

Security Sector Governance in Transition: Civilian Oversight of the Security Sector

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Lessons and good practice

A core objective of most transition and security sector reform processes is to help institute civilian control and oversight of the security sector so as to aid the process of building an effective, efficient and accountable security sector. The notion that civilians play a leading oversight role in the security sector, engage in key security policy decisions, manage core national budgetary issues, and regulate the mandates, structures and powers of the security sector is a key and well-established international principle of security sector governance. The importance of civilian control and oversight is frequently referenced in various United Nations and African Union policy frameworks and has become a well-recognized international norm. Yet, while there are broadly recognized international principles and normative standards that help define the common characteristics of civilian control, no two processes of establishing civilian control of armed forces are alike and rather different models and approaches can be considered in pursuing the core aim of establishing effective civilian control and oversight.

International lessons have shown that due to the complexity of the process it is important to have a gradual (even a process that spans a decade) and holistic approach for establishing civilian oversight and ultimately civilian control to achieve impactful results in improving security sector governance. The extent to

which there is progress in establishing civilian control is likely to remain a reflection of progress towards, or even precondition for, a durable and sustainable transition process overall and therefore there needs to be sustained focus on this priority area throughout the transition process.

There are few shortcuts that can be offered to accelerate the process of establishing civilian oversight. Enabling civilian oversight requires building relations and trust with the security sector, common vision and values between all actors, clear policy and commonly agreed strategic framework, legal frameworks, capacity and knowledge by civilians to be able to lead and professionally engage on the issues, and a broader acceptance of the norms and standards of civilian oversight by all parties. Nonetheless, civilian control is often contingent on gradually empowering civilian actors to play a more influential role in civilian oversight as well as progressively demonstrating the tangible benefits for the security sector of effective civilian control. These powers usually begin to manifest themselves through several key factors described in this policy brief.

Demystify what civilian control and civilian oversight entail, outline their benefits and limitations

The notion of civilian control is often poorly understood. The process of establishing civilian control is not about giving absolute power to civilians on all security-related matters, but rather creating a system of checks and balances, safeguards, and control to ensure accountability of the security sector as well as to ensure that the security sector serves the interests of both the State and the communities and remains effective in dealing with emerging threats. Even in the best-case scenario of a well-managed security sector governance system, the security sector should retain a degree of autonomy in internal operational matters to ensure professionalization of the sector prevents politicization of the security sector to serve political interests. Ideally, there should be a degree of shared responsibility in management and oversight of the security sector.

As a general rule, the civilian leadership can set the overarching objectives, rules and policy priorities (e.g., primary threats to be addressed), but it is up to the security sector within the rule of law framework of how it would internally organize itself to deliver on those objectives. With perhaps the notable exception of States of emergency or crises (and even in such circumstances the direct role should remain limited), civilian elements of Government should not directly manage security operations.

An important starting point of discussions on civilian control is to clarify mandates, competencies and roles of the various actors in civilian oversight. Civilians should be given the primary policy and legal formulation functions, with an opportunity for the security sector to be consulted in these processes but final decision-making powers should rest with the executive and Parliament. Complementary functions left to the civilian elements of Government are responsibilities for resource

allocation (budget), and decisions regarding deployments (e.g., peacekeeping, crisis response, or extraordinary operations against foreign and domestic threats). As an example, various countries include in the legal provisions setting out the powers of Parliament that only Parliament can approve deployment of troops outside of the borders of the country. Similarly, usually only the Executive can declare National States of Emergency or allow the involvement of armed forces (rather than police) in internal security functions on a case-by-case basis (with reporting requirements to Parliament). In contrast, the armed forces should have final decision-making authority on how to conduct operations, internal training requirements, recruitment in middle and junior ranks within the scope of the allocated budget, and tactical orders. Generally, oversight of the security sector is organized to gauge or evaluate the extent to which the armed forces are applying established rules and implementing Government policies, not to interfere or dictate how to conduct certain operations. The Government can then use its budget (resource allocation) powers, prosecutorial and appointment powers to hold the security sector to account for how it performs or conducts itself within the limits of policies or laws.

Ensure civilian control is embedded in the legal framework

Given the often unequal power dynamics and leverage between civilian and security actors at the onset of transition processes, it is difficult to simply mandate civilian oversight and civilian control of the security sector through laws or directives. The legal framework, and the Constitution in particular, is an important foundation that enables civilian oversight. On its own, even if well-drafted in the scope of international best practice, a legal framework does not guarantee sufficient influence and access to exercise civilian oversight in practice. In addition, as seen in Chile, Türkiye or Spain, the full powers for oversight can be introduced in the legal framework sometimes only after several years

following the transition process. In the interim, in the absence of legal reform, in all three of the above-mentioned contexts more basic steps were introduced to help prepare the space for more civilian engagement on defence and other security policy issues. In certain cases, civilians can exercise important oversight functions even if the legal framework is not fully reformed but for durable results it is important to have oversight powers empowered and reflected through the legal framework, including the Constitution.

Knowledge and understanding of security sector governance is critical

Firstly, it is important for civilian actors to gain the necessary competencies and knowledge on core security-related subject matters to make relevant and constructive interjections on security policy issues. It is difficult for civilian actors to have supremacy on key national security policy decisions if they lack sufficient knowledge and understanding of the core reform issues being discussed. Robust competence by civilian actors and an equal understanding of the concepts and practice of civilian oversight and security sector governance by security actors are arguably the single most determinant factors in influencing whether civilians are able to inject any influence on security policy or even assume control over the security sector.

There is often a risk that engaging on security-related issues without sufficient knowledge can lead to unhelpful recommendations or even create irrelevant policies that eventually undermine the credibility of civilian actors in the eyes of the security sector. It is especially important in the initial stages of transition to match oversight ambitions with the capacity/knowledge gained: progressively more ambitious oversight and policy measures can be introduced as civilians gain sufficient know-how on the subject matters. As a case in point, in the Balkans many of the Parliamentary oversight programmes first focused on creating general knowledge of

security sector governance and reform, then working with Parliamentarians on knowing what questions to ask, and then expanding the powers into site visits or more in-depth inquiries into the security sector. Often these programmes spanned even two or three elected terms before impactful results were seen.

Ensure that oversight and policy decisions are evidence-based and informed by analysis and data

Secondly, civilian actors usually have a distinct comparative advantage by having unique access to a range of information and analysis that security institutions often can not access themselves. In this regard, civilian actors can provide a distinct added value by injecting into security policy discussions key information and analysis that the security sector lacks but otherwise needs to make informed decisions regarding policy priorities, operations and reforms. In this case, knowledge and information can be key to empowering civilian actors in their oversight efforts but civilian actors need to prioritize collecting and analyzing such data. Conducting research, needs assessments, or organizing consultative processes with communities can be important initial entry-points for civilians to demonstrate the depth of knowledge they can provide to the security policy formulation process. The media also has an important role in dissemination of key information and promoting national policy dialogue on core security sector issues. Through its investigative work, media can be an important oversight actor vis-à-vis the security sector. It is however critical that such information is well-researched, backed by clear evidence, and well-analyzed.

Balance oversight/accountability with constructive support of security institutions

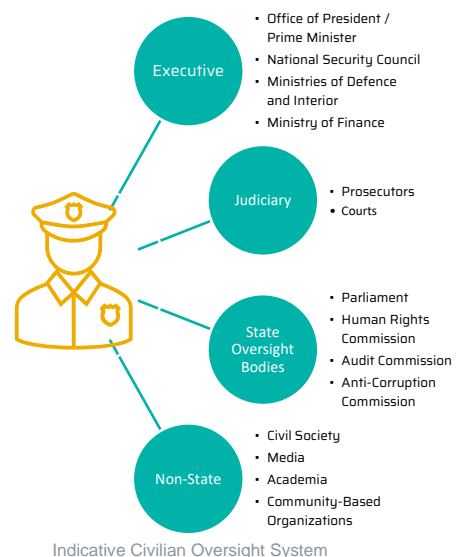
Civilian actors can gradually gain more influence by providing tangible benefits and added value in strengthening the effectiveness or efficiency of the security sector rather than seeking to have a punitive and overly intrusive control-seeking approach to civilian oversight. This can be done by providing timely and sufficient budget support to the sector (or reducing inefficiencies in spending), providing relevant and effective legislation to strengthen effectiveness/accountability of the sector, and giving helpful recommendations for reform that balance both the interests of the communities and the security sector. A constructive partnership between the two sides usually is key to building the necessary trust between all parties so as to engage in oversight activities.

Ensure coordination and coherence between civilian actors

Even in contexts in which significant political and institutional barriers exist that limit accessibility and leverage for civilian actors to conduct oversight of the security sector, and in which this objective may appear as untenable, a gradual process can in the medium-term yield important results so long as the actors remain consistent in their pursuit of these objectives. Civilian actors, when they work in coordination and provide a coherent view, can help to shape national policy debates and views that can directly and indirectly influence the security sector. Virtually in all contexts where civilians have been able to have a more impactful voice in policies, there have been a multitude of civilian actors working towards complementary or the same objectives. In contrast, fragmentation of views and approaches has tended to undermine the effectiveness of civilian control or oversight

efforts. As such, so as to be empowered and influential in security policy discussions and oversight efforts that have an impact on influencing behaviour and conduct of security institutions it is critical that civilian elements of Government and broader civilian stakeholders (including non-state actors) have a degree of coherence in messaging and approach to oversight. In countries like Nigeria or Serbia, in the initial stages of the transition process, civil society organizations and political parties aimed to create platforms to exchange information and develop common recommendations.

Build a system of oversight, not just a single set of actors



In a well-functioning security sector governance system, there are typically a range of civilian actors that provide oversight and/or have key management functions in the security sector. Each actor or system of oversight has its distinct advantages and comparative weaknesses, and only as a collective and well-coordinated system can it ensure effective civilian control of the security sector. The aim of having numerous actors play oversight and management roles ensures that no single actor can manipulate or use the security sector outside of the framework of rule of law or for political purposes.

The executive (President, Cabinet of Ministers, etc.) typically has the most active and direct role in oversight and management of the security sector. In most civilian-led security governance systems, the Head of Government is designated as the Commander in Chief of the Armed Forces. While in practice many countries have varying definitions and powers for the Commander in Chief, including various checks or limitations on such powers, the role of the Commander in Chief is to lead and coordinate at the strategic level the response of the security sector to emerging national and foreign threats, leaving tactical decision-making powers to the heads of the various security agencies. In many countries, the Commander in Chief is assisted by a National Security Advisor and National Security Council who ensure that the President is well informed on key security policy issues. These neutral bodies are also key to bridge the civilian and military/security elements of Government.

Arguably one of the most important and effective means of oversight is through the Ministries of Defence and Interior responsible for the various security agencies. These Ministries, when effective, can ensure that sound and relevant policies are created to guide security institutions, the security sector reform process is sufficiently resourced, but also that an administrative barrier is created between the political decision-making (executive) and the armed forces by channeling and managing the correspondence between these levels. A key lesson, however, from Eastern European transition contexts is the importance of balancing the composition of such Ministries with both civilians and uniformed staff. In the case of Poland, Slovakia and the Czech Republic one of the most important initial reforms was to create a norm that the Minister of Defence remains a civilian position (with preference for civilians with no recent history in the armed forces or at least individuals that were retired). Having a clear distinction between the role of the Minister and the Head of the Armed Forces is key to reduce potential overlap in powers/roles but also to limit interference by politicians (Ministers are political appointees) in the internal organization of the Armed Forces. At the same time, most Ministries have a dual function of supporting

policies and regulations and oversight of operations and that is why it is common to see a mixture of civilian and uniformed (seconded) staff in the Ministries.

An effective Parliament is one of the most powerful means of holding the security sector to account. Through its lawmaking and oversight functions Parliament can ensure that the security sector is well-regulated (and resourced) but also that it independently can scrutinize the performance and conduct of the security sector. As such, Parliament has important powers to convene hearings, conduct site visits, and to initiate important public policy debates on security sector reform. Parliament is key to also ensuring marginalized voices in society can be represented and their needs reflected in policies or laws.

It is also important to recognize the important role of civil society in accountability and oversight. In countries like Nigeria or Serbia, civil society through its expertise and knowledge was the driving force in demanding reform and influencing policies. The role of civilian oversight is perhaps absent of direct power, but civil society should have a role in informing the drafting of key policies (they are often a reflection of the views/needs of society) but also exposing accountability deficits in the security sector. As an example, in Eastern Europe civil society has been the key driver of reforms around tackling corruption in the sector while in Zambia civil society has been key in leading efforts to reform the legal framework for the security sector.

Manage the risks of politicization of the security sector

International case studies, even those for some of the most advanced and developed contexts, consistently show that the extent to which the military recognizes or adheres to the notion of civilian control and oversight is often driven by the extent to which there is demonstrated professionalism, capacity and integrity in the approach to oversight by civilians. If civilians are unable to provide effective management and added value to policy formulation, rather seeking to instrumentalize, misguide, undermine or politicize the security sector, it is difficult to establish effective trust upon which to build the culture and practice of civilian oversight.

More importantly, however, is the overall risk that the transition process will lead from one extreme of the spectrum (the militarization of politics) to the other (politicization of the security sector). To create an effective and professional security sector it is important to firstly limit interference of the military in political affairs. Indonesia, for example, during its transition process restricted through legal provisions opportunities for uniformed security personnel to formally involve themselves in politics and rather only retired personnel could run for elected office. Similarly, it is important to limit potential overreach of politicians into decisions that should be left to the armed forces. Kenya, Nigeria, and The Gambia for example included legal provisions that instructions to the armed forces from the Executive must always be in writing to create

some degree of transparency in the interface between the military and politicians. Similarly, most Constitutions aim to limit the appointment powers of the Executive to only the most senior ranks of the armed forces. Hard lessons from Liberia and Zambia have been learned about the danger of politicization of the security sector through overreaching powers of the President to appoint personnel at various levels, creating undue interference in the operations of security organizations and impacting their integrity, professionalism and neutrality.

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