

INTEGRATED APPROACH TO SECURITY SECTOR REFORM

Pavel NEČAS*, Milan SOPÓCI*, Pavel BUČKA*

*Armed Forces Academy of General Milan Rastislav Štefánik, Liptovský Mikuláš, Slovak Republic

Abstract: *It could be argued that Security Sector Reform has been implemented for several years but the terminology “Security Sector Reform” has emerged from the post-Cold War security debate. The collapse of the Soviet Union considerably changed security needs of states and ushered the democratization of post-soviet security apparatuses. Moreover, the expansion of EU and NATO, the adoption of code of conduct for the democratic control of armed forces by the OECD, and the joint work of security and development agencies in some African and European states created a basis for the development of SSR. In the same way, developed countries and stable democracies are facing new security challenges. The emergence of terrorism, the resurgence of human trafficking and organised crime as well as illegal immigration made it necessary to change their security sector structures. Finally, it is both a donor-driven policy and a request from receiving countries engaged in general democratization reforms and/or facing new security threats. Securitising development, developing the governance of the security sector, and preventing conflict seem to be the matrix towards which the security debate is shifting.*

Keywords: *Democratic Oversight and Accountability, Comprehensive Approach, Civilian Control, Democratic Principles, Human Rights, Defence Institutions Building.*

1. INTRODUCTION

Security Sector Reform (SSR) is a highly sensitive and politically-driven topic. Therefore, securing the acceptance and building a favourable political environment to run an SSR programme is one of the most difficult challenges to overcome. Building grounds for an SSR strategy in a country should take into account the sensibilities of the members of the society, engaging them into consultation in order to build confidence, secure their will and mitigate spoilers' actions. Second, there is a constant challenge to avoid counterproductive results. Stakeholders' needs should be addressed in a way that does not fuel conflict and hurt the environment. Third, the variety of actors with different political agendas and mandates calls for coordination of activities to avoid overlapping programmes and competition. There should be a continuous confidence building, common understanding, and division of labour in order to capitalise on strengths and complement weaknesses. The fourth challenge to overcome is the stigma

around SSR. In many African countries, SSR is associated to defence downsizing and is felt as imposed by the West. Thus, international partners should support, not direct the process by providing financial and technical assistance to states. Local ownership goes hand in hand with the sustainability and management of the process. Finally, donors and internal actors should understand that SSR is a long term process. Resource management and mobilisation, public and stakeholders' expectations should be handled accordingly.

2. CONTROL AND ACCOUNTABILITY

There are different kinds of oversight mechanisms that depend on the authority of the oversight organisation and the one which is overseen. They include:

- Civilian and democratic: One of the most important features of SSR governance is the control and oversight of security institutions by democratically elected authorities.
- Executive, legislative and judicial: The

executive is both oversight and overseen body as authorities from the government can exert their control on security institutions and be accountable to the parliament. The judiciary is vested with the powers of conflict resolution, human rights protection and investigation on potential offenses committed by security sector personnel.

- Independent and public: Regular citizens have the right to be informed on the security and defence strategies, and to seek remedies in case of any abuse from security sector institutions. The media and other civil society organisations exert the control independently. Independent bodies such as Ombudsmen, Police Commissioners and Human Rights Commissions are playing a key role in the process.
- Internal and external: Internal oversight is ensured by the hierarchy and chain of command whereas external oversight is carried out either transversally by oversight bodies with the same level of authority or vertically by superior civilian institutions (e.g. the President/Prime Minister over the Armed Forces).
- Vertical and horizontal self control: Organisations operate control and oversight from within. It can be peer horizontal control as officers or organisations watching over each other's shoulder or vertical oversight exerted by the hierarchy.
- Proactive and reactive operational control: At the operational level, horizontal or vertical controls can be made either proactively, beforehand in order to prevent any abuse, or reactively to correct, reward or punish any action according to the law.
- National and foreign: All the oversight mechanisms presented above are exerted by organisations within the jurisdiction of the country. Oversight can also be made by external actors such as donor organisations, international judicial bodies, international financial institutions, etc. Foreign oversight bodies follow a strict legal framework agreed upon with the

receiving state, or a resolution of the Security Council or any other regional organisation.

3. DEMOCRATIC CONTROL OF ARMED FORCES (DCAF)

Democratic control of armed forces constitutes norms and standards governing the relationship between the armed forces and society, whereby the armed forces are subordinated to democratically-elected authorities and subject to independent oversight. It started with the military to expand to other security forces. It is based on the principle that the military should serve the society and not the regime. At the end of the cold war the concept of democratic control emerged mainly in former soviet states and encompasses now the governance of the entire security sector.

3.1. KEY FEATURES

They include civilian control (control of the Armed Forces by elected civilian regime), democratic governance (oversight by the judiciary and parliament in accordance with the constitution and/or relevant laws), civilian expertise (civilian personnel attached to the administration of security sector agencies), non politicisation (non-interference of the armed forces in domestic politics. They should be neutral and independent both ideologically and politically from political parties), minimum role in national economy, effective chain of command and the respect for human rights of Armed Forces personnel.

In democratic societies, the sole legitimacy lies in the people's will. Therefore, democratically elected officials should have supremacy in the political life. The Armed Forces should serve the Nation and be subjected to the due authority of its representatives. DCAF's principal goal is to build favourable political grounds for the respect of this fundamental democratic principle. Also, the respect of the rule of law and good governance of the security sector subjects its institutions to the laws and oversight of civilians, important conditions for

the respect of human rights. Finally, the non-involvement of armed forces in the political life protects them from being abused and driven into the use of violence for political purposes.

DCAF is implemented through different processes including reforms aimed at changing institutional mechanisms and procedures, creating a legal framework, building capacity of staff and creating new institutions (ombudsperson, commissions, etc). These processes go hand in hand and should take into account the long term aspect of SSR and the difficulty to build consensus around it. For instance, it is not enough to adopt new legislation to ensure full control of armed forces. Capacity of civilian personnel should be built to bear their new responsibilities as budgeting mechanisms, inquiries, understanding international standards, handling complaints, etc. and a culture of human rights is built upon long term programmes within SSR core institutions themselves.

3.2. NORMS AND STANDARDS

- NATO: Carnovale-Simon test (entrance requirement) 2001: According to this series of documents, there should be on the institutional point of view clear division of authority between executive members in charge of security forces, supervision of the executive branch over general staff and commanding cadre through the defence ministry, which is competent to take decisions on the size, form, equipment and engagement of armed forces and efficient parliamentary oversight. These reforms should be strengthened by the overall acceptance of the notion of democratic civil control.
- EU: Copenhagen criteria for Accession (1993) and the Treaty of the EU (2002): The Copenhagen Criteria or Accession requires at the institutional level that a candidate to EU membership should be able to assume responsibilities of states according to the EU Treaty (to have stable institutions able to guarantee democracy, human rights, and the respect of minorities, etc).
- OSCE Code of Conduct of Politico-Military Aspects of Security (1994): The OSCE requires democratic control and effective guidance of military, paramilitary, internal security forces, intelligence and police by constitutionally established authorities vested with democratic legitimacy. In this regard, civilian authorities should be able to restrain military expenditures, ensure political neutrality of armed forces, to protect the rights of personnel serving in the armed forces and the integration of armed forces with civil society.

4. SSR AND GENDER INTEGRATION

Gender refers to socio-culturally constructed roles and relationships, or popularly attributed characteristics of men and women in the society. Gender is different from sex as it is not based on biology, but on cultural settings and is bound to change with time and space. It is a common view that adopting a gender-sensitive programme consists solely of empowering women in the society. Gender goes far beyond women to encompass the needs, experiences and priorities of all members of the society - women, men, girls, boys, and HBTs (homosexuals, bisexuals, and transsexuals) - and to give them equal opportunities.

Gender issues erupted in the international debate in the 1970s at the UN level and led to the adoption of the "Convention on the Elimination of All Forms of Discrimination Against Women" (1979) completed by the "Beijing Declaration and Platform of Action" (1995).

Despite the usefulness of this legal framework in the participation of women in public life, it was not until 2000 that the UN Security Council adopted a resolution to involve women in conflict resolution, peace-building and reconstruction. UN SCR 1325 on "Women, Peace and Security" is a result of a combination of many factors, including increased reporting of and intolerance towards gender-based violence (GBV) in conflict and non-conflict settings, advocacy for increasing presence of women in peace negotiations and

conflict resolution, increasing analysis of the different impact of conflicts on men, women, girls and boys as well as a shift from the standard perception of women as victims in conflict to considering them as agents of change.

Running gender-sensitive SSR is a requirement of many national, regional and international instruments and laws. Handbooks, codes of conduct, and other SSR manuals are increasingly building gender strategies to ensure the comprehensiveness and level of representation of programmes. As SSR programmes should be locally owned and participatory, involving organisations relevant to women in consultations and implementation of programmes is a useful tool to that end. The example of the South African defence review process highlights the importance of engaging discussions with women organisations. Also, gender sensitive programmes increase effectiveness of security and justice delivery through representation. It helps for instance to increase the overall security of the population (e.g. in Afghanistan mix patrols will allow searches on women and prevent attacks from men disguised as women) and effectively preventing and responding to GBV. Finally, gender mainstreaming and equal participation enhance oversight and accountability of security institutions.

Two complementary strategies can be used to incorporate gender in the SSR programme cycle: gender mainstreaming and the equal participation of men and women. Gender mainstreaming in SSR starts from the programming phase and goes through the implementation phase to the monitoring and evaluation phases of the programme. It can consist of assessing gender needs and taking into account cultural considerations, designing in gender-sensitive ways, and developing sound indicators for monitoring and evaluation.

As for equal participation for men and women, it is a useful tool to ensure gender sensitivity of programmes. It could be achieved through staffing and wide consultation of women organisations in the assessment phase and cooperating with them in the implementation phase.

5. POLITICAL ENVIRONMENT IMPACT

Providing security to citizens and protecting their needs and interests are fundamental responsibilities of states and is attached to their sovereignty. The defence force is thought of as a shield that protects a nation from external threats. The police and other security agencies protecting citizens and protecting law and order whereas justice institutions are in charge of legal disputes. The central role played by these institutions (Armed Forces, Police and justice) makes any reform of the sector impossible if imposed from abroad. Due to its sensitivity, SSR should be locally owned and be a driver for change towards democratisation, respect of human rights, peace and stability instead of being sources of controversy and conflict. Actors involved in the designing and implementation of SSR programmes should bear this reality in mind and act towards creating a favourable political environment for programmes.

5.1. CASE STUDY: SRI LANKA

In order to understand how difficult it is to foster a favourable political environment for SSR and identify entry points and tips to encourage confidence building and secure political will, the Sri Lanka case study is of great relevance. An analysis of the context will lead us to drawing hypothesis for possible entry points for SSR.

Strengths: Sri Lanka is a strong state with flexible structures and robust legislation. It can adapt easily to any reform aimed at enhancing governance of security institutions, and be supported by resilient security and judicial structures. The end of difficult collaboration between two parties at the head of government will prevent unnecessary debate and facilitate agreement upon a policy. This political momentum is further enhanced by the joining of the political process by several radical groups that joined forces to work together during the 2004 Tsunami. Last but not least, Sri Lanka has one of the most vibrant Diasporas and enjoys scrutiny of media and hard work of engaged and active civil societies

at home. This is more likely to engage constructive political debate around SSR issues.

Weaknesses: Probably due to the protracted conflict, the executive has far-reaching powers over other branches of government, with high politicisation of the army. The political situation is also weakened by populist discourses of the president who refuses to acknowledge the LTTE (armed group known as the Tamil Tigers) as a key SSR actor.

The legislature is ineffective with weak oversight mechanisms of the SSR programme which is incoherent and carried out according to political and military compulsions of the government. SSR issues are not widely known throughout the country and the increasing cost of living and high inflation rates might divert attention from SSR which is not likely to be priority because of the intensification of the conflict.

Opportunities: The recent military victory of the National Army over the LTTE established the government's authority over the whole territory and is likely to engage measures to manage "liberated" areas, including civil administration, security and justice. There will be increasing scrutiny of the government and this opportunity constitutes a viable entry point for SSR. The current transition will provide opportunity to: increase public confidence in local institutions, especially in liberated areas; increase effectiveness of the functioning of the security sector; increase transparency of oversight mechanisms; demilitarize the society, and move towards a peaceful solution and long-term economic development.

Threats: The government military victory over opposition and its insistence on military means of resolving the conflict is an illustration of the difficulty of reaching consensus. It is not likely to have a viable alternative in the near future nor in the local civil society, nor in the political sphere. The presence of paramilitary groups in the country as well as a high number of deserters in the army aggravates the caseload of SSR and makes stability even more fragile. The public confidence in security institutions is very low,

corruption and involvement in business rampant, oversight by the judiciary impossible due to politicisation, presence of Tamils in armed forces limited, language barrier between the North and the South, lack of financial and financial resources and no concrete involvement of the international community are some of the most important threats faced by the country.

6. COMPLEX MILIEU OF SSR

As a politically driven topic, locally owned and people centred process, SSR's success lies on a thorough understanding of the socio-political context in which it is implemented. It is important for SSR planners to be acquainted with cultural considerations of the role of security institution in some countries, and decide on teams, programmes and strategies based on the domestic legal framework, the country's history and political environment. Having a context-specific approach helps mitigate risks and identify priorities and opportunities by adapting the programmes to the size, state of infrastructure, availability of human resources, and equipment of the country.

Last but not least, understanding the contextual dynamics enhances the peace-building capacity of SSR programmes in post-conflict settings and facilitates the correlation between security and development that SSR tends to build.

SSR is designed and implemented for and in countries with different political situations and conflict levels. Contexts differ according to the level of economic development, the nature of political system, the specific security situation of the country, and the political will of actors.

Security sector pathologies are different in countries with different level of development. In poor or developing contexts, SSR may have to redress issues such as corruption, lack of transparency and management of security institution, inadequacy and unavailability of funding, whereas developed countries may require some changes in the security environment to adapt security agencies to new threats. Additionally, developing countries

often face internal security threats such as social unrest and conflict while developed countries may face external threats such as terrorism (in cases where terrorists are operating from abroad). Last but not least, planning SSR in developing and developed countries will have to take into account the availability of resources dedicated to them. In developed countries, SSR would focus on adequacy of funding whereas developing countries might be seeking financial assistance from donors and external partners.

Differences of political contexts define the security situation and architecture of the security sector in countries. Political situations could be classified as follows: post-conflict countries, transitional countries, conflict countries, stable democracies, authoritarian regimes, and failing, fragile or failed states. Issues related to this classification are: democratic deficit, good governance, instability, oversight, security levels, political will, etc.

SSR is not designed only for democratically challenged countries. In stable democratic and developed countries, needs for establishing mechanisms to enhance the operational efficiency and governance of the security sector are present.

For instance, Canada had to readapt its security sector after 9/11 and its involvement in Afghanistan. Governance, efficiency and coordination of actors in the field and at headquarters' levels had been the key features of post 9/11 reforms. Additionally, the absence of internal security threats allows time for developed countries to address some internal issues such as addressing effectively gender-based violence or defending and promoting human rights of security sector professionals.

7. REFORM OPTIONS

There is a structure upon which SSR could be built. There is no need to build state's institutions from the outset but to undertake necessary reforms to enforce democratic oversight and enhance service delivery of security sector institutions. However, uncertainty could undermine efforts politically

and the security situation is fragile. This obstacle can be faced by engaging in discussions with relevant actors on the necessity for change and providing extra funding for SSR by using discussions on poverty reduction strategy papers as an entry point.

There are many opportunities to introduce SSR in conflict societies, including during cease fire and peace agreement negotiations and Disarmament, Demobilization and Reintegration (DDR) planning. It is also the opportunity to identify drivers of change and potential spoilers, and envisage measures to buy them in. SSR might not be a priority in such situation where parties still lack confidence in each other and militarization is a means to protect themselves from each other and organised crime. Engaging dialogue with stakeholders, mobilizing civil society organisation, and advocating for transitional justice mechanisms could be ways of mitigating the risks. Ceasefire monitoring, training on international humanitarian law, humanitarian assistance could be used as entry points.

Compared to conflict situations, post-conflict settings experience rebuilt confidence among actors, minimum security conditions, presence of peacekeeping missions and international NGOs. The country is also under international media scrutiny that could be used for SSR publicity and mobilisation around reconstruction. The main obstacles of this kind of contexts are the scarcity of resources allocated to SSR which is not much of a priority, the existence of spoilers who might see in SSR a way of losing their power and disrupting their traffics. However, through confidence building, negotiation and involvement of peacekeepers and SSR champions, favourable grounds could be built for SSR development. SSR potential is high during transition periods. Transitional governments are sworn in and enjoy public support as they are often the result of wide consensus.

The political agenda revolves around DDR, transitional justice, reforms of the civil administration and reconstruction, and potential entry points for SSR.

8. LEGAL JUSTICE OF SSR

Transitional Justice (TJ) refers to mechanisms used in post-conflict or post authoritarian regimes to face a past characterised by gross violations of human rights. The principal aim of TJ is to seek recognition for victims by rehabilitating them and providing them with material and symbolic remedies. TJ also aims at rebuilding the social fabric of communities by establishing responsibilities and rebuilding relationships between victims and those who have been responsible for their harms. It is also looks at the future as a principal objective is to prevent the recurrence of abuses in the future. To this end, it establishes, among others, records (for instance through truth seeking mechanisms hearings and reports and criminal justice trials) and visible symbols (monuments and memorials) for collective memory.

Moreover, TJ provides states with favourable grounds for reform towards democracy and respect of human rights. Legally, states have an international legal obligation to stop, investigate and prosecute violations of human rights and humanitarian law, and TJ help states to achieve that.

There are specific transitional Justice Mechanisms as:

- Criminal prosecutions: prosecute those who bear the greatest responsibility for human rights and humanitarian law violations;
- Truth commissions: reveal and acknowledge the truth, and provide recommendations for reconciliation and stability;
- Reparation programmes: material (restitution, compensation) and symbolic (official apologies) benefits;
- Efforts to prevent recurrence: educational and institutional reforms;
- Memorialisation efforts: all kinds of efforts to memorialize and acknowledge in a physical form. Raising the moral consciousness on past abuses and education. Use museums, memorials and other symbolic efforts.

By addressing violence and human rights

abuses from the past, justice mechanisms are not just backward looking. Prevention is a key element in a comprehensive conception of justice. Many truth seeking institutions provide recommendations for reforms to prevent resurgence of violence. As far as most serious abuses are committed by security sector professionals, as states failed to fulfil their responsibilities to protect its citizens from human rights abuses, TJ without SSR is incomplete.

It has already been stated that SSR is not only dedicated to post-conflict societies but is also relevant to more stable and developed contexts. However, in transitional settings, SSR and TJ have overlapping mandates, actors and institutions. They take place alongside each other and TJ has the potential to prepare favourable ground for SSR.

9. CONCLUSIONS

The security sector can be divided in many subsectors: the defence sub-sector (which includes the military and other armed groups), the law enforcement sub-sector (including police, intelligence, border management, narcotics and anti-trafficking agencies, financial brigades, etc), and the justice sub-sector (courts, mediation bodies, and conflict resolution institutions), and the oversight bodies.

There are also cross-cutting issues that should be taken into account from the assessment to the monitoring and evaluation of the implementation of the programme. They include gender mainstreaming, DDR, mine actions, small arms and light weapon control, the rule of law, good governance, human rights, fight against corruption, transitional justice, media and communication strategy (balanced, critical, and independent), missing persons, mass graves, forensics, refugees, health and food security, education, public administration (bureaucracy), nation building, public safety/disaster preparedness, etc.

Safeguarding the security of the state and securing the livelihood of people are the main function of law enforcement agencies and justice institutions. In order to enhance the effectiveness and governance of these

institutions, there is a need to engage reforms both internally and externally to them. SSR therefore helps to achieve the following: ensuring internal and external security; enhancing human security by promoting and respecting non-discrimination measures and human rights protection; securing ownership by creating conditions for confidence building; creating good conditions for economic activities and business opportunities; treating security sector as public service; providing stability, preventing the return of conflict and promoting regional stability; ensuring that efficiency and good governance go together; and making sure that threats public resources are used efficiently.

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