reduction Guidelines*, (Centre for Democracy & Development: London and Lagos, 2001).

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[10] Ball, N., *Addressing military expenditure and military roles in developing countries: A review of member's approaches*, Paper prepared for the DAC Task Force on Conflict, Peace and Development Cooperation, (OECD: Paris, September 1998).

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[12] Ball, N., *Making Peace Work. The Role of the International Development Community* (Overseas Development Council: Washington, DC; 1996); Organisation for Economic Cooperation and Development, *Ottawa Symposium on Military Expenditures in Developing Countries. Final Report*, (OECD: Paris, 1998).

[13] Lilly, D., and von Tangen Page, M., *The Privatisation of Security and Security Sector Reform*, (International Alert: London, 2002), p. 2.

[14] Winkler, *Managing Change*, p. 8.

[15] Ball, N., and Hendrickson, D., *Off-Budget Military Expenditure and Revenue: Issues and Policy Perspectives for Donors*, CSDG Occasional Papers, no. 1, (January 2002); Short, C., 'Developing the Security Sector Reform Agenda', Speech at the International Institute for Strategic Studies, (4 February 2002).

[16] Ehrhart, H., Schnabel, A., and Blagescu, M., *Towards more effective assistance in security sector reform*, Policy Brief, no. 34 (Institute for Peace Research and Security Studies: Hamburg, 2002); Fitz-Gerald, A., 'Military and Post-Conflict Security', *Choices*, vol. 9, no. 3, (Montreal, April 2003).

[17] World Bank, *Reforming Public Institutions and Strengthening Governance*, (World Bank: Washington, November 2000).

[18] Nathan, L., 'Reform in New Democracies', in Wulf, H., (ed.), *Security Sector Reform*, Brief 15, (BICC: Bonn, 2000); Williams, 'Africa', 2000.

[19] Welch, C., and Mendelson-Forman, J., *Civil-Military Relations: US AID's Role*, Technical Publication Series (US Agency for International Development. Center for Democracy and Governance: Washington, DC, July 1998); Brzoska, M., 'The Concept of Security Sector Reform' in Wulf (ed.), *Security Sector Reform*.

[20] An exception needs to be made to that part of the civil-military relations literature interested in the differences in output of civilian and military governments. The effects of different types of regimes on economic growth, but also broader measures of development, have been a popular topic particularly among political scientist using comparative quantitative methods. For an overview see Decalo, S., *Coups and Military Rule in Africa: Motivations and Constraints* (Yale University Press: New Haven, 1990).

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[22] See also Chapter Seven in this volume.

[23] Commission on Human Security, *Human Security Now*, (Commission on Human Security: New York, 2003).

[24] See for instance: Department of Foreign Affairs and International Trade, Canada, *Freedom from Fear, Canada's Foreign Policy for Human Security*, available at: <http://www.humansecurity.gc.ca/freedom_from_fear-en.asp>.

[25] United Nations Development Programme, *Human Development Report 1994*, (Oxford University Press: London, 1994).

[26] Winkler, *Managing Change*, pp. 34–9.

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[29] Edmunds, 'Security Sector Reform'.

[30] Chanaa, 'Security Sector Reform'.

[31] Wulf (ed.), *Security Sector Reform*; Chanaa, 'Security Sector Reform', 2002.

[32] Early conceptions of security sector reform focused on the armed forces and the police (Hills, A., 'Security sector reform and some comparative issues in the police-military interface', *Journal of Contemporary Security Policy*, vol. 21, no. 3 (2000)). However, it was soon realised that the effective provision of security also involves other sectors of the government, in particular the justice and the penitentiary systems. In addressing the judicial sector, advocates of security sector reform can tap a wealth of practical experience (Botero, J.C., La Porta, R., López-de-Silanes, F., Schleifer, A., and Volokh, A., 'Judicial Reform', *The World Bank Research Observer*, vol. 18, no. 1 (2003), pp. 61–88). Because of this rich tradition of judicial reform, in late-2002, the UNDP began to speak of 'justice and security sector reform' or 'JSSR' (United Nations Development Programme, *Human Development Report 2002. Deepening Democracy in a Fragmented World*, (Oxford University Press: New York, 2002)). There is a danger that core security sector reform activities are crowded out by well-established, traditional judicial sector reform activities such as transitional justice and access to the legal system which are highly worthy in themselves but have little to do with the provision of physical security in a narrow sense.

[33] Important examples include the secrecy provisions typical of armed forces, but even more so intelligence services, and internal control-mechanisms, such as military courts, see Ball, N., and Brzoska, M., with Kingma. K., and Wulf, H., *Voice and Accountability in the Security Sector*, BICC Paper 21 (Bonn International Center for Conversion: Bonn, July 2002).

[34] UK DFID, *Policy Statement*, p. 2; United Kingdom Department for International Development, *Eliminating World Poverty: A Challenge for the 21st Century*, White Paper on International Development (UK DFID: London, 1997).

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Chapter 9

Security Sector Reform and Retrenchment in the Middle East

Ibrahim A. Karawan

Introduction

The neo-conservatives in the Administration of President George W. Bush came to power in Washington DC with a plan, not merely to make the Middle East[1] safe for democracy, but to make that region as a whole democratic as well. For them, the overthrow of Saddam Hussein's regime was not only aimed at blocking the proliferation of weapons of mass destruction, but the first step in a strategy to redraw the map of the Middle East and to democratise the Muslim world so that waves of terrorism against the US could not be launched from there. Accordingly, the war against Iraq was to pave the way for a democratic Iraq, which again would lead to spillover effects in the region at large. In other words, that war would not lead to democracy just in one country but to democratic contagion across Middle Eastern state borders.[2]

According to the United States National Security Strategy of 2002, the US will be engaged in supporting democratic transformations on the global level and making no exception for the Muslim world.[3] Focusing on the so-called 'freedom deficit' in many parts of the Muslim world President Bush has pointed out that: 'The peoples of Muslim nations want and deserve the same freedoms and opportunities as people in every nation. And their governments should listen to their hopes.'[4]

Some observers called this enterprise the 'American mission to reinvent Middle East politics' and to make Iraq a showcase for democracy in the Middle East region to be emulated by Saudi Arabia, Iran, Syria, and Egypt in a domino effect. But for such a democratic contagion actually to materialise, it would have been necessary to establish a consensus about the rules of a democratic pact in Iraq because 'only if the Iraqis themselves are

seen to provide an example can there be any hope for a spill-over effect' in Riyadh, Teheran, Damascus, and Cairo.[5] Iraq has been for many decades a complex ethno-political construct of rival Sunni, Shiite, Kurdish and other groups, with each being divided from within along lines of tribal, linguistic, clannish, ethnic, and communal pluralism. US policy-makers came to realise that if a free election along the lines of 'one person, one vote' were to be held within months, an Iraq shaped more or less in the image of clerical Iran may be more likely to replace Saddam Hussein's regime instead of an Iraq along the US model of Lockean liberalism. As McDougall wrote: 'Suffice to say Iraqis have been in the thrall for 35 years to Ba'athist party dictatorship, hence asking them to embrace democracy would be like asking the Soviet people to do so at the time of Stalin's death in 1953.'[6]

Moreover, the record of Arab and Middle Eastern regimes in resisting the impact of presumed political and ideological dominos during the past few decades has been unmistakable. We were told again and again that Arabist and Islamist movements would take over states that were bound to become hobbled leviathans in a dominolike fashion. The authoritarian state in the Middle East was presumed to be living on borrowed time that was running out fast. The assumed vulnerability of Middle Eastern states at present to the liberal temptations or liberal pressures may prove to be as inflated as was their alleged vulnerability before to pan-Arabist and Islamist doctrines and pressures.[7] The Middle Eastern system of states has proven to be much more resilient and determined to resist the pressures of homogenisation than analysts have given it credit for. No regional waves of Arabist, Islamist, or liberal persuasion have unfolded in the area as a whole reshaping it in the image of these political models. Despite predictions to the contrary, territorial states marked by diversity have managed to persist in the region.

Regarding the liberal dominos anticipated by the Bush administration, the post-September 11 and the post-Iraq war climate in the Middle East seem to encourage more focus on maintaining order and stability rather than maximising political inclusion and accountability. In fact, many regimes in the region sense that the primary objective of the current Bush administration is to crush militant Islamists. Whether in Jordan, Egypt, Palestine, Yemen, Saudi Arabia, or Algeria the war against radical Islamism is taking precedence over other objectives and, in the process, enhancing the power and the autonomy of the security sector are considered crucial. In other words, the same superpower that does advocate ideologically the spread of pluralistic norms and democratic control of security organisations

is also the one that gives priority to the role expansion of unaccountable security institutions in Middle Eastern state machinery.

Apart from external pressures, there are pressures calling for political liberalisation, democracy, the rule of law, transparency, inclusive governance, and institutional accountability from the ranks of the civil societies in many Middle Eastern countries. However, the prevalence of political instability and economic plight enhances the interest of the authoritarian regimes in the Middle East region in expanding the role of the security sector or to approach any reform of that sector with great caution. In essence, this is the dialectic of this era in most of these countries, that of a resurgent and increasingly restless civil societies demanding greater genuine political participation and inclusion on the one hand, and on the other hand autocratic regimes that relate to most issues from the perspective of their own security and persistence. The current climate of concern about the threat of international terrorism tends to be utilised by these regimes to enhance their freedom of action and repression of human rights by way of expanding the role of the security sector and limiting its political accountability.

It is the objective of this chapter to examine the aforementioned dialectical process in order to understand the characteristics of the Middle East region with regard to the potential of security sector reform, or rather the lack of it, from the perspective of state–society relations, and internal–external linkages. This chapter seeks to explain some selected cases from the Middle East region in light of these relations and linkages rather than from any cultural deterministic approach that may locate the responsibility for the lack of serious reform at the doorstep of unchanging religious concepts or practices. The first section will review the theory and practice of Security Sector Reform. The second will examine a case of gradual security sector reform that influenced many others beyond the borders, namely Egypt. The third section will address a different case of security sector reform, i.e., Turkey. This will be followed by a brief discussion of a number of regional cases that have been witnessing a greater role expansion of the security sector. The chapter concludes with a few notes on the prospects of both reform and retrenchment of the security sector in the Middle East.

Security Sector Reform: Theory and Practice

Much attention has been given lately to security sector governance in the less developed countries and all the premises, promises and problems of its

reform.[8] In the literature on this subject, the security sector has been defined broadly speaking as including the set of organisations that have a legitimate and exclusive role in the exercise of coercive power in order to deal with the external and internal threats to the security of the state and the security of the regime. These organisations include the armed forces, paramilitary organisations, intelligence agencies, police forces and judicial systems, among others.[9]

Obviously, these actors are strategically located in the political systems in the less developed countries and the prospects of security sector reform depend largely on their ability to bring about the desired transformations along sound structural and normative grounds, namely more political participation in and accountability and transparency of the institutions of the polity. This task becomes more important and pressing in multi-ethnic societies that have witnessed intense and protracted civil strife along religious, nationalist, and linguistic lines such as in the cases of Iraq and also the Sudan.[10] In these societies, the sense of national identity tends to be poorly developed and competing, if not indeed clashing, with multiple ethno-nationalist and religious identities that dominate the political landscape. The institutional components of the security sector tend under such conditions to reflect the ethnic divisions in the wider society.

Despite the obvious growth in the analysis of how to reform the security sector, like other cases of institutional and policy reform, the practice tends in general to lag behind theory. Bringing about such change requires mobilising the necessary political will and reaching a consensus among internal and external actors who did not agree about major issues pertaining to the security sector reform agenda before and who lack confidence in each other's motivations at the present.

In other words, reform is attempted within a political context by domestic and international actors who often have divergent interests as well as priorities. As result, the reform agenda rarely reflects a fully purposive action and is usually a political resultant marked by compromise. Those to be involved in security sector reform should be able to work together and to enjoy political legitimacy in their societies. Obviously security elements that abused their citizens before should not be expected to preside over any meaningful reform process. Reform of the security sector may imply a decisive loss of long-held privileges by one group or another and may make it possible for social or political segments in society to seek the punishment of security sector officials who had abused their power in the past.

Disagreements about the nature of these multiple challenges and how

to deal with them in a balanced and effective way are not confined to the ranks of the elites but extend to some influential sectors in the society itself. For example, any serious reform of the security sector in contemporary Iraq must take into account that the Sunni community which enjoyed a dominant status politically under Saddam Hussein feels vulnerable in post-Saddam Iraq, and the reconstruction of the security sector must reduce that sense of vulnerability, instead of simply ignoring or aggravating it. In this specific case as well as others a sound security sector reform must take into consideration not only dreams of national solidarity but also existing realities of ethnic differences and at times even fragmentation in the societies under consideration.[11]

Some influential regional actors, instead of solving problems may complicate tensions due to their clashing geostrategic interests. With regard to the case of Iraq, the interests of Turkey**,** Iran, Syria, Saudi Arabia, Kuwait and other Gulf Cooperation Council (GCC) countries illustrate the difficulties that could be made even more complex by competitive interference from the regional setting favouring rival ethnic groups in Iraq. It is important in studying this topic to examine state–society relations and internal–external linkages of each case and to put these relations and linkages within their broad historical settings that pertain to the security sector. Needless to say, reforming present conditions in the security sector requires in part understanding their historical roots and the evolution of the interests that they have served over time as well. In a case like Iraq, the reconstruction of the security sector must proceed together with the process of democratisation and civil society building.

Such historical developments tended to unfold in waves. During the 1950s and 1960s, the role of military institutions has expanded significantly in the politics of Third World states. During that era, many in these states did not rank the political accountability of the military terribly high among their political or national objectives. The military were looked upon as leaders of decolonisation and the builders and modernisers of these new states. In that context, military coups proliferated and popular expectations from the military officers have increased.[12] By the 1970s, a different image of the unrestricted power of the military emerged given the poor performance of military-dominated regimes regarding social, economic and political development. It was due to such performance that societal demands for political liberalisation and democratic accountability had escalated in Africa, Latin America, Asia and the Middle East. As Egypt was the model for many in the Arab world about military intervention in politics in the 1960s and

1970s, within a changing climate, South Africa appeared in the 1990s as the model for many in the developing world as a whole about the democratic control of the security sector.

Moreover, in light of learning from the lessons of the past, the concern about security sector governance has not been limited to the military, but was extended to domestic security services, in order to make these agencies more accountable in their exercise of power and more respectful of the concepts of citizenship and equality before the law in order to guarantee human rights and also public security.[13] In many Arab and Middle Eastern countries, the regimes have relied heavily on these organisations, paramilitary troops and national guards to ensure their stability. As a result, they hesitate to accept measures that could increase the accountability of security forces and weaken their control over society even if that meant tolerating and perpetuating many abuses against their citizens.

Thus, the dilemma here is that the regimes that must play a role in security sector reform are the same actors that have benefited for a long time from the lack of democratic accountability on the part of these organs of the security sector. But for democratisation to be successful and human security to be improved in Arab and Middle Eastern societies, security sector reform is an absolute necessity, and it is of fundamental importance not to leave the entire responsibility of initiating that reform to outside powers.

The Case of Egypt

Egypt is one of those countries that exercise a significant level of influence beyond its own regional borders. The facts of geography, demography, and history made Egypt's centrality possible. Under Nasser, its radical nationalist ideas attracted much attention and much support among millions of Arabs who were willing to do the Egyptian president's bidding. His military coup served as a model for subsequent coups in Syria, Iraq, Libya, the Sudan and Yemen. His opposition to military pacts inspired many in the Arab world. Under Sadat, the de-radicalisation of Egyptian politics and foreign policy and disengagement from the Arab–Israeli conflict has shaped a similar process in the Arab setting. Egyptian leaders differ about many issues, with the exception of Egypt's centrality in the Arab world.[14]

Since July 1952, radical alterations of domestic politics, economic systems, and foreign policy orientations have unfolded in Egypt. However, one fact has never changed since the 'Free Officers' had seized power:

Egypt has been ruled by presidents who had a military background and who relied on the armed forces as their ultimate power base. In critical junctures, the authoritative control of the military proved to be crucial for the survival of the regime and for its ability to maintain political stability. In the aftermath of the military takeover in July 1952, political parties were suspended and then banned, and all key decisions were made by the Revolutionary Command Council. The hegemony of the military made them above discussions in the polity. Military officers controlled key posts as presidents, vice-presidents, prime ministers, and some crucial ministries (e.g. defence, interior and foreign affairs). Often the president also assumed the posts of prime minister, commander of the army, head of the national security council, ruling party chief, and chairman of the judiciary.[15]

This system created a certain 'presidential monarchy' described as the Egyptian version of Bonapartism. Military leaders did not believe in democratic control of the armed forces or accountability to representative institutions since they shared a hostility towards pluralistic democracy and considered them to be responsible for failing to get rid of colonialism and introduce needed socio-economic reforms. In terms of their self-images, those officers had regarded themselves as members of a meritorious modern institution, possessing high organisational skills while leaders of the old system were considered as highly incompetent elements who have worked within a corrupt system.

Policy-making was legitimised by submitting changes directly to the masses in accordance with the plebiscitarian tradition. Those who dared to criticise the power of the military were called 'the enemies of the people' and they were to be found either under house arrest, in prison or in exile. To crush them, whether they were from the right or the left, the regime has developed numerous security agencies.[16] These agencies, particularly the ones affiliated with the military institution, expanded and enjoyed unrestricted power in the context of the confrontation between the regime and Islamist opposition which wanted to bring it down. Tens of thousands of citizens were arrested and tortured. The state security agencies stipulated that the thousands who were found innocent after harsh imprisonment could not take their legal grievances to civilian courts, because the actions of the security agencies were conducted under a state of national emergency imposed by *al-hakim al-'askari*, the military ruler.[17]

The turning point regarding the role of the military was Egypt's defeat in 1967. As after the Argentinean defeat in the Falklands war in 1982 for which the military dominated regime was held responsible, the demands that

the military become accountable were loudly expressed in society. In the case of Egypt, 'the society that for years was led to believe that its state had built the strongest army in the Middle East realised abruptly that it had been deceived … Wide segments of society were convinced the gross negligence and incompetence of Egypt's "new pashas" had led to the major and costly defeat.'[18]

Demands for reforming the security sector were expressed in demonstrations by workers and students. The demonstrators were enraged by the light sentences received by military leaders deemed responsible for the lack of preparedness for the war. They demanded change in the oppressive business-as-usual attitude and putting an end to the domination by the 'praetorian stratum' and *dawlat al-mukhabarat* (a state run by intelligence agencies). They insisted that for the regime to regain a measure of political legitimacy it had to rein in security organisations, to remove the restrictions on freedom of expression in the parliament and in society. The link between the military defeat and reformist demands was clear in the platform of the demonstrators; the closed polity had enabled a privileged but incompetent security elite to persist and even to thrive in the absence of political or societal accountability.[19]

Some on the left saw the only acceptable change of the security sector as the total restructuring of civil-military relations by ending the 'exclusiveness' of the dominant military stratum and politicising the army with the clear objective of making it a revolutionary force ready for a 'protracted people's war'. The regime that at first tolerated such calls put an end to them by insisting on maintaining the corporate identity and autonomy of the army. The share of those in the cabinet with a military background declined from 66 per cent in 1967 to 22 per cent in 1972 and 15 per cent in 1975.[20] Although the military lost part of its political influence, its claims on the budget and the allocation of resources continued to be quite crucial.[21]

Despite radical shifts in Egypt's regional and global alignment since the 1970s, the military has abided by the decisions made by the regime even when it was not adequately consulted.[22] Even when the decisions of the open door economic policy were met in January 1977 by riots that were considered the worst in Egypt's contemporary history, the regime deployed the army to the streets of the major cities and set a curfew to restore its control over society. However, the army asked the President to cancel the price increases before sending the troops to the streets.[23] This was not the last time the military was deployed to the streets to help restore law and order. In 1986, the army played a key role in crushing riots by paramilitary

forces known as the Central Security Forces whose task, ironically, is to quell the riots.[24]

In the mid 1980s, the role of the military establishment was exercised within a managed liberalisation that allowed licensed opposition parties and groups to have their own newspapers. This was not a case of democratisation but one of restricted political liberalisation. This climate made it possible for political activists to discuss, within certain limits, the role of the military in the Egyptian society – a topic deemed beyond discussion since the matters pertaining to the military had not been subject to scrutiny and information about these matters could not have been found in the public domain.

This next wave in the late 1980s and throughout the 1990s of demands for reforming the security sector and the military in particular had addressed three issues. The first issue centred around the society's need to make the military budget subject to scrutiny by political institutions, particularly the Parliament. Even among those who did not advocate cutting the military budget, some argued that the military should be responsible to political institutions. The management of these very large resources should not be left to the military institution itself to both perform and monitor, particularly under a system that claimed to be based on greater openness and the rule of law.[25] Moreover, the argument was made that the persistence of such questionable practices has meant that countries that supplied Egypt with military assistance and training knew much more than Egyptian civilian institutions about Egypt's military budget.[26]

The second issue in these reform-centred demands has centred about the socio-economic privileges that the military institution can obtain in return for its crucial role in maintaining stability. The critics of the privileged position of the military leaders argued that their privileges violated the principle of equal citizenship under the law and could increase political tensions and resentment in society. It is important to keep in mind that these demands did not stem from hostility towards the military or from downplaying its sacrifices under conditions of war. Rather, they stemmed from a belief in equality under the law and a reluctance to allow a privileged position under the pretext of insulating officers against the soaring costs of living driven by market forces and to maintain their support for the regime.[27]

The third issue of concern for the advocates of reforming the security sector had to do with the nature of the relationship between the military establishment and the ruling political party. At the core of that matter is the prohibition by the constitution on the military to practise political activities. It was in clear violation of that rule that the Minister of Defence had become

a member of the politbureau of the ruling National Democratic Party (NDP).

Even after such criticism brought this violation to an end, the Minister of Defense who has been supposed to have a national, not a partisan, position continued to address only NDP's meetings in a way that seemed to put the military establishment only on the side of one party against all others. In other words, such military bias on behalf of the ruling party was considered by the advocates of reform as one substituting the previous direct political control of the military with an indirect one, but still at the expense of democracy. The opposition of the military to the aforementioned demands for broad reforms in the security sector were seen by some in civil society as manifestations of a veto power by that influential establishment.[28]

With the spread of the opposition newspapers and regional satellite TV stations, it has become common to address issues pertaining to the political role of the military including in political succession in the post-Mubarak era openly and demands for making the military accountable to the parliament and the national audit office are also heard. Similar criticism has been directed at military state courts known for handing in quick and usually harsh sentences with little regard for the full legal rights of the citizens put on trial before such courts. The former editor of Al-Ahram, Mohamed Hassanein Heikal, has described the strong prospect of a military officer inheriting Mubarak's position as President as a source of popular fear from political instability in the future.[29]

A review of the evolving role of the Egyptian military suggests a growing degree of professionalism reflected in withdrawing from participation in most areas of decision-making. As Harb said:

Throughout these periods of changing political roles, the Egyptian military remained the loyal repository of political power answerable only to a strong executive leadership in the person of a former military officer (the President) and sure of its privileged position within the polity.[30]

While the military institution gradually ceased to interfere in the affairs of other institutions and their policy making, it has maintained a veto power that kept its privileges protected and had direct access to the President who had come always from its very own ranks. In other words, the other state institutions that are elected by the Egyptian people were not able to scrutinise the military's performance of its duties.[31]

The main challenge that faced the Egyptian regime during the last decade came from militant Islamist groups which mounted a wave of violence. Over the years, these groups strived to penetrate the army with the objective of recruiting members among the lower and middle ranks of the

officer corps in the armed forces. The Islamic Liberation Party's cadres in the Technical Military Academy led by Salih Sariyya had attempted to bring down President Sadat, and it was the military wing of the Jihad group, which included three army officers led by a military intelligence colonel, Abbud al-Zumur, that had assassinated him.[32] The role of the military institution in the confrontation between the regime and its Islamist rivals continues to intrigue students of Egypt. Needless to say, militant groups will continue to try to smuggle their cadres into the army or to recruit officers from within the ranks of the military for the purpose of assassinating political leaders when the opportunity becomes available. However, as the case of President Sadat demonstrated, the assassination of one leader does not necessarily mean the overthrow of the regime as a whole. It is important also to recall that 'Abboud al-Zumur had to leave the army and go underground at a mid-level rank because of the frequency of purges directed at officers suspected of being religious. Moreover, the army and special forces have become so large that a large number of generals have become necessary to launch a coup which led to what may be described as the withering away of the military coups regardless of their ideological orientation in that part of the world.

According to a number of reports, the army has been involved in training the paramilitary antiterrorist squads of the Interior Ministry since it was found out in the early 1990s that militant groups included cadres trained in advanced military techniques in the Afghan war. Hundreds of Islamists were put on trial before military courts which the regime expected to be its sharp teeth that render swift and tough justice and not subject to appeal to higher tribunals though the verdicts must be endorsed by the President who almost invariably does so. Raising funds for charity without an official permission is punishable under a military decree that goes back to the early 1980s and aimed at limiting Islamist activities. Amnesty International and the oldest human rights group in Egypt, namely the Egyptian Organisation for Human Rights condemned this practice saying that civilians should not be tried before a military court, and demanding the end of the emergency laws that sanction such unfair practices. The resort to military courts has increased after 1992 following a violent Islamist campaign to bring down the Mubarak regime and an attempt to assassinate the President in 1995. In the aftermath of 9/11, this resort has increased even further, which the Islamists and their lawyers saw as a 'politically motivated attempt to reassure Washington that Egypt is battling extremism in the wake of September 11'.[33]

The military courts are not the only system for implementing the Emergency Laws. Somewhat less harsh are what is known as the Supreme

State Security courts or the Emergency Security Court which operate still outside the regular civil court system and also violate the legal rights of members of the political opposition for a fair trial before impartial judiciary.[34] Given the drastic decline of acts of political violence and as part of an attempt to leave some impression of pursuing reform, President Mubarak agreed to abolish law No. 105 issued by his predecessor in 1980 regulating the state security courts, to repealing the hard labour punishment from the penal code, and also endorsed the establishment of a national council for human rights. These specific steps can be interpreted as part in an investment in the political future of Mubarak's son and a likely successor, Gamal Mubarak, associated with the cause of incremental reform and also in the regime's political image in its major international ally, the United States.[35]

From the above it is clear that demands for security sector reform in itself or as part of a wider package of political and institutional reform in Egypt have been on the rise since the defeat in the Six Days War. The price of the absence of democratic control of the institutions and organisations of the security sector has proven to be extremely high for the country and for the human rights of citizens who may disagree politically with the regime as well. Like in other countries, demanding reform does not have to be translated into attaining them. Both the pace and the rules of the reforms are subject to contestation and negotiation. The case of Egypt suggests the effectiveness of introducing reforms piecemeal and while trying to persuade domestic and external constituencies that some change is taking place, the regime never relinquishes control over its direction and its pace because it sees that as a prelude to losing power. It can also freeze and even reverse the reform process if necessary.

The Case of Turkey

The Turkish military has a persistent central mission which can be summed up in terms of its guardianship of the norms and core institutions of the Ataturkian legacy. The Turkish military has fit the model of an 'arbitrator army'. The theory and practice of that model as applied in Turkey have been to accept the parameters of the existing system, to intervene overtly only when its foundations are threatened, to return to the barracks when the threat to the secular system and to the state's unity is over, and to act as a pressure group from behind the scenes thus in fact limiting any need for an overt

military intervention. Regarding the military perceptions of Kemalism, these have become its core norms and pillars. All this got institutionalised in 1961 in what is known as the National Security Council (*Milli Guvenlik Kurulu* or MGK). Through the Council, the military transmit their views and their assessments not only of external threats but also internal threats to the elected officials. Part of the growing influence of the role played by the Turkish military can be attributed to its strategic role in the security environment in the Middle East and the Mediterranean in collaboration with the United States and as part of NATO. Through the MGK, the military can exercise a veto power by making what they cannot accept known to the political class.[36] A former Deputy-Prime Minister, Mesut Yilmaz, has argued in a speech that was the first of its kind that the net result of all this was that Turkish politics has suffered from a 'national security syndrome' which made introducing the democratic and the inclusive reforms demanded by the European Union (EU) before accepting Turkey into the EU more difficult.[37]

Compared to the other cases examined in this chapter, Turkey is distinct in a number of ways. First and foremost, and despite its serious limitations with regard to ethnic and political inclusion, the Turkish system has clear political vitality and can be argued to be significantly more open than the other cases considered here such as Egypt, Jordan, Iran, or Algeria.[38] As a result, making the case for security sector reform and mobilising support for it are within the realm of what is politically feasible in the Turkish case even if meaningful and prompt compliance are not easily available. Relative to the other cases, parliamentary elections have been marked by more uncertainty. Thus it was possible for a pro-Islamist party like the Justice and Development Party (AKP) to achieve a major victory in the elections of November 2002 in that context. The debates triggered by Yilmaz's statement about the country's national security syndrome which extended to human rights matters and the state security courts have illustrated that. These debates have exposed the public significantly to 'new perspectives on the importance of basic rights and freedoms, cultural rights, democratic control of armed forces and the rule of law'.[39]

Secondly, the role played by the European Union in influencing debates about political accountability of the military in Turkey is becoming more obvious. The reform of its security sector to fit the European model regarding the political accountability of the army to civil society, internal security reform that is consistent with the democratic norms of good governance, and the peaceful settlement of the Kurdish conflict, are all important conditions for Turkey to become an EU member.[40] Thus, the task

that Turkey faces in that regard is to implement a specific type of reform that ensures the professional nature of the military and the security forces and their political accountability.

One difficulty in attaining reform objectives is that the military perceives itself not just as another institution but as the ultimate guardian of the nation and the custodian of national legitimacy. Its role conception comprises a blend of military as well as political responsibilities on the macro and micro levels.[41] Reconciling such self-images, legacies, and preferences with the normative and policy requirements of reform continues to be rather difficult to achieve thus far.[42] The EU has made it clear that a reduction of the influence of the armed forces in public life is among the necessary conditions before it becomes possible to specify a date to negotiate with Turkey about joining the EU.

The army declares that membership in the EU is a strategic imperative and that it supports efforts to achieve it. According to Deputy Chief of Staff General Yasar Buyukanit: 'There are widespread, unjustified beliefs both at home and abroad that the Turkish armed forces are opposed to the EU. Let me say clearly that these allegations are absolutely untrue.'[43] However, the national security council dominated by the military, stresses that any reforms which might have an impact on the army have to be congruent with the principles of the Turkish Republic and not endanger the country's national unity and its secular system.[44] In other words, from the perspective of the military, the calls for reforming the security sector should not sanction a downward mobility of the army in the name of accountability. In the words of the Chief of Staff General Hilmi Ozkok: 'We need to enter the EU not at whatever cost but on an equal footing, and by protecting our national and geographic integrity.'[45]

Thus, the military leaders endorse the objective, but seem to practise a sort of 'constructive ambiguity' regarding steps suggested by the EU, since they could curtail the influence of the military. The Turkish membership in the EU is also contingent on the reforms needed in the domain of human rights to put an end to rampant practices of torture and arbitrary imprisonment. Turkey's human rights performance is one of the hurdles facing its attempts to enter the EU. In that regard, attempts by the security sector to meet these requirements tended to be rather partial. For example, the Interior Ministry made an offer of amnesty to Kurdish rebels who opposed the Turkish government for about two decades. This was discussed in a National Security Council meeting in which, as usual, officials in the army and intelligence participated. It was modified before being sent to the

parliament, reflecting as the experts on Turkey agree the influence of the military establishment.[46] For security officials, reforms should not destabilise Turkey, deprive its system from autonomy in decision-making, or ignore what they all consider the unique characteristics of its political and institutional legacy.[47]

The army continues to confront the Kurdish insurgency via raids inside Iraq despite the negative implications of these raids for Turkey's international image, particularly in Europe.[48] In 2002 and 2003, the parliament discussed a number of reforms pertaining to freedom of expression, broadcasting in the Kurdish language, and human rights in order to abolish an article used to jail intellectuals advocating the recognition of Kurdish rights in order to facilitate the start of negotiations about Turkey's membership in the Union. However, the National Security Council said in a statement in June 2003, that it discussed measures against 'radio and television broadcasts harmful to the country's security' – a reference to Kurdish broadcasts that were made legal by the Parliament only one week before.[49] Discussions were allowed about State Security Courts which were introduced under the State of Emergency. Other discussions about Article 312 were curtailed under the pretext that they could incite ethnic hostility and threaten national stability.

The military seemed at times to tolerate discussions in civil society, but their reservations about items that implied a demotion of their powers to articulate and enforce national security concepts were quite unmistakable.[50] While the number of civilian members in the national security council increased in October 2001, the power asymmetry in favour of the military institutions remains undeniable. That council continues to reflect the mindset of the military, their conception of national security agenda, their political influence and veto power. The military members of the Council are much more cohesive than civilian coalition parties, and they meet ahead of time to arrive at common stands.[51] The officer corps in the Turkish army at large was shaped by a system of socialisation that has been exceptionally effective at reproducing itself one generation after another.[52]

Secondly, the military remain concerned that Islamist groups, if unchecked, may ignore secular Kemalism as a dominant ideology and, hence, this internal rather than external threat has assumed more importance in their threat perception. The General Staff of the army preferred to set its own intelligence agency to collect information about Islamists. They accused former Prime Minister Erbakan of giving free rein to Islamists in Turkey and flexed their muscles to make him resign and to force his party to curb

Islamist activities and also funding.[53] They interfered to influence the school textbooks to reduce the religious dose in them. They also pressed the Erbakan government to abide by the secular laws of the Turkish Republic.[54]

Moreover, the military organised briefings for judges, prosecutors, academics, journalists, business and labour leaders in which the military chief of intelligence presented the case of the military against Islamists and their growing influences in society and threatened a purge of the Islamist elements from the bureaucracy, particularly in the Ministry of Education, with the involvement of senior army officers and without a prior approval by their civilian superiors.[55] Citing reports by 'reliable' intelligence sources, a top officer argued that Islamist groups were inciting unrest and accusing the army of having no respect for religion and no honour against headscarves, mosques, prayers, and women, in short, everything that is sacred. According to that officer, Islamists 'are like malaria bugs that lie dormant in the body waiting for a chance to strike'.[56]

With the decline in Kurdish violence recently, Islamists are seen by the military as the primary target of their concern. They see them as restrained due to the influential role of the military.[57] Like their secular Algerian counterparts, to be referred to later in this chapter, Turkish army leaders tend to see security sector reform which curbs the institutional role of the military as regressive and as facilitating the rise of Islamists to power and then the state founded by Ataturk withers away. In other words, they see nothing that would prevent Islamists from advocating security sector reform in the short run to weaken the influence of secular institutions that oppose them, particularly the army, so that once in a position of unrestricted power, they could reshape the polity as they wish and not continue to abide by the secular norms or act in a democratic way.

Some in the military are now worried that Islamists might have penetrated 'Ataturk's Army' and periodic purges were launched to keep them out of the army. The Supreme Military Council decided to sack hundreds of commissioned and non-commissioned army officers on suspicion of having Islamist sympathies and without allowing them to have any legal rights to express their grievances. For them, unrestricted Islamism can facilitate transition from re-Islamising society to Islamising state structures, culture and ideology. As they see things, the army is the most effective guarantor of a secular republic in Turkey.[58]

The sense of threat associated with such a scenario is immense given that Kemalism represents their source of legitimacy and the values central to their institutional socialisation. Public opinion surveys show the military as

enjoying a broad support and credibility in a society that has been sensitive to national security considerations.[59] From that, it seems obvious that the army is not likely to accept the reform package suggested by the EU or to reject it in its entirety. Rather, selective and incremental reform through a strategy of buying time, muddling through, waiting for some domestic rivals to make mistakes, and hard bargaining with civil society and the outside world are most likely to be the ingredients of the course of action to be pursued by the military.

The focus of such strategy is not whether reform is valid or not, but whether the price is right and the terms are affordable or not. In other words, a selective and gradual change *in* the security doctrine is acceptable by the military, but a radical change *of* that doctrine and its rules is deemed by that establishment as neither desirable nor even permissible. The aim of such radical changes along the lines advocated by AKP party and the EU as well is to reduce the role of the military in Turkish politics and society, deprive it from the ability to identify national security threats and devise the steps to respond to them**,** and in the process restructure the nature of the Turkish polity, or at least the military leaders tended to see it in such way. For them, the notion that national security is too important to be influenced by the military is threatening. General Ozkok warned against threats to national security posed by the appointment of Islamists who were expelled from the army to positions in the state machinery by the AKP party.[60] General Ozkok refused to discuss reports about the possibility of a coup and insisted that Turkey's joining the EU must be done with honour.[61]

Turkey is a Muslim country in terms of the religious identification of most of its population but it remains secular in terms of its regime orientation. It is at the same time part of the Middle East and Europe. The role of its military in this largely democratic system is geared towards not only external threats, but also against internal ones. As long as the leadership of the military establishment maintains a firm belief in its responsibility and its mission stipulated by the Kemalist ideology and enjoys a significant degree of political autonomy, it will resist any fully-fledged reform of the military sector even against the will of democratically elected government. In limiting the scope of such reform, it will try to take advantage of the strategic assets that Turkey can provide to the Western world and the US in particular. This may be described as the institutional domestic uses of regional strategic activism. This may not always succeed as shown by the major divergence of perspectives between the United States and Turkey in the case of the Iraq war in 2003. However, the internal and external

pressures for security sector reform in Turkey persist and they cannot be ignored by the Turkish military even though they can wield significant ability to vetoing reform initiatives. The degree of and the time frame for the success of reform initiatives depends on how the Turkish military leaders read the costs and benefits of various options and the impact of any reform deal on their institutional standing within the polity. Limiting the role of the Turkish military may be desirable for many, but it is not exactly an easy task given their political autonomy and institutional sources of leverage.[62]

Cases of Arrested Reform

Not all countries in the Middle East have witnessed efforts at security sector reform even where it has been partial. There are cases in the region where the drive for security sector has been arrested by the growth of the role of the security sector due to considerations of domestic instability. In some cases, more security branches were established to become specialised in curbing domestic challengers of the regimes and possibly to counterbalance the armed forces and deter them from trying to seizing power. This type of dual regime security protection has become common in Middle Eastern countries. It does not aim at undermining the power of the army, but it creates a parallel security force staffed and led by loyal elements in most cases from the tribe or region from which the head of state comes.[63] Particularly if the regular armed forces were not deemed fully loyal, and the internal and external enemies of the existing regime were multiple, the new force must have ideological identification with the regime in order to rely on it domestically and regionally.

Iran

Iran represents a case in point. Its leaders established and strengthened the revolutionary guards at the expense of the regular military establishment, which they suspected of being largely disloyal to the revolution in light of their association with the Shah's regime.[64] The Revolutionary Guards were assigned tasks that included safeguarding the ideological purity of the Islamic regime and they were recruited from segments in society believed to be committed to the revolution and willing to confront the enemies of the Islamic Republic and to implement the Islamic code of conduct.[65]

The role of the Revolutionary Guards extended to protecting Iran's

borders and suppressing political dissidents in or near the major cities. A special military academy has been established to train the Revolutionary Guards on Islamist ideologies, defence policies, military interventions, as well as the Iranian military history. Another militia force, the Basij, was established to recruit volunteers for the war with Iraq, maintaining domestic political order, and also punishing the counterrevolutionary elements in the society. It is worth noting that despite its vast responsibilities, the Revolutionary Guards and its 'Special Units' are only answerable to the Supreme Guide of the Iranian regime, an unelected official who is supposed to be an infallible religious figure. In June 2003, Iran's supreme leader publicly warned that the student protest could be crushed by the youth of the Party of God should they decide to take action.[66] With the escalation of the student demonstrations, in addition to anti-riot police, a paramilitary organisation established by conservative leaders in the clerical regime was mobilised to beat and punish the university students involved in demonstrations.[67] Advocates of reform in Iran complained against the beating and the shadowy nature of such groups and their lack of political accountability for these actions. It seems that the more threatened the hardliners in the regime become, the greater the role played by paramilitary organisation with little in the way of political scrutiny.

Algeria

If Iran presents a case of an Islamist regime facing reformist opposition, Algeria represented a case of a bloody confrontation between a secular regime and its Islamist rivals. In the context of a civil war between the state and Islamists after the cancellation of the second round of the parliamentary elections in 1992, the role of the security sector has expanded quickly without a corresponding expansion of its political scrutiny. The consequences of these protracted clashes between the military and security agencies and militants were truly severe since tens of thousands of innocent citizens lost their lives in them. As the returnees from the Afghan war joined the Armed Islamic Group and targeted the army and police officers, journalists, women, villagers, and foreigners for assassination, the key state security institutions became more ruthless and often indiscriminate in their strikes to eliminate violent groups.

It was difficult for Islamist enemies of the state to wrest political power from the military or to deprive them from their influence for a variety of reasons. First, among these reasons was that the army and the security

forces maintained the corporate coherence of their institutional structure and did not witness the divisions from which the Islamists suffered. Secondly, the oil revenues which the military had control over have been utilised to coopt segments in society via what is called state-centred clientelism according to which access to oil rents was traded for consent or acquiescence. Thirdly, even when the state security sector was facing serious challenges by militant Islamists, it was able to use the threat of regime collapse to influence the attitudes of many in civil society and also of the external, primarily Western, actors to back it.[68]

Behind the strategy of the Algerian military and the security forces was their conviction that an Islamist seizure of power would have brought down politically and culturally the Algeria they had known and preferred. This has been an army committed to a vision of Algeria as a strong and modern state and an institution that is one of the least Arabised sectors in society. Many of its top officers have been trained by the French army and influenced by secular traditions.[69] Its response to Islamism in 1992, similar to that of the Syrian security sector against militant Islamists a decade earlier, was based on the notion that the very worst strategy in dealing with Islamists was to resort to mild repression because such strategy threatens its enemies without undermining their ability to strike back. It believed, rather, in resorting to massive repression of the type that intimidates militant cadres and deters any future ones.

This included collective punishment of towns and districts in which the militants might have existed and building vast prison camps in the desert to hold large numbers of suspected enemies of the state, often without evidence. According to Dickey: 'In Algeria, members of special "Ninja" units, named for the black hoods over their heads, flaunt their power in the streets. They cruise in bullet proof [cars] brandishing Kalashnikov assault rifles, searching anyone they had deemed suspicious.'[70] A state of siege was imposed in February 1992 and a crackdown and trials in security courts were implemented against the militants and their sympathisers in society. In the words of Sadiki: 'The gendarmerie, security apparatus, and the army have combined forces to combat Islamist armed resistance and aircraft have been used to comb the mountainous region for hideouts.'[71]

Those officers remain around the top of the pyramid of power and the backbone of the regime in Algeria. They are still convinced that if it were not for their response to the Islamist challenge, the regime would have collapsed to be replaced by an Iranian-style regime, forcing hundreds of thousands of Algerians to escape across the Mediterranean to Europe where

more immigrants are not welcome. The military and the security agencies, as Quandt pointed out, were the ultimate arbiters of power, or the 'nomenklatura' of Algeria.[72] From a position of strength, they offered amnesty to the rebels who laid down their arms, which reduced tensions considerably.

Despite the relative relaxation of restrictions on political expression and to a lesser extent association, the military institution continues to retain a veto power over policy outcomes regarding the relations with the Islamists and the Berbers.[73] According to Quandt:

If Algeria is to experience real and sustained progress towards democracy, the military must move to the sidelines. This could take the form of a Chilean-style 'pact', a deal with the democrats that offers a high degree of autonomy and immunity from prosecution; or could follow the Turkish model, with a powerful military assuming a special role as the guardian of the constitution-a kind of 'national security council' – but with day-to-day responsibility clearly in the hands of elected politicians.[74]

The success of the military in undermining the power base of militants may create the climate in which security sector reform can become attainable. Algeria may be able to move in that direction. But given that acts of violence by the militant groups continue, the army leadership is not likely to accept sweeping reforms.[75] However, the army's support in July 2003 of the release of two prominent Islamists after serving their full sentences may suggest that it can endorse confidence-building measures that involve leaders of the Islamic Salvation Front.[76]

Saudi Arabia

In Saudi Arabia, acts of violence by militants in Riyadh and Mecca in May and June 2003 had triggered a sense of increasing threat to regime security and to its ability to protect foreigners in the country and thus contributed to the role expansion of security apparatus, *al-Mabahith al-'Amma* (General Investigations) which is affiliated to the Ministry of the Interior.[77] Such an expansion reflected a realisation on the part of Saudi security agencies that thousands of Saudis have received training with the militants in Afghanistan and elsewhere. While the regime was not threatened, it felt the need to tighten restrictions on militants using specially trained security forces, a decision that had an initial rationale after the events of 11 September 2001 and gained an additional endorsement after the explosions of May and June 2003.[78]

Jordan

Different from Saudi Arabia, Jordan, a small desert Arab kingdom, has experimented with a measure of political liberalisation. Historically speaking, for Jordan security has been a key concern tied to its survival in a tough regional setting and faced with many challenges to bring the Hashemite regime down.[79] The sense of a security threat developed in Jordan regarding the repercussions of an Iraq war on a society marked by differences between the Palestinians and Jordanians. In response, King Abdullah II stressed the notion of 'Jordan first' and gave more support to the army and the security agencies based on tribal loyalties to the regime in order to be able to contain the challenge posed by Islamists in Jordanian society.[80]

In Jordan, the security agencies played a major role in safeguarding regime security. The Intelligence agency managed to obstruct many coups and assassination attempts against regime leaders. Its records remains classified despite societal demands to make it public for considerations of accountability. In 2003, its former Director, General Samih al-Battikhi, and his own Deputy, General Zuheir Zanuna, were accused in an unprecedented case of involvement in corruption, but the Judicial branch known as the State Security decided to go ahead with their trial in a secret military court appointed by the Intelligence agency itself which the two generals presided over only two years earlier.[81]

As economically and politically driven challenges to the state mounted, the rulers became more keen on maintaining regime security in terms of its ability to persist over time by staffing positions in the army and in the security agencies by loyal East Jordanian supporters.[82] On 28 August 2001 the regime relied on security agencies to implement a law on public assembly stipulating that any meeting that debated public issues required official permission 48 hours ahead of time and that state decisions in that regard would not be subject to appeal. The 'authorities retained the right to use force to disperse even officially approved meeting and impose prison terms on those violating the law'.[83] Special forces were used to quell opposition to state policies in Jordanian cities and their loyalty to the regime was necessary for its security and stability. In the last one of these operations in *Ma'an*, an overwhelming force was used to crush those who fomented unrest, illustrating the primacy of maintaining regime security over all else.[84]

One can argue that in many Middle East countries regime security is often equated with maintaining the essentials of the status quo of the security

sector. The pervasive reluctance to reform the security sector basically stems from the fear that the effects of reforming that sector can in fact translate into more effective demands for regime change.

Conclusion

Security sector reform clearly still lags behind in most of the Middle Eastern countries. The greater the threats posed by opposition ethnic and religio-political groups, the less likely are the regimes to reduce the power of security organisations. External pressures like those exercised by the EU vis-à-vis Turkey or massive defeat in war, as in the case of Egypt in 1967, had an impact on the demands for reform, accountability and transparency of the security sector. Even though some have talked about the withering away of military coups in the Arab world, the role of the military remains crucial in most of the Arab states. The post-September 11 climate and that of the war in Iraq seem to have enhanced these trends within the context of what has come to be known widely as 'the war against terrorism'. However, it should be noted that the status quo in Middle Eastern countries is confronted with internal and external criticisms calling for credible reform and institutional accountability of security organisations.

This emerging climate has the prospects of both reform and retrenchment side by side. Democratic transformation and awareness of the need for security sector reform exist in the very same environment marked by existing regimes' concern about threats to their security, power, and privileges. That concern about political survival increases their dependency on unreconstructed security sector organisations or their interest in creating new ones that are not subject to any democratic scrutiny. They usually do not do all that just by themselves, but via social and political coalitions with domestic forces and international actors who may fear particular types of change or reform. The fear of Islamist contagion and ethnic threats are among such fears against which these coalitions may be forged. These are means of generating resources and of postponing or reducing external pressures for meaningful reforms. Under these conditions, maintaining order and regime stability are more important for the authoritarian regimes and for their international allies than enhancing democratic reforms, inclusive good governance, institutional transparency, and political accountability. However, the high level of public interest in these reforms as demonstrated by the new media, the NGOs and the civil society organisations in the

Middle East suggests that these issues which almost used to be regarded as
taboos before could not be bypassed or ignored by the established state order
any more in that troubled region.

Notes

[1] The wider notion of the 'Middle East' is used in this chapter, i.e. the area from Morocco to
Pakistan.
[2] For a detailed discussion of the ideas of the US Deputy Secretary of Defence, Paul
Wolfowitz in particular see Burkeman, O., *Guardian*, (15 March 2003), p. 5; and Chaddock,
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2003), p. E3. On the possibility of rebuilding a democratic Iraq after the 2003 war in the Gulf
see Dawisha, A., and Dawisha, K., 'How to Build a Democratic Iraq', *Foreign Affairs,* vol.
82, no. 3, (May/June 2003), pp. 36–50.
[3] *The National Security Strategy of the United States*, (Office of the President: Washington,
DC: 2002).
[4] Quoted in Haass, R., 'Toward Greater Democracy in the Muslim World', *Washington
Quarterly*, vol. 26, no. 3, (Summer 2003), pp. 137–42.
[5] See McDougall, W.A., 'What the U.S. Needs to Promote in Iraq (HINT: It is not
democratization per se)', *Foreign Policy Research Institute Wire*, vol. 11, no. 2 (May 2003),
p. 1.
[6] Ibid. p. 5.
[7] Karawan, I., 'The Withering Away of the Arab State: Reflections on a Premature Memorial
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University of London: 8 April 1997).
[8] See e.g. Ball, N., 'Spreading Good Practices in Security Sector Reform', *Overseas
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[9] Chanaa, J., 'Security Sector Reform: Issues, Challenges and Prospects'. *Adelphi Papers*, no.
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[10] See Dawisha, A., 'The Assembled State: Communal Conflict and Governmental Control in
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[11] On the case of Iraq see *Los Angeles Times*, (10 June 2003), p. 1.

[12] See Be'eri, E., *Army Officers in Arab Politics and Society*, (New York: Praeger, 1970).

[13] For a good discussion of Middle Eastern cases including Algeria, Iran, and Turkey see Monshipourim, M., 'Reform and the Human Rights Quandary,' *Journal of Church & State*, vol. 41, no. 3, (Summer 1999).

[14] Ajami, F., *The Arab Predicament: Arab Thought and Practice Since 1967*, (Cambridge: Cambridge University Press, 1981); and 'The End of Pan-Arabism,' *Foreign Affairs*, vol. 57, no. 2, (Winter 1978/79).

[15] Karawan, I., 'Egypt', in Danopoulos, C. P., and Watson, C. (eds), *The Political Role of the Military*, (London: Greenwood Press, 1996), pp. 107–8.

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[18] Karawan, I., 'Egypt', p. 112.

[19] For more see Anwar Abdel Malik, *al-Jaysh wa al-Harakah al-Wataniyah* [The Army and the Nationalist Movement], (Dar Ibn Khaldun: Beirut, n.d.), p. 115; Abdalla, A., *The Student Movement and National Politics in Egypt*, (London: Zed, 1985), pp. 149–75; Ajami, F., *The Arab Predicament*, (Cambridge: Cambridge University Press, 1981), p. 88, and Beattie, K., 'Egypt: Thirty Five Years of Praetorian Politics', in Danopoulos, C.P. (ed.), *Military Disengagement from Politics*, (London: Routledge, 1988), pp. 213–22.

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[24] *Los Angeles Times*, (21 March 1986).

[25] See Hussein, A., '*al-Jaysh wa Mustaqbal al-Dimouqratiyah* [The army and the future of democracy]', *al-Sha'b*, (7 January 1986); Huwaydi, A., *al-Ahali*, (25 June 1986). On the reactions by the military see General Ahmad. Fakhr, '*al-Infaq al-'Askari al-Masri* [The Egyptian military expenditure]', *al-Ahram*, (25 July 1986); and Mohamed 'Ukasha, '*Madha Nurid.. Quwat Musalahah am Inkishariyah?!* [What do we want … armed forces or mercenaries?!]', *al-Ahram al-Iqtisadi*, (14 July 1986).

[26] Hussein, A., '*al-Jaysh Marah Ukhra* [On the army once again]', *al-sha'b*, (1 July 1986); Murad, M.H., '*al-Riqabah al-Gha'ibah 'Ala al-Infaq al-'Askari*, [The missing supervision over military expenditure]', *al-Sha'b*, (9 September 1986); and Ra'fat, W., '*al-Infaq al-'Askari*, [Military Expenditure]', *al-wafd*, (7 July 1986). See also the statements of former Minister of Defense Field Marshal Abd al-Halim Abu Ghazallah in *al-Mussawar* (12 October 1984).

[27] Ali, S.I., '*Afwan Siyadat al-Mushir* [Forgive me, Field Marshal]', *al-Ahali*, (24 October 1984); Farahat, M.N.,'*Hawl Hukm al-Mussassat wa Tahakum al-Mussassat* [On the rule of institutions and the domination of institutions]', *al-Ahali*, (19 October 1984). For a response reflecting the views of the military see General Ahmad Fakhr, '*al-Ahdaf al-Istratijiyah al-Misriyah*' [Strategic objectives of the Egyptian Military], *al-Jumhuriyah*, (20 January 1985).

[28] See the warning by al-Ahali, '*al-Dimuqratiyah fi Khatar* [Democracy in danger]', *al-Ahali*, (13 August 1986); and Sa'id Ismail Ali, '*Hadha al-Najm al-Sati* [This Bright Star]', *al-Ahali*, (8 October 1986).

[29] Sobleman, D., 'Gamal Mubarak: President of Egypt?' *Middle East Quarterly*, vol. 8, no. 2, (Spring 2001).

[30] Harb, I., 'The Egyptian Military in Politics: Disengagement or Accommodation?', *Middle East Journal*, vol. 57, no. 2 (Spring 2003), p. 270.

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[32] For lengthy interviews with Col. al-Zumur in his prison see Fawzi, M., *Abbud al-Zummur… Kayf Ightalna al-Sadat?!* [How we assassinated Sadat?!], (Beirut: Haiah, 1993), pp. 85–6, 124–46. See also an interview with Tal'at Qasim, *al-Ahali*, (9 February 1994 and the statements by the leader of the *tala'I al-fath* (the vanguards of Islamic conquest), *al-Ahali*, (8 September 1993).

[33] *Al-Mussawar*, (7 February 1994). One influential writer argued that a role for the army against militancy would be in accordance with its constitutional responsibilities and that more coordination between the military and security agencies has to be developed further. Hamrush, A., '*Madha sayaf'al al-Jaysh amam al-Irhab* [What will the army do against terrorism?]', *Roz al-Youssef*, (3 January 1994); and '*al-Jaysh … Limadha Yatasada lil Irhab*' [The army … why should it confront terrorism], *Roz-al-Youssef*, (24 January 1994). On the debate about the increased resort to military courts in the immediate aftermath of 9/11, see by Rawya Raegh, 'Egypt Military Court Convicts 16 Men', *Associated Press*, (30 July 2002).

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[35] *BBC Monitoring International Reports*, (6 March 2003).

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[38] See on this point Lewis, B., 'Why Turkey is the Only Muslim Democracy', *Middle East Quarterly*, (March 1994).

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[43] 'Turkish army backs efforts to join EU, says top general', *Agence France Presse*, (29 May 2003).

[44] *BBC World Service*, (27 June 2003).

[45] *Financial Times*, (6 June 2003). In response, Prime Minister Ordogan warned – without referring to the army – against the attempts to block the road to EU membership.

[46] *Financial Times*, (6 June 2003), p. 19. According to Leyla Boulton and David Gardner, 'the army, the backbone of the arch-secular republic created by Mustafa Kemal Ataturk from the ruins of the Ottoman Empire, sees [the proposed series of human and minority rights reforms] as a slide towards Kurdish separatism and a neo-Islamist plot to erode the constitutional division between mosque and state'.

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[84] See *Washington Post*, (12 November 2002). For a similar case in Yemen see Schwedler, J. 'Yemen's Aborted Opening', *Journal of Democracy*, vol. 13, no. 4 (October 2002), pp. 48–55. While elements of al-Qa'eda used the country as a staging and recruitment area, the special forces under control of the President's son play an increasingly more repressive role with American support and with no scrutiny by civil society.

PART IV

CONCLUSIONS

Chapter Ten

Whither Security Sector Governance?

Rafal Domisiewicz

Overview

The state of the discourse on security sector governance – both in a normative sense as well as in an experiential perspective – has been succinctly elucidated in this volume. The authors, most of whom are professionally engaged in the study or practice of transforming the security sector, have determined that security sector reform, designed with an explicit objective of furthering security sector governance, has become a reference point for designing policies aiming at – in a narrow perspective – improvement in the provision of security, and – in a broader view – entrenchment of democratic institutions and facilitation of socio-economic development. Having thus identified a causal relationship between the means and ends of security sector reform, the authors have at the same time brought to the fore a series of concerns and challenges, stemming from the way that efforts in this have progressed in the space of recent years.

The chief concerns that have been explored in the pages of this book include first ushering in the expectations that internal security systems be geared towards proactive management of the terrorist threat and its potential consequences (Chapter Two). The way the anti-terrorist campaign is being conducted has prompted fears that the gains that have been made so far in terms of elevating the importance of transparency, accountability and parliamentary oversight over security services might be jeopardized (Chapter Three). Secondly, the concurrent agendas of anti-terrorism and security sector reform have engendered tensions that are manifest acutely in the Middle East. Democracy has been held up as the only recipe for socio-political development of the states in that part of the world. However, the exogenous pressures for political liberalization in the region, coupled with endogenous attempts at effecting political reforms, have nevertheless been checked by a countervailing feature of the political dynamics in the Middle

East, which is the governing regimes' general reluctance to inject the norms of democratic governance into the way the security sector is managed. The majority of governments in the Middle East justify their position on the basis of the post 9/11 imperative of cracking down on terror, as well, as a pragmatic concern for their very own survival amidst pressures for democratization (Chapter Nine).

A sub-national level of analysis of security sector reform has also uncovered a serious challenge. Namely, in spite of the consensus, which after the end of the Cold War has grown around the expansion of the definition of security, giving birth to a virtually all-encompassing human security agenda, the problem of putting an end to violence perpetrated on women in war and peacetime remains to be seriously addressed (Chapter Seven). Given the link between gender based violence and security sector governance, it is advocated that greater strides be made to ensure that security sector reform tackles the root causes of violence against women. The first step towards this end might be to eschew a gender-blind approach to security sector governance, and, instead, sensitize the relevant actors involved in this sphere to the differential effects of violence upon men and women ('gendering security').

In addition to the novel approach of contextualizing gender within security sector governance, a discourse on this concept has been enriched by discussion about the opportunities for civilian oversight and democratic accountability of nuclear weapons (Chapter Six). Restricting control over nuclear arsenals to a small circle of decision-makers among the executive and military establishments is said to arise due to concerns over the exigencies of making decisions on nuclear weapons use in crisis situations. However, as the study demonstrates, the nuclear weapons problematique is much broader than a preoccupation that the 'button' approach might imply. There are in fact many opportunities for civilian experts and civil society to inject their views into the nuclear weapons policy domain.

To wit, security sector reform has come a long way from its primary association with the international developmental discourse (Chapter Eight). The adaptation of security sector governance, which is what the reform is primarily preoccupied with, follows essentially the logic of norm transfer. Evidence from self-assessment studies conducted by experts from South East Europe shows that the process of systemic transition – which encapsulates also the transformation of the armed forces and security services – follows a common trajectory. Namely, the newly democratic states seek to attain membership in regional organisations, usually first in the Council of Europe

(CoE), viewed as a means of validating democratic credentials, then NATO, for the purpose of ensuing security, and eventually in the EU, in order to meet demands for security in a holistic sense (political, socio-economic and military security). Embarking upon the road towards membership in the main politico-military structures in the Euro-Atlantic area may in fact be regarded as a norm in itself (Chapter Five), a witness to the willingness of the applicant state to abide by, and, indeed, internalize the norms that have been developed by consolidated democracies, which had laid the foundations for these organisations in the first place (Chapter Four).

Expanding the Norms of Security Sector Governance

The studies contained in this volume provide an insight into the locus of the norms, principles, values and more tangibly the policy tenets associated with security sector governance, whilst uncovering certain themes that will inform the agenda for security sector reform in the years to come. The objectives inherent in security sector governance – enumerating, in brief, professionalization of the armed forces, accountability of the security providers to the proper democratic authorities, respect for human rights, the involvement of civil society in the political system, transparency, conformity of the security sector with internal and international law, as well as pursuance of regional approaches to security cooperation[1] – have been entrenched in the Euro-Atlantic Community, in particular in the modus operandi of NATO and the EU, and in the requirements a candidate states is expected to meet before it is able to join these organisations. This *conditionality* has been the main feature in the way the enlargement processes of NATO and the EU has been handled from the inception. In effect, both organisations have unveiled multifaceted pre-accession programs. In the case of NATO – at the outset it had been the North Atlantic Cooperation Council (NACC), conceived as a forum for consultations and assistance for bringing the security sector in Central and Eastern Europe up to the comparable standards of democracy and efficacy as in the West; subsequently the Partnership for Peace (PfP) was launched as a forum for institutionalized cooperation – a *transmission belt* for western advice regarding defence planning (PARP); later on came the Euro-Atlantic Partnership Council (EAPC), designed to strengthen the system of cooperation across the Eurasian geopolitical space; finally, following the first wave of NATO expansion in 1997, the Membership Action Plan (MAP)

was unveiled for the purpose of assisting the aspirant countries to meet
NATO standards, primarily in regard to the development of defence
capabilities. As far as the EU is concerned, it too strove to imbue the
transition process in Central and Eastern Europe with the values and norms
that it regards as preconditions for participation within the family of West
European democracies. The 'carrot' approach has been exemplified in the
delineation of the 1993 'Copenhagen criteria' and the 'Agenda 2000'
guidelines for membership in the European Union, which include some
specifications on how the security sector ought to be structured. In addition
the EU has recently devised tailor-made approaches to security sector
reform, with a view towards concomitantly addressing the needs of post-
conflict rehabilitation. An important endeavour in this context is the Stability
Pact for South Eastern Europe.

In a seminal departure from the hitherto dominant rationalist paradigm
of security analysis Fluri and Cole argue that the Euro-Atlantic Community
may be said to epitomize a microcosm of an 'International Society', where
the identities and values associated with the specific actions undertaken by
its constituent members have been socially constructed and, henceforth,
continue to shape their behaviour ('norm emergence'). From wherein norms
have been disseminated across the European continent, by way of
institutionalised intercourse, enlargement of regional organisations or other
manner of interaction, projecting out into Central Asia, the Middle East and
North Africa ('norm cascade'). At the final stage of the norm transfer, the
said principles, values and policy tenets are seen as taking root within the
newly democratic polities ('norm internalisation'), which is evidenced by the
fact that security sector governance has entered the mainstream discourse on
the policy and epistemic levels, in turn attesting to the now local 'ownership'
of the security reform process, as well as the enduring effect of the external
leverage exercised by Euro-Atlantic institutions.

It might be a good idea, at this point, to step back and verify the
claims propounded by contributors to this volume, by looking at recent
international developments in security sector reform. Currently, both the EU
and NATO have opened doors to new entrants from Central and Eastern
Europe. In the next year or two, seven new countries will have entered the
Atlantic Alliance, with the EU alone finding itself with 10 additional
members. The unfolding process of institutional enlargement is screened at
every major step along the way by experts working in both organisations. At
the same time, the views of civil society, aired in the mass media and
expressed in internal debates, are brought to bear on the process on the

aspirant states' home front. Finally, specialists constituting the epistemic community, which crisscrosses European countries, monitor and assist the enlargement process through policy advocacy and the promotion of values that the Western European community has had the time to both generate and internalize over the course of the last five decades or so, and which the soon-to-be EU member states are expected to apply in a space of time, measured in years rather than decades. One is encouraged to find that the EU is also taking care to put forward meaningful outreach strategies engineered to bring within its ideational and policy fold countries whose chances for admission to the EU in the upcoming wave of enlargement had been diminished on account of their less-than-satisfactory level of politico-economic development. Taking Turkey as an example, it has not been left on the sidelines of the integration process, having been offered the prospect of EU membership, providing that substantial structural reforms – mostly related to security sector governance – are undertaken beforehand. A package of reforms, aiming chiefly to sever the ties that link senior military personnel to the political arena, passed recently by the Turkish parliament,[2] is but one instance of the conducive effect that the gravitational pull of Euro-Atlantic international organisations has vis-à-vis states, with which institutionalized partnerships are maintained.

At the same time that the EU is expanding its membership and entrenching a web of collaborative ties with partner states, it has also launched a process of constructing its own constitutional framework, while continuing to develop its own policies. The resultant 'deepening' of the EU, congruent to the 'enlargement,' manifests itself with great vigour in the progress that has occurred in the recent years in the spheres of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP), as well as Justice and Home Affairs (JHA). The perception of threats and challenges to international security, as well as of recourse to appropriate means to address these concerns has been influenced by the norms of security sector governance. Nowhere is this more visible than in the 'security concept', unveiled by the European Council in Thessaloniki in June of this year. In the document entitled *A Secure Europe in a Better World* the EU identified bad governance as being responsible for undermining the foundations of statehood and eating away at the fruits of development in the Third World. *In nuce*, it recognizes that 'corruption, abuse of power, weak institutions and lack of accountability corrode states from within and contribute to regional security'. On the capabilities side, in order to deal with emerging problems, the EU considers that it 'should think

in terms of a wider spectrum of missions', to include, in addition to the Petersberg tasks, also 'joint disarmament operations, support for third countries in combating terrorism and security sector reform', here conceptualised as 'part of broader institution building'.[3] The EU has in effect given itself a formal mandate to pursue security sector reform as part of a multifaceted approach to security management. Both the EU member states as well as countries that might want to align themselves with Europe's CFSP have become ever more cognizant of the value attached to security sector reform, as an important dimension of security management and democratic governance.

A reflection on the themes articulated in this book against the background of what has transpired in recent years in the Euro-Atlantic community may spur a sense of complacency regarding an apparent irreversibility of the tide towards security sector reform. In reality, the path, along which the norms associated with security sector governance are transmitted and implemented, is littered with many challenges.

The first challenge, identified both in the studies by Marina Caparini and Victor-Yves Ghébali relates to the apparent lack of incentives for pursuing security sector reform by Central and East European countries once they have joined NATO and the EU. The transition states have a powerful motivation to undertake reform, and, indeed, transformation of the security sector, in the drive to achieve membership in regional organisations, and thereby attain a measure of democratic legitimation and respectability, while, at the same time, realise vital interests with regard to ensuring national security. There is not the same efficacy of inducement for continuing security sector reform when a country actually becomes a member of NATO or the EU. A way out of this quandary – as pointed out by Victor-Yves Ghébali - might be found in an expansion of the Code of Conduct on Politico-Military Aspects of Security – a body of security sector governance norms developed by the Organization for Security and Cooperation in Europe (OSCE). All current EU and NATO member states, as well as those countries vying for membership in these organizations, belong to the OSCE and therefore are obligated to respect the provisions of Sections VII and III of the Code of Conduct. These provisions elaborate politically binding norms with regard to the democratic control of the armed forces, and, by addressing also non-military security providers, such as the internal security forces and the police, also set up a normative framework for security sector governance, complete with implementation arrangements subject to some means of verification. The building blocs of such a framework, in view of

the Code of Conduct, are the following: the primacy of civilian oversight, the subjection of armed forces to the norms and prescriptions of international humanitarian law, the respect for human rights and fundamental freedoms of the armed forces personnel and, finally, strict regulation of the use of armed forces for internal security purposes.

Ghébali advances a set of proposals for the expansion of the Code's regime. These include, inter alia: devoting attention to setting up guidelines regarding non-state actors, such as paramilitary forces, which are thought to play an increasingly more important role in national and transnational security; addressing meaningfully the categories of intelligence services, the police and the border guards[4], which have received only scant notice in the Code's provisions; exploring ways and means of enhancing the role of the judiciary in security sector governance; providing for an exchange of information on internal security systems; as well, as finding possibilities to better link the Code with confidence and security-building measures, for the purpose of which it appears suitable[5].

The second challenge to security sector governance, identified most prominently by Marina Caparini relates to, in the case of NATO, the post-Prague summit preoccupation with developing requisite military capabilities (Prague Capabilities Commitments), and in meeting the Headline Goal capabilities criteria, as in the EU case. The focus placed upon quantified augmentation of capabilities[6] might have the unwelcome effect of reducing attention devoted to the qualitative changes required in the institutional and policy design of the security sector. The oft-politicised nature of this process as well as the potential effects of resource allocation decisions taking priority over other domestic security sector reforms, such as accountability and democratic control, call for caution and further research.

The Euro-Atlantic integration process assumes a purposeful differentiation among countries that have already been invited to join either NATO or the EU, that are slated to enter these organization in the next wave of the enlargement, or those, for which membership may be a possibility in a long-term horizon, and some that are plainly not thought to ever meet the grade for membership. The differentiated dynamic of the enlargement, and the effect this may have on the projection of norms in security sector governance thus evinces the third challenge concerning the institutional boundaries of security governance in Europe (or more broadly Eurasia). The corollary of NATO and EU enlargement may be an exclusion of certain states, at least in the short to medium-term perspective, from the process of political acculturation and norm internalisation that members of the

aforementioned institutions, conceived as socialising agents, have gone through. A way out of the conundrum might in better designing the outreach strategies and premising those on employing different methods for targeting different states.

Security Sector Reform in the Face of Terrorism

The anti-terrorist campaign, following the September 11, 2001 attacks on the United States has had a great impact on security governance in international and national dimensions. From a social constructivist perspective, ideas tend to be reflected in the structuring of power relationships in the world. In this viewpoint, the United States might be regarded as a purveyor of the 'war on terror' policy agenda, which translates into the activities of the major international organisations, including NATO, where the United States plays a leading role, the EU, which is embedded in the network of transatlantic cooperation, and the UN, located at the apex of the international system. However, this is not to suggest that the international policy agenda has in some way been 'hijacked' by the world's superpower. It is clear that the events of 9/11 have dramatically altered our perception of security. A careful analysis of international security would have enabled to detect changes earlier on, which the leading security and defence organisations failed to account for in their older security concepts.

As mentioned in the Introduction to this volume, what has been taking place since the end of the Cold War is a process of de-centering the state, leading to the entry onto the stage of international relations of non-state actors, including transnational criminal networks and terrorist groups. The nature of warfare has also changed. While inter-state wars had dominated throughout the last century, the chief sources of violence and instability in the post-bipolar world have been intra-state conflicts, pitying one ethnic group against another or armed rebel groups against regime-backed military forces. Due to the fact that the technological divide between the major western powers and some of the more unstable developing states has grown immeasurably those who were to launch an armed attack against Western interests would have to resort to non-asymmetrical means of warfare. The relatively easy reach of non-conventional weapons, including weapons of massed destruction, has made possession of these arms by terrorist groups or unpredictable regimes the most serious threat to international security today. In sum, security has once again reaffirmed its inherently dynamic character,

prompting, especially after 9/11, a wholesale adaptation of the security sector.

Jonathan Stevenson has mapped out the main areas of the US security sector undergoing adaptation in light of the new comprehensive homeland security agenda. The terrorist assault has prompted the United States to undertake the biggest redesigning of the security sector since the establishment of the National Security Agency, the Department of Defence and the Central Intelligence Agency half a century ago. The main policy tenets, underlying restructuring, have been fighting terrorism and, in association with it focusing on consequence and vulnerability management. These objectives have led to an extensive securitisation of domestic programs, ranging from a civic-mindedness about suspicious activities in the local neighbourhoods to reinforcing aviation security. The main characteristics of the emerging internal security regime in the United States, include:

- the movement towards centralizing the task of combating terrorism within one institution having a varied degree of control over the anti-terrorist activities of other state security agencies (Department of Homeland Security);
- the expansion of the role of the federal government relative to the sub-national levels of authority (which is incidentally at variance with the multi-actor concept of governance);
- the integration of the private sector into the security efforts, through a more expansive 'securitisation' of issues and problems falling within the purview of the private sector (as in the protection of critical infrastructure, which is to a large degree owned by private companies) and the introduction of private-public partnership schemes for carrying out certain objectives set out in new sectoral security strategies;
- the expansion of the role of the armed forces in domestic security, though still within the remit of legal constraints on the employment of the armed forces on national soil;
- a consensus on the need to expand the scope of the activities of security agencies, checked nevertheless by congressional concern about the protection of civil liberties.

The implementation of the homeland security agenda on security sector reform is said to have a corrosive effect on the norms of security sector

governance, especially transparency and the protection of human rights and civil liberties (Chapters Two and Three). What may prove challenging in the context of the EU enlargement is reconciling these norms with a pressure put on the member and aspirant states to adopt immigration controls, a common position on asylum and other policies associated with the Schengen *acquis*. The worrisome sentiment that comes across the analysis is that ultimately the EU-intended 'area of freedom, justice and security' may turn out to be considerably stronger on the last policy objective as compared to the first two.

However, the anti-terrorist campaign may have biggest impact be in muddling the already obfuscated waters of Middle Eastern politics. Having carried out an investigation into the responsiveness of Middle Eastern regimes to security sector reform, Ibrahim A. Karawan concluded that security sector reform will not come about any time soon – this despite the expectations that the fall of Iraq would set off a domino-effect, whereby democratisation would spread in its wake to other parts of the region. The Middle Eastern societies are set to be standing up for change, yet the governments – ever more eager to multiply the various layers of security services on top of the armed forces for regime protection – have hid their disinclination to reform, behind the agenda of tightening security response to 'hyper-terrorism'. In effect, it is argued that the political inertia, viewed as a peculiarity of the Middle East, stems from a dialectical process, whereby each major movement to effect domestic change and curtail the powers of the security sector are met with a redoubled effort by the government to maintain its hold on power, even as it plays to popular expectations, and permits some security sector reform measures. Karawan appears to argue that the onus for security sector reform lies within the Middle East societies, rather than any action on the part of an external 'reformer' determined to bring about regime change or enforce democratisation. In Karawan's view at the same time as the United States advocates democratization it allegedly puts a seal of approval on the expansion of the security sector in the Middle East, the democratic accountability of which leaves a lot to be desired.[7]

An interesting case is Turkey. It is unlikely to export its system of managing the security sector, for the gains that it has made in ensuring the still relatively limited accountability and oversight over the security sector spring from its own traditions, in which the military has been perceived as guardian of a democratic and secular political system. The rest of the Middle East generally lacks these traditions. An additional inducement for security sector reform in Turkey comes from its determination to join the European

Union. Thanks to the 'conditionality', attached to the offer of beginning accession negotiations with Turkey in a near future, the EU is able to have an influence on the internal political developments within that country.

In view of challenges to security sector governance related to the influence of the anti-terrorist agenda, it is worth emphasizing, however, that the views to-date, concerning the supposed contradictions in these overlapping agendas suggest that these are nevertheless unlikely to spell doom for the worldwide expansion of security sector governance. First, the establishment of the Department of Homeland Security in the United States and augmentation of American intelligence capabilities, to mention a few of the changes underway, may be regarded as a welcome development for the United States, which has long been viewed as lacking a centralized managerial approach to the provision of security in case of a terrorist strike.[8] In this case, an argument could be made that the direction of the adaptation of the US security sector promises to enhance its effectiveness ('plugging holes' in the security system), improve resource management and buttress accountability of the security sector – all of which are sound governance norms. Secondly, the adaptation of the internal security regime has not been limited to the US alone. The EU has also taken strides towards accelerating the process of building an integrated internal security system. With enhanced cooperation in intelligence-sharing and law-enforcement already taking place between the US and its European allies, transatlantic cooperation in 'homeland security' affairs is probably going to grow. Indeed, Jonathan Stevenson expects that terrorism concerns are likely to harmonise security sector governance in the US and the EU. This outcome would contribute to maintaining the rich network of security cooperation spanning the two sides of the Atlantic, thereby, acting as a check against a possibility that a politically-induced bifurcation of the Euro-Atlantic community might take place sometime in the future.

On a final note, the recent attention devoted to ensuring that weapons of mass destruction do not fall into the hands of terrorists or are developed by the so-called rogue states may stimulate interest in the particularities of extending the norms of security sector governance to political oversight over nuclear weapons programmes. Hans Born pointed out that one of the crucial benefits attendant to the proper oversight, transparency, and public debate over nuclear weapons programmes is that it reduces uncertainty regarding potential weapons use, their secret development or the temptation for a pre-emptive strike, as well as assists in the international management of the non-proliferation regime. Notwithstanding the perception that specialised

knowledge is necessary for shaping nuclear strategies, the study supports the contention that there is considerable room for participation of parliamentary oversight bodies, NGOs and other civilian experts in nuclear weapon development and decision cycle. Admittedly, the exploration of how various political actors do and can play a meaningful oversight role in executive and military decision-making on nuclear weapons calls for further research.

Women and Development in Security Sector Governance

The normative debate over the practical outcomes of 'bad governance' as opposed to 'good governance' has rarely touched on the issues of gender and security. Just as gender is socially constructed so is the discourse on the security sector, which abounds with concepts evocative of masculinity ('aggression', 'power', etc.). Therefore, it might make sense to 'deconstruct' the discourse and uncover the gender bias inhering in security sector governance, and ultimately materializing in the form of violence experienced by women. Marie Vlachovà and Léa Biason have done just that – and more. Grounding the discussion of security sector governance within the human security perspective, which opens up possibilities for conceptualizing violence committed against individuals as security threats in their own right, these authors have shifted the traditional focus of security sector reform towards the epistemological significance of women's experiences in a broad spectrum of violence – from war to abuse within domestic setting.

Understanding the effects of security sector reform upon the welfare of women may start with 'securitising gender'. In this perspective, it is found that women around the world suffer from direct (e.g. forced internment of women as part of ethnic cleansing) and indirect violence (the transmission of sexually transmitted diseases through physical harm done to women), as well as structural violence (institutionalised discrimination, whether it be in the judicial system or inequitable access to resources). Drawing on literature on human security and development, Vlachova and Biason apportion much of the blame for women's plight in conflict to the paucity or structural weaknesses in security sector governance. Instead of providing security to all members in the society, irrespective of gender, the oft-ineffectual, mismanaged, and unaccountable security sector, prevalent, as we find in many parts of the developing world, itself becomes a source of gender-based violence. Nonetheless, the expectation is such that it should play a pivotal role in eradicating this type of violence. 'Gendering security' might thus

involve at a conceptual level deriving useful lessons from the contribution made by gender studies to international security and shifting the focal lens towards an individual security level of analysis. While in a policy arena it could be pursued via extending to the developing world security sector reform programs aiming at engendering security sector governance, especially in regard to the enforcement of human rights laws and the efficacy of oversight bodies.

A failure at the institutional stratum of security sector governance may open up room for abuse, such as violence against women committed by members of mismanaged security services. Therefore, it becomes all the more important to continue the practice of 'conditioning' development assistance to the adoption of norms and best practices in the area of security sector governance. Michael Brzoska's timely recapitulation of the evolution of the security sector reform in the development donor perspective brings to light the challenges involved in disseminating norms of security sector governance in the developing world. Some of the difficulties have to do with the lack of clear definition and focus characterising these operational concepts, which hinders application of the said norms in the policy realm. Another problem relates to issues of contested ownership of the security sector reform process, both at the international donor and the recipient state levels. In the case of the former, the development policy actors are generally dispersed, so security sector reform incentives tend to arrive at their destinations in bits and pieces, which at any rate often gives rise to acrimony between international donors over who is to take charge over certain programs. At the recipient state level, there may not be reliable 'entry points' for security sector reform, if the elite is not willing to abide by the conditions put forward by international donors. It is likely that the security sector reform/developmental interface will gain in relevance as increased attention is paid to preventing some of the negative fallout from the globalization process, as well as addressing the challenges in post-conflict rehabilitation, and as states of the Euro-Atlantic community help countries on the brink of 'failure' to stand on their feet, thus insulating them from potential inroads of transnational criminal elements.

Notes

[1] A synthesis on the basis of Hendrickson, D. and Karkoszka, A., 'The Challenges of Security Sector Reform' *SIPRI Yearbook 2002: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 2002), p. 181.

[2] 'EU backs Turkish curbs on power of military', *Financial Times* online edition (31 July 2003), and 'Army loses political authority in Turkey', *Daily Telegraph* online edition (31 July 2003).

[3] Solana, J., *A Secure Europe in a Better World* (European Council: Thessaloniki, 6 June 2002), see <http://www.ue.eu.int/pressdata/EN/reports/76255.pdf>.

[4] Through the establishment of specialized working groups, organization of seminars and soliciting publishable expert advice DCAF has moved to the forefront in generating ideas that might be useful for filling the relative normative void in the above-mentioned security sector areas.

[5] While a recourse to the OSCE Code of Conduct might be a worthwhile way of looking at the dilemma of ensuring security sector reform under membership conditions another option which goes directly to the core of the institutional requirements in question might be for these organisations to find credible mechanisms to keep members focused on reforms. These might take the form of a system of multi-level sanctions, to be applied in case a member state deviates from the commitments made before accession. A persuasive case for such an approach has been made by Wallander, C.A., 'NATO's Price: Shape Up or Ship Out', *Foreign Affairs*, vol. 81, no. 6 (November/December 2002).

[6] For a look at the influence of NATO membership on the transformation of a new member state's (here Poland's) military forces see Domisiewicz, R., 'Modernization of the Armed Forces in Polish Foreign Policy', *Yearbook of Polish Foreign Policy 2002* (Ministry of Foreign Affairs: Warsaw, 2002), available at:
<http://www.qdnet.pl/warecka/yearbook/2002/domisiewicz.html>.

[7] See in addition Carothers, T., 'Promoting Democracy and Fighting Terror', *Foreign Affairs*, vol. 82, no. 1 (January/February 2003).

[8] On the basis of Carter, A.B., 'The Architecture of Government in the Face of Terrorism', *International Security*, vol. 26, no. 3 (Winter 2001/02), pp. 5-23.

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About DCAF

The Geneva Centre for the Democratic Control of Armed Forces (DCAF), established in October 2000 on the initiative of the Swiss government, encourages and supports states and non-state-governed institutions in their efforts to strengthen democratic and civilian control of armed and security forces, and promotes international cooperation in this field, initially targeting the Euro-Atlantic area. To implement these objectives, the Centre:

- collects information, undertakes research and engages in networking activities in order to identify problems, to establish lessons learned and to propose the best practices in the field of democratic control of armed forces and civil-military relations;

- provides its expertise and support to all interested parties, in particular governments, parliaments, military authorities, international organisations, non-governmental organisations, academic circles.

DCAF works in close cooperation with national authorities, international and non-governmental organisations, academic institutions and individual experts. In its operational and analytical work, DCAF relies on the support of 44 governments represented in its Foundation Council, on its International Advisory Board comprising some 50 renowned experts in the field of defence and security, on its Think Tank, Outreach, and International Projects Departments.. The Centre has established partnerships or concluded cooperative agreements with a number of research institutes and with several international organisations and inter-parliamentary assemblies.

In order to be able to thoroughly address specific topics of democratic control of armed forces, DCAF has established dedicated working groups covering the following issues: security sector reform; parliamentary oversight of armed forces; legal dimension of the democratic control of armed forces; transparency-building in defence budgeting and procurement; civilian experts in national security policy; democratic control of police and other non-military security forces; civil-military relations in conversion and force reductions; military and society; civil society building; civil-military relations in post-conflict situations; criteria for success or failure in the

democratic control of armed forces; civil-military relations in the African context. Planning, management, and coordination of the working groups is centralized in DCAF's Think Tank.

DCAF provides its expertise on bilateral and multilateral levels, and also addresses the interests of the general public. A number of bilateral projects in the areas of security sector reform and parliamentary control of armed forces are underway within the states of South Eastern and Eastern Europe. At the multilateral level, DCAF implements several projects in the framework of the Stability Pact for South Eastern Europe, the Organisation for Security and Cooperation in Europe, NATO, Council of Europe, and the United Nations. The Centre regularly produces publications, organises conferences, workshops and other events. It uses information technology, including its own website (http://www.dcaf.ch), to reach both target audiences and the general public.

DCAF is an international foundation under Swiss law. Forty-four governments are represented on the Centre's Foundation Council.[*] The International Advisory Board is composed of the world's leading experts on the subjects of defence and security, who advise the Director on the Centre's overall strategy. DCAF is staffed by some 50 specialists of more than 20 different nationalities,

The Swiss Federal Department of Defence, Civil Protection and Sports finances most of the DCAF budget. Another important contributor is the Swiss Federal Department of Foreign Affairs. Certain member states of the DCAF Foundation support DCAF by seconding staff members or contributing to the Centre's specific projects.

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[*] Albania, Armenia, Austria, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Côte d'Ivoire, Croatia, Czech Republic, Canada, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Macedonia, Moldova, Netherlands, Nigeria, Norway, Poland, Portugal, Romania, Russian Federation, Serbia and Montenegro, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Ukraine, United Kingdom, United States of America, and the Canton of Geneva.