

Structural and Institutional Mechanisms for Security Sector Oversight in Nigeria: Issues and Challenges



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Quote

“Nowhere are the challenges of establishing effective parliamentary oversight of the security sector more apparent than in the case of emerging democracies. We are referring to still fragile democracies which find it difficult enough to satisfy the basic requirement of civilian and democratic rule over their armed forces and security services, which often continue to claim a special role for themselves within the state and in society at large once the formal transition to democracy has been completed. This democratic fragility tends to be compounded by the proliferation of additional security actors responding to often shadow interests, which escape the fledgling control of the new democratic institutions. If all areas of the security sector were to be subjected, in one form or another, to a system of interlocking oversight mechanisms, this would benefit people’s understanding of and support for, security sector policies and actions”

– Dick Toornstra, Director Office for Promotion of Parliamentary Democracy (OPPD)¹, 2013

1 The Office for Promotion of Parliamentary Democracy was created in 2007 by the Bureau of the European Parliament to actively contribute to the strengthening of parliaments worldwide

Executive Summary

This study maps and analyses the structural and institutional mechanisms for security sector oversight in Nigeria, including its issues and challenges. Broadly, the aim of the study is to document and provide evidence-based analysis of the state of democratic security sector accountability in Nigeria, with a focus on the different impediments to effective democratic accountability.

Predominantly, the study utilised primary data generated through the use of Key Informant Interviews (KII). Security personnel (serving and retired), media practitioners, academia, legislators, especially at the national level, members of the Civil Society and civil servants in the Ministry of Defence were interviewed. The KII was complemented with secondary data generated from extant literature. A total of 20 key informant interviews (KIIs) were conducted during the period of the study.

The study reveals that the security sector in Nigeria has expanded beyond the traditional state security actors to include non-state actors such as vigilante groups and neighbourhood watch groups. The activities of these non-state security actors in Nigeria represent a major shift in Nigeria's security landscape as communities are increasingly relying on actors outside the State for their safety and security.

The study also finds that:

- the Nigerian security sector, as currently constituted, is exclusively and excessively controlled by the Executive arm of government and this weakens legislative oversight of the sector;
- there is a lack of capacity and technical competences by some oversight bodies, such as the National Assembly and civil society; and moreover, the lack of a National Communication Policy and Strategy also makes oversight by the media unreliable, inconsistent and difficult.
- the issue of subordination in the context of making the security sector -particularly the military - completely subject to democratic control is a major challenge for security sector governance. The security sector is highly militarised without any clearly defined role,

mission and strategy for operations. Gender mainstreaming was also found to be a major challenge in the security sector.

- _ issues of secrecy and lack of trust between civil society groups and the security sector creates challenges for effective civil society engagement with the sector and therefore, demand for accountability;
- _ despite extant laws that requires sharing of public information such as the Freedom of Information Act, 2011, the security sector in Nigeria remains one of the most opaque and secretive sectors in the country.

Based on the findings, the study recommended, among other things;

- i. The government should initiate security sector reforms in Nigeria in order to deal with the issue of secrecy in the security sector as a challenge to security sector oversight in the country that seeks: to de-politicise and subordinate the security sector to civil authority including elected representatives; to constitutionalise and redefine the role and scope of the role of the security sector; to reorientate and re-professionalise the core security sector; and to demilitarise public order and increase relevance of civil policing;
- ii. There should be concrete framework and mechanisms for oversight with reference to non-state security actors in the country, in order to ensure transparency and accountability in their operations;
- iii. There should be increased capacity building for security sector oversight bodies such as the National Assembly;
- iv. The Federal Ministry of Women Affairs and Social Development should review the National Gender Policy 2006 to make it more contemporaneous, compliant and relevant to current realities in the Nigeria State, especially as it has to do with gender mainstreaming in Nigeria's security sector.

LIST OF ACRONYMS

AU	African Union
BON	Broadcasting Organisation of Nigeria
CJTF	Civilian Joint Task Force
CSOs	Civil Society Organisations
DIA	Defence Intelligence Agency
DFID	United Kingdom Department for International Development
DSS	Department of State Services
EFCC	Economic and Financial Crimes Commission
FCC	Federal Character Commission
FEC	Federal Executive Council
FFS	Federal Fire Services
ICC	Intelligence Community Committee
ICPC	Independent Corrupt Practices Commission
ISOs	Internal Security Operations
JIB	Joint Intelligence Board
KII	Key Informant Interview
MDAs	Ministries, Departments and Agencies
MOD	Ministry of Defence
NA	Nigerian Army
NABRO	National Assembly Budget and Research Office
NAF	Nigerian Air Force
NCAA	National Coalition on Affirmative Action
NDLEA	National Drug Law Enforcement Agency
NHRC	National Human Rights Commissions
NIA	National Intelligence Agency
NILS	National Institute for Legislative Studies
NIPSS	National Institute for Policy and Strategic Studies
NIS	Nigerian Immigration Service
NN	Nigerian Navy
NPF	Nigeria Police Force
NSCDC	National Security and Civil Defence Corps
NUJ	Nigerian Union of Journalists
OECD	Organisation of Economic Cooperation and Development
OECD-DAC	Organisation of Economic Cooperation and Development-Development Assistance Committee
ONSA	Office of the National Security Adviser
OPPD	Office for Promotion of Parliamentary Democracy
PCC	Public Complaint Commission

PLAC	Policy and Legal Advocacy Centre
PSC	Police Service Commission
PSCs	Private Security Companies
SGF	Secretary to Government of the Federation
SSR	Security Sector Reform
UN	United Nations
UNSCR	United Nations Security Council Resolution
UNWPS	United Nations Women, Peace and Security

A large crowd of people is gathered outdoors, possibly at a public event or protest. In the background, a police car with "POLICE" written on its side is visible, along with several police officers in uniform. The crowd consists of people of various ages and ethnicities, some looking towards the camera and others looking away. The scene is brightly lit, suggesting it is daytime.

Chapter 1

INTRODUCTION

There is a general sense that the Nigerian security sector operates outside of an effective framework for democratic accountability in Nigeria and that this situation relates to a culture of impunity, opacity and poor management; and limits the effectiveness and efficiency of service delivery to the State and the people. Empirical studies support the notion that sound governance or democratic governance of the security sector is important for democratic consolidation, sustainable economic and social development, as well as the creation of a safe environment for citizens. However, improving democratic governance of the security sector is seen as being both highly complex and political. Developing a viable approach to security sector reform requires an analysis of the structures for oversight, the environment in which it is to occur, a detailed assessment of priority needs and options for addressing them.

1.1. Aims and Objectives of Study

This study seeks to document and analyse the state of democratic security sector accountability in Nigeria in an overarching manner, looking at the different levels of impediments to effective democratic accountability and at the different impacts of poor democratic accountability of security sector institutions and taking into account the specific cultural, institutional and security context of Nigeria.

Specifically, the study seeks to, among other things, achieve the following;

- (i) To map Nigeria's security sector, including state security providers, non-state security providers, state management and oversight actors, non-state management and oversight actors, supported by the normative framework governing these actors and institutions;
- (ii) To analyse the political, economic and social context in which the Nigerian security sector operates with a view to identifying impediments to sound democratic security sector governance;
- (iii) To identify key accountability issues affecting the efficiency and legitimacy of the security sector – including how the challenges of accountability as per cost, performance and conduct translate in the Nigerian security sector and;

- (iv) To analyse how gender roles and stereotypes influence democratic oversight and accountability of the security sector in Nigeria.

The study was undertaken as part of a broader project being implemented by PLAC and DCAF and supported by the West Africa Conflict and Security Team (CSSF). The project aims to support improved democratic oversight of the Nigerian security sector, particularly through engagement with the Nigerian legislature, which as will be seen in the following pages, is a key, but not exclusive stakeholder for oversight. The findings from the study, in addition to findings from other related assessments being conducted under the project² are expected to help provide an evidence base for developing a viable intervention strategy and effective entry points for civil society contribution towards improved democratic governance of the security sector.

2 Other assessments include a mapping of civil society work in the sector and a needs assessment of security sector committees in the National Assembly.

Box 1: Importance of Security Sector Oversight

UKDIP (2000), Ball (2005) and Sedra (2010) noted that the whole essence of security sector oversight, either by parliamentary or extra-parliamentary bodies, is to ensure, among other things, that:

- i. Security sector institutions, particularly in the security forces, are accountable both to elected authorities, established independent oversight agencies and the civil society;
- ii. Security sector organisations operate in accordance with international law and domestic constitutional law;
- iii. Information about security sector planning and budgeting are widely available, both within government and to the public and a comprehensive and disciplined approach to the management of security sector resources is adopted;
- iv. Civil-military relations are based on a well-articulated hierarchy of authority between civil authorities and the defence forces and on a relationship with civil society that is based on respect for human rights and a culture of civility;
- v. Civil authorities have the capacity to exercise political control over the operations and expenditure of the security forces and provide constructive input to the political debate;
- vi. An environment exists in which civil society can be consulted on a regular basis on security policies, resource allocation and other relevant issues;
- vii. Security-force personnel are adequately trained to discharge their duties in a professional manner consistent with the requirements of democratic societies.

1.2 Methodology of the Study

1.2.1 Method of Data Collection and Analysis

The primary method of data collection for the study was the Key Informant Interview (KII). Data generation targeted members of the state and non-state security actors, the academia, the media, bureaucrats and key figures in the National Assembly, among others. A breakdown of the particulars of key informants is shown below in Table 1. The KII was complimented with secondary data generated from extant literature.

The approach employed in conducting this study included and were founded on specificity of data type, data source and method of acquisition. Analysis of feedback and results obtained were carried out while inferences and recommendations for next steps were drawn in real time based on the outputs generated from the study. The study was carried out in two phases. The first phase was a desk review of secondary data and information on the legal and institutional frameworks for security sector oversight in Nigeria. This included a review of reportage on security challenges and in some instances, activities of oversight institutions. The second phase involved generation of primary data and information through oral key informant interviews (KII). An interview guide was developed for this purpose. This was achieved through field investigations and interactions with key stakeholders in the security sector. For ease of analysis, the key informants were grouped into two categories:

- i. **Practitioners** – Serving and retired military officers and security operatives and Members of the National Assembly responsible for oversight; and
- ii. **Theoreticians** – Academicians, media, civil society and researchers in the field of conflict peace and security. The choice of respondents for the interviews was based on the groupings and their wealth of experience. A snowball sampling technique was also used to increase the respondent pool. This is where persons interviewed suggested additional knowledgeable people to be interviewed to add value the research.

A total of 20 key informant interviews (KIIs) were conducted over the period of the study. The respondents, carefully selected by the research team, included:

- i. Armed Forces Staff of the National Institute for Policy and Strategic Studies;
- ii. Members of the Senate and House Committees on Army, Air force, Navy, Defence, Police Affairs, Interior, Appropriation and Public;

- iii. Senior Academic experts on Security, Communication and Constitutional Law;
- iv. Serving and Retired Armed Forces personnel (Not below the rank of Colonel);
- v. Serving Senior Police Officers and State Security Services officers;
- vi. Bureaucrats and senior civil servants in the line Ministries, Departments and Agencies (MDAs); and;
- vii. Civil society, the academia and media

A key informant interview guide was developed to guide the discussions and elicit feedback on the framework, guidelines, legal mandate and perceptions on the efficacy of security sector oversight. This included their perceptions of the issue of gender and the place of gender considerations in the security sector and the roles of men and women in oversight of the sector. The basic steps included;

- i. Formulation of study questions
- ii. Development of the interview guide
- iii. Selection of key informants
- iv. Interview sessions
- v. Note taking and documentation on interview summary sheets
- vi. Analysis of data retrieved

1.3 Limitations of the Study

Two major limitations, which are closely related, were encountered during the study. The first was the unwillingness of respondents to openly and freely discuss the issues under study. This was most prevalent among serving security personnel and civil servants. Their unwillingness was predicated upon the assumption of anonymity, which is a core characteristic of the public and civil service in Nigeria. The consequence of this is that many respondents could not speak as freely as was expected of them. The second limitation, which is closely related to the first, is the problem of secrecy surrounding security expenditure and documents in Nigeria. This made it very difficult for the researchers to obtain certain documents from the security agencies, their oversight bodies and supervising ministries.

Table 1: Breakdown of Particulars of Respondents

Key Informants	Rank	M	F	Number	Serving	Retired
Army	Major General	1	-	1	-	1
	Brigadier	1	-	1	1	-
	Colonel		1	1	1	-
Navy	Navy Captain	1	-	1	1	-
Air Force	Air Vice Marshal	2	-	2	2	-
	Group Captain	1	-	1	1	-
	Wing Commander	-	1	1	1	-
Police Force	Deputy Inspector General	1	-	1	-	1
	Assistant Inspector General	1	-	1	-	1
Academia	Professor	3	1	4	4	-
Legislator	Senator	1	1	3	-	2
	Honourable Member	1	-	1	1	-
Media	Associate Professor	1	-	1	1	-
Civil Society	Practitioners	6	2			
TOTAL		20	7	19	13	5

A large crowd of people is gathered outdoors, possibly at a public event or protest. In the background, a police car with "POLICE" written on its side is visible, along with several police officers in uniform. The crowd consists of people of various ages and ethnicities, some looking towards the camera and others looking away. The scene is brightly lit, suggesting it is daytime. The overall atmosphere appears to be one of a significant public gathering.

Chapter 2

OVERVIEW OF THE STRUCTURE OF THE NIGERIAN SECURITY SECTOR

In 1999, Nigeria returned to democratic rule with the corresponding expectation of the subordination of the military to civilian rule and oversight on matters of security. Indeed, the assessment of a post military era quality of civil – military relations also comes under scrutiny as this discussion evolves. In line with this and according to Ball and Fayemi (2008), the quality and effectiveness of protections for the territorial integrity of a nation state and its citizens are directly proportionate to the level of subordination of the security organisations to democratically elected leadership structures and civil authorities. Within a general conceptual framework, the African Union Policy Framework on Security Sector Reform (SSR) has noted that though the components of the security sector vary according to each national context, in general terms and in an African context, however, it comprises individuals, groups and institutions that are responsible for the provision, management and oversight of security for people and the State.

These include but are not limited to the following:

- a. Primary Security Institutions: such as the armed forces, the police, gendarmerie and other law enforcement agencies, presidential guards, antiterrorist units, border management, customs and immigration authorities, Office/Directorate of the State Department, as well as any other services set up by a Member State;
- b. Specialized Intelligence and Security Institutions: such as those that are in charge of finding and using intelligence to preserve state sovereignty, state security and to defend vital national interests. These may be involved in security activities such as counter espionage, counter terrorism and the fight against all forms of organized crime;
- c. Public Oversight and Management Bodies: such as the executive, the justice ministries, the legislature, national security advisory bodies, parliamentary sub-committees, anti-corruption bodies, customary authorities, the Pan African Parliament and regional parliamentary bodies;
- d. Justice and Rule of Law Institutions: such as the judiciary, prisons and other correctional facilities, Office of the Attorney General, Office of the Public Prosecutor, ombudspersons, traditional and transitional justice systems, human rights commissions, tribunals and courts;

- e. Civil Emergency Units: such as search and rescue services, firefighting, riot control, natural disaster management and natural resource protection units; and,
- f. Non-state Security Bodies: such as private security companies, informal, traditional and customary authorities and others, as may be decided by each Member State (AU, 2013:4-5).

Similarly, the Organisation for Economic Cooperation and Development-Development Assistance Committee (OECD-DAC), among other institutional frameworks, has also defined the security sector to encompass the following:

- i. Core security actors including: armed forces, police, gendarmeries, paramilitary forces, intelligence and security services, border guards and customs authorities;
- ii. Security management and oversight bodies including: the legislature and its relevant legislative committees; government/the executive, including ministries of defence, internal affairs and foreign affairs; national security advisory bodies; customary and traditional authorities; and financial management bodies;
- iii. Justice and rule of law institutions including: justice ministries, prisons, criminal investigation and prosecution services, the judiciary, other customary and traditional justice systems, human rights commissions and ombudspersons; and,
- iv. Non-statutory security forces including: liberation armies, guerrilla armies, private bodyguard units, private security companies, private military companies and political party militias (Aluko, 2015; OECD, 2007; Hanggi, 2003).

BOX 2: Practitioners' views on the Security Sector

1. Centralized command structure for internal security is a challenge for implementation and oversight.
(Respondent, Army)
2. In the North-Central, community problems are not national security problems, but national security architecture makes them national; lower levels of security must be empowered such that problems can be addressed locally at the "incident" stage with improved Information sharing and response time
(Respondent, Army)
3. The national security infrastructure is burdened with crimes as opposed to existential national security threats.
(Respondent, Navy)
4. The world over has inner circles responsible for the security and not everyone is privy to all information at all times. Some code of secrecy must be implemented by practitioners in the military. Surprise is a principle of warfare and security is the hallmark of the military.
(Respondent, Army)
5. Intelligence is always and always should be in secrecy, but budgets and procurement should be in the public domain. This is already being done by the Ministry of Defence (MOD), which is populated by civilians and headed by a political appointee.
(Respondent, Airforce)
6. Roles and responsibilities for security have been flawed by political influence; constitutional responsibilities by different branches of the security services have been assigned to wrong agencies. This makes implantation harder and also affects oversight of implementation.
(Respondent, Police)
7. All IS (Internal security) operations should be led by the police first, they live with people and have better intelligence than the army in the barracks, but the reverse is the case and what we see now is the relinquished responsibility to the armed forces. The military is overstretched. Police have to take the lead in IS ops.
(Respondent, Airforce)
8. Inaction by police has made the army take preventive action and deployments. This affects formations and rotations of men in ops. It calls for increased military strength, as troops are lost in ops especially in the North East.
(Respondent, Airforce)
9. The political era has affected the military. The media and lawyers create untrue stories and situations for personal or interest driven reasons. Political party affiliations and religion are constantly used as a basis for oversight decisions (Respondent, Police)

Arising from the above, Ball and Fayemi (2008) viewed the security sector as encompassing all those state institutions that have a formal mandate to ensure the safety of the State and its citizens against acts of violence and coercion and the non-statutory security actors, which

have emerged as important actors in the security network. Within the Nigerian context, Aluko (2015) noted that the components of the Nigerian security sector is comprised of the following: The Armed Forces (Army, Air Force and Navy of approximately 77,000 personnel); the Nigerian Police Service (of about 360,000 men and women– increased in 1999 from the initial size of 120,000); paramilitary bodies including Customs and Excise, the Immigration Service, the Intelligence Services-including Military Intelligence and the State Security Service; judicial and public security bodies – Judiciary, Justice Ministry, correctional service (Prisons); private security outfits; militia groups – including, for examples, the Odua People Congress, Bakassi Boys, Hizba Corps and community vigilante groups. This broader definition clarifies popular misconceptions on the components of the security sector, as the popular understanding of the term is limited to agencies with legal monopoly of use of force like the military and the police. However, these two groups (armed forces and police) represent fundamental components of the security sector as it relates to internal security, especially within the context of the role of non-state actors in the ongoing State response to the Boko Haram terrorist insurgency in Nigeria

Structurally however, the formal or traditional security sector in Nigeria is divided into three main segments. The first is the “Armed Forces of the Federation” made up of the military organisations, established by Section 217(1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended). The Armed Forces are composed of the Nigerian Army (NA), Nigerian Navy (NN) and the Nigerian Air Force (NAF). For administrative purposes, the Armed Forces of the Federation are under the Ministry of Defence. Operationally, the Armed Forces of the Federation have the responsibilities of:

- (i) Defending Nigeria from external aggression;
- (ii) Maintaining its territorial integrity and securing its borders from violation on land, sea, or air;
- (iii) Suppressing insurrection and acting in aid of civil authorities to restore order when called upon to do so by the President;
- (iv) Performance of such other functions as may be prescribed by an Act of the National Assembly.³

The second segment of the security sector is made up of para-military security agencies, namely, the Nigeria Police Force (NPF), the Nigerian Security and Civil Defence Corps (NSCDC), the Nigerian Immigration Services (NIS), the Nigerian Customs Service (NCS), the Nigerian Prisons

3 See Section 217(2) of the 1999 Constitution of the Federal Republic of Nigeria (as amended).

Service (NPS), the Federal Fire Service (FFS), the National Drug Law Enforcement Agency (NDLEA), among others. Again, for administrative purposes, this segment is under the Ministry of Interior.

The third segment is the intelligence community; made up of the Department of State Services (DSS), the Defence Intelligence Agency (DIA) and the National Intelligence Agency (NIA). The Nigerian intelligence community is established by the National Security Agencies Act, CAP. 273, LFN, 2004 (as amended). According to Dokubo (2011:68), these are specialised agencies established for the purposes of collection of intelligence from within and outside the Nigerian State. They are also responsible for the provision of security services. While the DSS collects local intelligence and provides internal security, the NIA collects external intelligence. On the other hand, the DIA collects defence intelligence and security both within and outside Nigeria. Thus, the Armed Forces, the para-military agencies and the intelligence community, otherwise called the traditional security institutions, are collectively referred to as security and law enforcement agencies.

In recent times however, the security sector in Nigeria has expanded beyond the traditional security agencies to include the judiciary, which has the responsibility of the administration of justice as well as the human rights and civil liberties institutions. As a respondent noted, the expansion of the security sector beyond the traditional security institutions has been occasioned by the fact other agencies play significant roles in guaranteeing not just security provisioning by the traditional security institutions but also in ensuring that security institutions and agencies render services that are human-centered rather than state centered.

Secondly, the increasing participation of non-state security actors such as Civilian Joint Task Force (CJTF), vigilante and neighbourhood watch groups and Private Security Companies (PSCs) in the provision of security, especially since the late 20th century has equally expanded the scope of the security sector in Nigeria. As some scholars have noted, although the existence of community vigilantes and neighbourhood watch groups, especially in the southern part of Nigeria, dates back to pre-colonial times, their proliferation and increasing participation in the security space have become part of the defining characteristics of the informal security framework in Nigerian since the late 20th century (Okeke, 2013).

This development has been informed by an increasing wave of violence and criminality, “the involvement of local groups in political conflicts and a more general framework of a possible decline of law enforcement state agencies” especially in the rural areas (Fourchard, 2008:1). Thus, core security related functions that were once the exclusive preserve of formal security

structures – such as arrest and prosecution of suspected criminals, public safety, crime and violence prevention - now constitute key functions performed by informal security institutions (Kwaja, 2014). Given this development, the security sector has increasingly, in contemporary times, become a very broad and complex environment comprising a wide range of actors and institutions both within and outside the realm of the State.

However, some issues can be identified, which inform the functioning of the Nigerian security sector. The first is the co-existence of non-statutory security providers alongside formal security establishments since they respond to security needs of communities that are far from the purview of the State. As such, informal arrangements for security provisioning have been accorded different degrees of legitimacy by citizens and groups that exercise their demand for security through these informal sources. Due to this, the State has lost a significant portion of its monopoly of the use of force as well as a degree of legitimacy as a security provider.

Figure 1: Components of the Nigerian security sector

Armed Forces of the Federation	Para-Military	Intelligence Community	Judicial and public security bodies	Non-Statutory Security Providers:
<p>Nigerian Army (NA)</p> <p>Nigerian Navy (NN)</p> <p>Nigerian Air Force (NAF)</p>	<p>Nigeria Police Force (NPF)</p> <p>Nigerian Security and Civil Defence Corps (NSCDC)</p> <p>Nigerian Immigration Services (NIS)</p> <p>Nigerian Customs Service (NCS)</p> <p>Nigerian Prisons Service (NPS)</p> <p>Federal Fire Service (FFS)</p> <p>National Drug Law Enforcement Agency (NDLEA)</p>	<p>Department of Security Services (DSS)</p> <p>Defence Intelligence Agency (DIA)</p> <p>National Intelligence Agency (NIA)</p>	<p>Judiciary,</p> <p>Justice Ministry,</p> <p>Correctional service (Prisons);</p> <p>human rights and civil liberties institutions</p>	<p>Private Security Companies (PSCs),</p> <p>Civilian Joint Task Force; militia groups – including, for examples, the Odua People Congress, Bakassi Boys, Hizba Corps and community vigilante groups, Hunters Association</p>

A large crowd of people is gathered outdoors, possibly at a public event or protest. In the background, a police car with "POLICE" written on its side is visible, along with several police officers in uniform. The crowd consists of people of various ages and ethnicities, some looking towards the camera and others looking away. The scene is brightly lit, suggesting it is daytime.

Chapter 3

STRUCTURAL AND INSTITUTIONAL MECHANISMS FOR SECURITY SECTOR OVERSIGHT BODIES

In Nigeria and among other developing countries, political reforms have since the late twentieth century resulted in the democratisation of political and administrative processes, under what has popularly come to be known as the “third wave of democracy” (Ogbonnaya and Ogujiuba, 2015). The consequences of this development have been diverse and varied. First is the increasing institutionalisation of participatory democracy. As Fayemi (2012) has noted, there is a growing awareness among the people that constitutional democracy requires governments that are not only accountable to their citizens, but also subject to restraint by elected civil oversight actors and independent oversight agencies.

Consequently, interest groups and citizens now hold the views that state constitutions must entrench certain fundamental principles that allow for the creation, existence and practice of oversight agencies that can safeguard the interests of the people, mediate the excesses of the government and help to enforce the law. Hence, in the Judicial, Legislative and Executive arms of government, there are civil oversight bodies like the Ministries and Departments of Defence, Police Affairs, Legislative Committees on Defence, Intelligence, Police Affairs and Human Rights, Financial Management Bodies such as Ministries of Finance, Auditor-General’s Office, Budget Monitoring Units; Judicial and Correctional agencies such as the Ministries of Justice and civil society institutions like the media, human rights organisations, among others.

Another consequence of this development is the increasing institutionalisation and participation of the legislature in the policymaking process, contrary to the military era when the legislature was non-existent as laws were made through the Supreme Military Council of the military government. This development is informed by the realisation that the legislature is crucial to the achievement of good governance. As one of the key state institutions of democracy, the legislature plays important roles in oversight of state and non-state agencies including security institutions governance. Their representational and oversight roles, for instance, ensure that citizens and other stakeholders have a voice and are therefore involved in governance issues⁴.

The foregoing developments have far-reaching implications on security sector oversight, especially in the current political dispensation. First, it challenges the narrow definition of security that restricts it to the military dimension, thereby precluding the notion that security knowledge should not be widespread and its activities made transparent, even to elected representatives of the people. However, some respondents have argued otherwise. They assert that in spite of democratic reforms and institutionalisation, the military has remained “excessively opposed to public scrutiny and criticism.” This is a widely held position among Nigerian populace. Given its antecedents in Nigeria, the security services have often been seen as either an alternative and/or independent power centre, hardly subject to scrutiny by either the legislative bodies or independent civil institutions. Immersed in this aura of secrecy, Fayemi (2012) noted that the security sector has successfully managed to keep prying eyes at bay under the pretext of protecting national security, thus preventing proper parliamentary and extra-parliamentary monitoring of security agencies.

On the other hand, some other respondents have argued that the security sector and its institutions are not actually immersed in any aura of secrecy as the institutions have always been open to public scrutiny and legislative oversight. Although they agreed that certain level of secrecy needs to be maintained in security activities given that the whole essence of military operations is surprise, they argue that this has not in any way negatively projected the security institutions as being averse to parliamentary and extra-parliamentary oversight and public scrutiny.

The foregoing does not detract from the fact that in Nigeria, several state and non-state institutions have variously been engaged in oversight of the security sector. As Barnes and Albrecht (2008) have noted, oversight of the security sector can be both internal and external and it occurs at many different levels and through a range of bodies. External oversight of the sector can be exerted in two main ways: first, by the security sector being directly answerable to the population and second, by politicians and bureaucrats within any country’s government being held accountable for the actions of the security sector. In this context, some of the most typical external oversight bodies are parliaments, constitutional courts, anti-corruption and public accountability bodies and ombudspersons. A respondent agrees with the foregoing assertion. According to him, despite the perceived secrecy with which security institutions are assumed to be covered, relevant institutions have increasingly carried oversight functions on the security institutions and agencies as guaranteed by law. He cited the examples of approval of security sector spending by the legislature, approval of the context and scope of military operations for the legislature and increased critique of the conduct and behavior of security personnel and authorities in operations by CSOs as clear cases of oversight of the security sector in Nigeria.

Box 3 : Forms of Security Sector Oversight in Nigeria

- Executive oversight: The President, Federal Ministries (Defense, Interior, Police), the National Security Council, the National Defence Council, the Police Service Commission (PSC), the Office of the National Security Adviser (ONSA), the Joint Intelligence Board (JIB) and the Intelligence Community Committee (ICC)
- Legislative/parliamentary oversight: Nigerian National Assembly through permanent legislative committees with oversight mandate over security sector agencies
- Independent oversight bodies: Federal Character Commission (FCC), National Human Rights Commissions (NHRC), Public Complaints Commission (PCC), Economic and Financial Crimes Commission (EFCC), Independent Corrupt Practices Commission (ICPC), as well as other judicial panels or commissions of inquiry set up by the executive to look into issues brought to it. The Office of the Auditor General of the Federation (OAuGF).
- Civil Society oversight; Media, individuals, non-governmental/ civil society organizations
- Justice authorities: This includes formal institutions such as the Nigerian Judiciary; Nigerian Courts to name a few as well as more traditional/ faith based entities.
- Internal Oversight mechanisms: These include disciplinary committees or behavior/conduct units within agencies responsible for supervision and performance monitoring, as well as disciplinary systems for reporting, responding and tracking complaints of abuses.

3.1 Forms of Security Sector Oversight

3.1.1 Executive Oversight

In Nigeria, the security sector is directly under the control of the executive arm of government. Appointments and recruitments into the sector, security policies and other fundamental activities in the sector are within the exclusive preserve of the Executive arm even though they require legislative approval. Thus, within the Executive, there are institutionalised structures and mechanisms through which the Executive oversees the security sector. These institutions include the National Security Council, the National Defence Council, the Police Service Commission (PSC), the Office of the National Security Adviser (ONSA), the Joint Intelligence Board (JIB) and the Intelligence Community Committee (ICC), which all have constitutional powers to advise the President on matters relating to public security including matters relating to any organisation or agency established by law for ensuring the security of the Federation.

Other established institutions within the Executive arm that oversee the security sector include the Federal Character Commission (FCC) established by Section 153(1)(c) of the Constitution to ensure that the composition of the Government of Federation or any of its agencies (including the security sector) and the conduct of its affairs is carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity and also to command national loyalty by preventing the predominance of persons from few states or from a few ethnic or other sectional groups in that Government or in any of its agencies.⁵

3.1.2 Legislative Oversight

Legislative oversight can be broadly defined as the process by which a legislative body monitors, scrutinizes, reviews and evaluate the performance of the executive arm of government or its agencies on continuing basis to ensure effectiveness, efficiency and good performance. Legislative oversight of the security sector can be said to be undertaken through making laws that define and regulate the activities, operations and finances of state institutions and agencies for the achievement of national goals and ensuring these laws are complied with and processes and procedures are adhered to in a transparent and accountable manner. It is in this context that

5 See Section 14(3) of the 1999 Constitution of the Federal Republic of Nigeria (as amended).

Aluko (2015) defines parliamentary oversight of the security sector as “the role of the parliament in passing laws that guide, regulate and define the various agencies of the security sector including their powers and functions.”

Bentinck and Born (2013) noted that ensuring public security and stability whilst upholding democratic standards constitutes one of the major challenges of democratic society. Achieving a balance between these two objectives essentially requires democratic accountability of the security sector. The exercise of their special powers does not excuse security sector institutions from remaining within the purview of the laws adopted and the policies pursued by a democratic government. Although such control and review are exercised by a variety of actors in society (including non-state actors), the role of the legislature in this regard is particularly important. This importance arises from the fact the people should be the ultimate deciders of their security policy and the legislature is the institution that represents them most directly.

In Nigeria, as in other parliamentary democracies, the legislature, especially at the national level has developed certain structures and mechanisms through which oversight of the security sector is conducted. Some of these structures, approved by the Constitution⁶ and Rules of both Chambers of the National Assembly include establishment of standing and ad-hoc legislative committees. Currently there are six standing legislative committees, each on both Chambers of the National Assembly in Nigeria, dealing directly with oversight of the security sector. These include Committees on Air Force, Army, Defence, Interior, National Security and Intelligence, Navy and Police Affairs. Going by the expanded definition of the security sector in Nigeria, Committees on Prisons and Drugs & Narcotics can be included to this list. These do not include other Committees that do not deal directly with the security sector, although they have oversight functions over them; such as the Committees on Appropriations, Federal Character and Inter-Governmental Affairs, Finance, Justice and Human Rights, Establishment and Public Service, Public Accounts and Public Procurements. Apart from the institutionalised structures, i.e. the Committee System, the legislature in Nigeria also employs discussions in plenary and closed sessions, public and investigative hearings, oversight visits or on-the spot-assessments and subpoenas as oversight tools or mechanisms.⁷

6 Section 62 of the 1999 Constitution specifically empowers the National Assembly to create committees as it may deem appropriate.

7 For detailed analysis of tools for parliamentary oversight, see Pelizzo and Stapenhurst (2012), especially chapter 3, pp. 28–56).

The National Assembly largely provides oversight of the security sector through budgetary appropriation, law making and approval of critical and key appointments into the sector. However, the quality of legislative oversight of the security sector has been at the centre of thorny debate. From the various shades of opinions, there is a somewhat unanimity among respondents on an overt failure of legislative oversight of the security sector in Nigeria, which has aided the creation of weak institutions in government.

Box 4: Practitioners and Theoreticians views on Security Sector Oversight Structures

1. The key actors in oversight of the security sector are the legislature and the Media (Respondent Army)
2. Levels of oversight include the Ministry of Defence (MOD), Legislature and the media, but oversight is governed by politics as all appointments are made by the Senate President and Speaker of the House of Representatives (Respondent, Airforce)
3. Oversight should start from the National Defence and Security Council, established by the Constitution to oversee defence activities from recruitment to spending. (Respondent, Academia)
4. Oversight has a more expansive definition outside the traditional and democratic institutions as it relates to oversight over the military. It includes the Legislature, National Human Rights commission, Media and Civil society. Oversight must cover also the manner in which security agencies carry out their responsibilities and identify and penalize actions injurious to citizens' rights. (Respondent, Academia)
5. House and Senate committees have a clear mandate, created by the laws of the land and empowered to make laws. Any committee created through a formal process by the National Assembly is a legal body with oversight powers. (Respondent, Academia)

3.1.3 Independent Oversight Bodies

There are seemingly other oversight bodies which are outside the Executive, examples of such oversight bodies for the security sector include the judiciary and its institutions such as the National Human Rights Commissions (NHRC), Public Complaints Commission (PCC), Economic and Financial Crimes Commission (EFCC), Independent Corrupt Practices Commission (ICPC), as well as other judicial panels or commissions of inquiry set up by the executive to look into issues brought to it, as they relate to the security sector. The level of independence of these bodies are questioned most times because they are seen by many as appendages of the executive who inaugurates or sets them up.

3.1.4 CSOs and the Media

In the exercise of its oversight of the security sector, the civil society, in general and the media in particular, play an important role in monitoring the development and application of security policies and the activities of security organisations, for example, through membership in community advisory/oversight boards, independent monitoring and analysis and the dissemination of information about security policies and their implementation to a broader public. Civil society also acts as an important resource for the security sector by providing a pool of knowledgeable individuals to staff positions in relevant government agencies, review boards and other oversight bodies and by providing training to members of security forces and civil oversight bodies.

With reference to the media, a respondent informed that, oversight of the security sector is conducted with the following tools;

- i. Social responsibility;
- ii. Issues of public interest;
- iii. Rules and regulations by regulatory bodies such as the Broadcasting Organisation of Nigeria (BON), Nigerian Union of Journalists (NUJ), the Editors Guild, etc; and
- iv. House policies such as security bits.

3.1.5 Justice Authorities

In the line with the principle of checks and balances it is necessary for the judicial arm of government to exercise some key oversight functions. This consists of more formal institutions such as the Nigerian Judiciary, Nigerian Courts, Prisons and corrections agencies, Office of the Attorney General/Ministry of Justice, Court personnel; Bar Association as well as legal NGOs. Non-formal traditional- faith entities which are integral to our cultural make up include traditional rulers, religious scholars, family heads, emirates, hizbah, customary and traditional courts, religious and spiritual leaders.

Particularly, the Nigerian Courts are worthy of note as they are the main recourse for review of laws and redress against decisions of these security sector agencies to ensure they work within the bounds of constitutional provisions. For instance, this oversight function can be seen with Fundamental Rights proceedings, which are primarily filed against security sector agencies.

3.1.6 Internal Oversight mechanisms

Internal oversight mechanisms refer to processes within specific security sector organisations used to enforce compliance and accountability. These include code of conducts, protocols, disciplinary committees or behavior/conduct units within agencies responsible for supervision and performance monitoring, as well as disciplinary systems for reporting, responding and tracking complaints of abuses. Internal mechanisms complement external oversight mechanisms (e.g. the legislature, judicial bodies) and can be an effective means of oversight if properly administered .

Examples within the Armed forces are the military police, service laws and court martial and within the Police: the Human Rights Desk and Public Complaint Rapid Response Unit (PCRRU) saddled with the responsibility of receiving and resolving all complaints of Police professional misconduct emanating from policing activities and operations nationwide.

Box 5: Respondents views on Security Sector Oversight and Role of the Media

1. In Nigeria, the legal mandate for oversight is the Constitution. Section 22 though not justiciable, empowers the media to carry out oversight. Other instruments that aid oversight are the Freedom of Information Act (FOIA). However, this provision of the Constitution is non-justiciable and only a national policy can give media oversight true legal backing.

(Respondent, Academia)

2. Clear guidance on how these tools can be used is lacking due to the absence of a National Media and Communication Policy and Strategy. The communication strategy for Counter insurgency struggled due to lack of the same policy. Policy leads to strategy. From 1987 – 2013 it is still a draft.

(Respondent, Academia)

3. Capacity of media professionals is very low as regards security policy and frameworks and there is no clear direction for capacity development in that regard. However, there is politicization of trainings due to the branding of security sector reporting a “lucrative” beat.

(Respondent, Academia)

4. Media and the industry in general is a weak platform for oversight as there is no cash backing for research and true investigative journalism.

(Respondent, Academia)

5. Corruption in the media and partisanship leads to oversight suffering from “manifest effect” or what you may call face value reporting with no depth or analytical basis.

(Respondent, Academia)

6. Conflicts of interests abound in security sector reporting as owners of media houses are members of government. There is also the issue of Political Media in Nigeria where 90% of stories, even security issues are back benched for political news.

(Respondent, Airforce)

7. The army is misunderstood and misrepresented by the media, which is why even NCOs are presently being trained in critical thinking and communication to enhance interaction with the media and information dissemination. (Respondent, Army)

8. Oversight by the media has not been successful because reporting is politically biased, there is no proactive or investigative reporting only reporting of tragedies. (Respondent, Academia)

A vibrant outdoor market scene. In the foreground, several people are seen from behind, looking at a stall with various items. A woman in a red top and black skirt is prominent. In the middle ground, a police car with "POLICE" written on its side is parked. A man in a white shirt and dark pants is talking to a woman in a black top. Other people are walking around, some carrying bags. The background shows more stalls and a building with a sign that says "POLICE". The overall atmosphere is busy and colorful.

Chapter 4

CONSTITUTIONAL FRAMEWORK FOR SECURITY SECTOR OVERSIGHT

This section provides an explanation of the Constitutional provisions governing security sector oversight bodies in Nigeria and clarifies the powers of the executive vis-à-vis the legislature and judiciary in relation to the security sector. Political accountability requires that the security sector in a democratic system should be accountable to the three main arms.

4.1.1 The Executive

As it relates to oversight functions of the different arms of government, the 1999 Constitution broadly prescribes for powers of the President and the executive as it relates to the security sector. By section 130(1) of the Constitution, the President shall be the Commander-in-Chief of the Federation. Section 218(1) further provides that: the powers of the President as the Commander in-Chief of the armed forces include the power to determine the operational use of the armed forces, while section 218 (2) empowers the President to appoint the Chief of Defence staff, the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff and heads of any other branches of the armed forces of the Federation as may be established by an Act of the National Assembly. In addition, section 305 empowers the President to declare a state of emergency in any part of the federation, however this needs to be subsequently approved by a Resolution of the National Assembly.

At the strategic level, there are institutions and organisations, established by law and placed under the Executive arm of government for the purposes of coordination, control and supervision of the security and law enforcement agencies. These include, the National Security Council, the National Defence Council, the Nigerian Police Council, Office of the National Security Adviser (ONSA), the Joint Intelligence Board (JIB) and the Intelligence Community Committee (ICC). These organisations have the power to advise the President on matters relating to defence and public security including matters relating to any organisation or agency established by law for ensuring the security of the Federation.

Section 153(1) of the Constitution specifically establishes the National Defence Council, National Security Council, the Nigeria Police Council and Police Service Commission. Their functions are also clearly stated in Part 1 of the Third Schedule of the Constitution. On the other hand, the Office of the National Security Adviser (ONSA), the Joint Intelligence Board (JIB) (under the office of the ONSA) and the Intelligence Community Committee (ICC) are not constitutional creations. While paragraph 25 (g) of part 1 of the Third Schedule lists the National Security Adviser as a member of the National Defence Council, it does not prescribe its functions. Some respondents opine that there is a misconception on the role office of the National Security Adviser (ONSA) and contend that it wields too much power - most of it not backed by law- on security matters.

Also, within the Executive arm of government, the Federal Character Commission (FCC) is established under Section 153(1)(c) of the 1999 Constitution to ensure that the composition of the Government of Federation or any of its agencies (including the security sector) and the conduct of its affairs are carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity and also to command national loyalty, thereby ensuring that there is no predominance of persons from few States or from a few ethnic or other sectional groups in that government or in any of its agencies.⁸ It is important to note that section 219 further grants the National Assembly the power to establish a body with powers to ensure that the composition of the Armed Forces of the Federation shall reflect the federal character of Nigeria in the manner prescribed in section 217.

4.1.2 The Legislature

Apart from the executive arm, the Legislature also has a constitutional mandate to conduct oversight of the security sector. Section 4 of the 1999 Constitution vests legislative powers of the Federation on the National Assembly (NASS) and its key functions are broadly grouped into law making, representation and oversight. NASS oversight powers derive from Section 88 of the Constitution, which empowers it to direct or cause to be directed, investigations into the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility for executing or administering laws enacted by the National Assembly and disbursing or administering moneys appropriated or to be appropriated by the National Assembly.

Following the above, the responsibility for making laws on defence and security, the armed forces, police, prisons, arms, ammunition and explosives resides with the National Assembly

8 See Section 14(3) of the 1999 Constitution of the Federal Republic of Nigeria (as amended).
Structural and Institutional Mechanisms for Security Sector Oversight in Nigeria: Issues and Challenges

(sections 4 and the exclusive legislative list in part 1 of the 2nd schedule). This means that State legislatures lack powers to legislate on these matters. Some other constitutional powers of NASS as it relates to the security sector include:

- Power to approve the declaration of war and deployment of troops - Section 5(4) (a) and (b)
- Power to make laws regulating (a) the powers of the President as Commander-in-Chief of the Armed Forces; and (b) the appointment, promotion and discipline of members of the Armed Forces - (Section 218 (4))
- Approval of key government appointments - (Section 147(2))
- Powers over finance and appropriation, which includes approval of security sector budgets - (Section 81) NASS however has no power to decide on the procurements to be done by the military. It is important to note that in March 2017, the House of Representatives amended the Public Procurement Act to make security agencies more accountable in procurement matters by extending the application of the Act to procurements involving national security or defence. To take effect, this amendment would need to be adopted by the Senate and signed by the President). It is also important to note that the National Assembly through its Public Accounts Committees (PACs) oversees Public Funds and implementation of the National Budget by considering reports from the office of the Auditor-General of the Federation. PACs have powers to scrutinize government accounts on a regular basis and provides an opportunity for improved monitoring of government spending. The relationship and cross-cutting role between the PACs and Office of the Auditor-General presents huge opportunities for oversight. Unfortunately, this is mostly underutilized.
- Investigative powers i.e. powers to summon and question members of the executive arm of government and to procure witnesses and evidence - (Sections 88 and 89). This power is further reinforced by the respective Standing Orders or Rules of the Senate and House of Representatives.

The essence of the exercise of oversight powers by the legislature is to expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it. In summary, the Legislature has the constitutional mandate to conduct oversight of the security sector through law making, appropriation and investigation. This provides the constitutional grounds for the Legislature to oversee the executive, including the security sector and its supervising agencies. Although oversight responsibilities of the National Assembly include the right to summon heads

of security agencies to give account of activities and procedures; however, they cannot interfere in operational matters in the security sector. This constitutes a limitation to legislative oversight.

4.1.3 The Judiciary

The judiciary, as the third arm of government is vested with the power to adjudicate over matters involving conflict between individuals; two constituent states of the federation, or between a state and the federation. Judicial powers of the Federation and the State is vested in the Courts (section 6 (1) of the Constitution). In broad terms, the courts provide an opportunity for citizens to ventilate their grievances and provides a platform for such grievances to be addressed. As it relates to the security sector, the Judiciary via the courts provides oversight of the security sector through trial of violations that occur in the sector or hearing of civil or criminal proceedings in this regard and rulings on the constitutional legality of laws governing the security sector. Unfortunately, lack of resources has made it challenging for the courts to adjudicate matters in a speedy manner. In addition, the lack of political will by the government to prosecute violations means that there are lost opportunities for the courts to give decisions or make pronouncements on such issues.

Ball and Fayemi (2008) note that the judiciary has a role to play in ensuring that there is democratic governance in the security sector and in giving effect to legal norms and provisions concerning the sector. They identify as a good practice, an independent civil judiciary that is not subordinate to the justice systems in the security sector and that military justice systems should be limited to matters that are clearly internal to the armed forces and verdicts subject to appeal in civil courts. In Nigeria, the Judiciary is set up as an independent arm of government and by virtue of section 240 of the Constitution; decisions of a court martial or military court are subject to review by the Court of Appeal.

It is important to note here, the principle of separation of powers, which guarantees the independence of each of the government and requires that neither arm of government should control the affairs of the other. Essentially, the legislature as a symbol of true democracy makes laws, which the executive is under obligation to implement. The judiciary is legally called upon in the determination of civil rights and obligations to interpret the laws. The executive holds the powers of investigation, coercion and implementation of laws and can as well use these powers to call the legislature and judiciary to order.

4.1.4 Independent Oversight Bodies

Beyond the state agencies are the independent oversight institutions such as the National Human Rights Commissions (NHRC), Public Complaints Commission (PCC), Economic and Financial Crimes Commission (EFCC), Independent Corrupt Practices Commission (ICPC), as well as other judicial panels or commissions of inquiry set up by the executive to look into issues brought to it, as they relate to the security sector.

There is no constitutional provision establishing the NHRC, but the preamble of the National Human Rights Commission Act 2010 (as amended) speaks particularly to Chapter 4 of the Constitution dealing with fundamental human rights. The preamble highlights the desire of the Federal Government to create an enabling environment for extra-judicial recognition, promotion and enforcement of all rights recognised and enshrined in the Constitution and under other laws of the land; provide a forum for public enlightenment and dialogue on and to limit controversy and confrontation over allegations of human rights violation by public officers and agencies and to reaffirm the sacred and inviolable nature of human and other fundamental rights.

There is no constitutional provision that directly establishes the PCC but, similar to the National Security Agencies Act (Cap N74 LFN 2004), section 315(5) (b) enshrines the Public Complaints Commission Act in the Constitution. The EFCC established by virtue of the Economic and Financial Crimes Act, 2004 while the ICPC is established by virtue of the Corrupt Practice and Other Related Offences Act, 2000. Unfortunately, the level of independence of these bodies are questioned most times because they are seen by many as appendages of the executive who inaugurates or sets them up.

4.1.5 Civil Society Organisations and the Media

Media

While the Constitution does not prescribe specific roles for the media in security matters, certain provisions therein implies that the media has a role to play in oversight. Section 22 of the Constitution provides as follows; “the press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and “uphold the responsibility and accountability of the Government to the people” (emphasis

added). It empowers the media to relay to the public information that is considered necessary for good governance. The implication of this provision is that the media has a role in monitoring and holding government accountable to the people. As noted by a respondent, "though this section of the Constitution does not single out the security sector, given that it is part of government institutions, the media is also empowered to hold it to account." Unfortunately, this provision is non-justiciable.

Section 39(1) of Chapter 4 of the 1999 Constitution also deals with press freedom and provides that: "Every person shall be entitled to freedom of expression including freedom to hold opinions and to receive and impart ideas and information without interference". While the rights in this chapter are justiciable, this provision is not absolute and is qualified in subsection (3) (b) , which states that the provision of the section shall not invalidate any law that is reasonable justifiable and imposing restrictions on government officers, members of the Police Force, Armed Forces or security services/agencies established by law meaning that these class of persons can be restricted by law, to share information or express opinions. The Constitution in section 45 further allows for derogation from this freedom in the interest of defence, public safety, order, morality or public health or for the purpose of protecting the rights and freedom of other persons.

These qualifications limits press freedom and as well, the ability of persons in the security sector to share certain information. In fact, these limitations have been used as a basis for argument by government and security sector agencies that not all its activities should be publicised with the excuse that the information is classified or confidential or relates to national security. This was exemplified by the practice of the citing of the Official Secret Act, LFN 2004 by government officers as a ground for refusal to share information. This Act is one of the laws protecting civil servants from divulging official facts and figures. Under the Act, it is an offence for any civil servant to give out government information or classified matter, it is also an offence for anyone to receive or reproduce such information. Although the Act was established to protect vital government information, it has contributed to creating opacity within government institutions.

In response to this challenge, the Freedom of Information Act (FOIA) was passed in 2011. By virtue of Section 27 of the Act, the provisions of various legislations that prohibit disclosure of official secrets have been made subject to the provisions of the Freedom of Information Act. Legal experts have argued however that for the FOIA to work as intended, the Official Secrets Act would have to either be repealed or amended, as it is still extant law.

Before the passage of the FOIA, virtually all government information in Nigeria was classified as top secret and this made it difficult to obtain information from a state agency. This is also a major

hindrance to the National Assembly as it relates to accessing documentation during oversight. While the Act appears to be a tool for unveiling the secrecy and has the potential of promoting transparency and accountability if properly utilised, the experience is that the secrecy culture is still pervasive, as most government agencies do not respond to FOI requests - often citing excuses or taking advantage of exemptions in the law. For instance, section 11 (1) of the FOIA provides that a public institution may deny an application for any information the disclosure of which may be injurious to the conduct of international affairs and the defence of the Federal Republic of Nigeria. Civil Society Organisations who have tried to get information from the Office of the National Security Adviser have been met with this response.⁹

In addition to the limitations enumerated in the Freedom of Information Act itself, the National Security Agencies Act (NSAA), which is entrenched in section 315 (5) (c) of the Constitution limits access to public information.¹⁰ The Act creates three agencies tasked with the security of the state: the State Security Services, the National Intelligence Agency and the Defence Intelligence Agency. Section 2 of the Act delegates responsibility for the protection and preservation of all military classified matters to the Defence Intelligence Agency.-

The implication of having this provision in the Constitution is that its provisions can only be altered by following the cumbersome procedure prescribed for Constitution alteration i.e. approval of any amendment proposal by two-thirds majority of members of each NASS chamber, as well as approval by two-thirds of Nigeria's 36 States (i.e. 24) and assent by the President. Because of this cumbersome procedure, the Act cannot easily be amended to reflect the prevailing situation in the Country. However, if it is removed from the Constitution, it can be amended by the National Assembly through ordinary law-making process. The retention of this provision in the Constitution following the transition to civilian rule has been criticized as being contrary to the democratisation process and therefore exposes the country to the whims and caprices of security agencies who largely operate in secret. There are current efforts by the National Assembly to have this provision expunged from the Constitution.

9 See: "Govt Agencies Sabotage Freedom of Information Act" at <https://www.icirnigeria.org/govt-agencies-sabotage-freedom-of-information-act/>. See also: "Unrepentant NSA's Office Denies Access To Information With Impunity" at <https://www.icirnigeria.org/unrepentant-nsas-office-denies-access-to-information-with-impunity/>

10 See: Roundtable On Press Freedom And National Security 29th June, 2011 at <http://www.nials.edu.ng/index.php/2015-12-10-16-05-04/roundtables/158-roundtable-on-press-freedom-and-national-security-29th-june-2011>

Civil Society Organisations

The Constitution also does not prescribe specific role for Civil Society Organisations (CSOs) in security sector oversight, however in every society, civil society groups play an important role in SSR fulfill a range of functions including representing the interests of diverse constituents within a population, providing technical expertise to policymakers and government institutions, capacity-building of NGOs and other bodies, delivering and providing services in lieu of the State and providing a space for social interaction and networking (Jones and Williams, 2002; Caparini, 2004).

Given the above-listed functions, civil society oversight of the security sector, including oversight of security sector reform (SSR), involves the active participation of CSOs in defining security policies and overseeing the structures and practices of security sector actors (Caparini, 2004). The objective is to ensure the incorporation of community-level and grassroots interests and perspectives in the provision of internal and external security and to support local ownership and sustainability. In addition, civil society oversight ideally supports internationally accepted democratic norms on transparency and accountability. Civil society oversight can occur at local, national, regional and international levels and can include CSO participation in both formal and informal oversight mechanisms.

A vibrant outdoor market scene with a large crowd of people. In the foreground, several people are seen from behind, looking towards the market. A police car with "POLICE" written on its side is parked on the left. The background shows various stalls and more people, creating a bustling atmosphere. The text "Chapter 5" is overlaid in the center in a large, white, serif font.

Chapter 5

CHALLENGES TO EFFECTIVE SECURITY SECTOR OVERSIGHT IN NIGERIA

5.1 The Executive

In every developing democracy, there needs to be room for improvement in its oversight mechanisms. As it relates to executive oversight, one respondent noted the prime challenge of the overbearing nature of the Office of the National Security Adviser. Considering that the functions of this office are not well articulated in any legislation (besides serving on the National Security Council), it is difficult for adequate checks to be carried out, particularly as it relates to the funding of the office. It has been argued that the office wields too much power, most of it is not backed by law. The arms purchase scandal involving the arrest and detention of former National Security Adviser (NSA) Sambo Dasuki flagged compliance issues in procurement and defence spending. Arms procurement is supposed to be under the purview of the Ministry of Defence and the NSA is supposed to only advise on the procurement. As it is, the office is a staff position not requiring Senate confirmation meaning that the office holder is solely answerable to the President.

Another notable challenge is as it relates to appointment and recruitment into the sector, security policies and other fundamental activities in the sector, which are within the exclusive preserve of the executive arm, but require legislative approval. It is often the case that appointment and recruitment is done on a selective basis as opposed to hierarchy. Specifically on recruitment, it is often the case that recruitments of officers is usually skewed in its composition, which negates the role of the Federal Character Commission. This is exemplified with the recent State Security Service recruitment exercise, wherein 165 were recruited from the North-west, North-east 100, North-central 66, South-west 57, South-east 44 and South South 42. This was in direct contravention to the official policy of 5 slots per state.

Another factor that has been flagged as a challenge is the multiplicity of functions in response to addressing gaps within government bodies. Further, such agencies are created from existing agencies without mainstreaming the mandates and roles thereby leading to duplication of functions between agencies. This can be seen with The Nigerian Civil Defence Corps (NSCDC) or the newly created Peace Corps (establishment law yet to be signed by the President) undertaking

some of the functions of the Police. While the functions of the Nigerian Police are clearly spelled out in the Constitution, the same cannot be said of the NSCDC. With the exception of the registration and supervision of civil guard companies in Nigeria, other functions of the Civil Defence Corps, as provided in its establishment Act of 2007 such as crime investigation and prosecution of criminal offenders, conflict with those of the Police Force.

If a new agency is to be created, it is expected that its functions would be streamlined to avoid overlap. However, a more popular opinion in this regard is that the government should strengthen existing agencies such as the Police rather than create new bodies.

5.2 The legislature

According to Bentick and Born (2013), nowhere are the challenges of establishing effective parliamentary oversight of the security sector more apparent than in the case of emerging democracies, which Nigeria fits in. This refers to fragile democracies, which find it difficult enough to satisfy the basic requirement of civilian and democratic rule over their armed forces and security services, which often continue to claim a special role for themselves within the State and in society at large once the formal transition to democracy has been completed.

In Nigeria, effective parliamentary or legislative oversight of the security sector has been hampered by several factors. Most notable among these factors is the fact that the 1999 constitution gives the Presidency almost absolute control over the defense and security sector without serious consideration to the legislative body which, all things being equal, constitutes the eyes of the people in the governance process. The lack of a clear pronouncement in the Constitution on the issues of the military's accountability to the people and their elected representatives poses another set of challenges. In other words, the 1999 constitution does not sufficiently empower the National Assembly to effectively check the excesses of the executive arm of government, especially with respect to the control and governance of the most critical domain of State power – the security sector (Aluko, 2015). In relation to this, it has been argued that the 1999 Constitution handed over by the military regime of Gen. Abdulsalami Abubakar to the democratically elected government of President Olusegun Obasanjo in 1999 has retained a governance model over the security sector, which typically characterized military administrations. A contrary opinion here is that the issue is more of the attitude of the executive and their reluctance to be accountable to civilian authorities as against the normative or constitutional framework in place.

Another factor is the lack of informed knowledge and expertise on the part of elected civilian

authorities. As some respondents noted, there is a dearth of technical expertise on security matters in both state and national legislatures. A major causative factor is the absence of capacity by legislators, which in turn is caused by low retention rates in the legislature. For instance, in the 7th National Assembly (2011-2015), out of 469 legislators (109 Senators and 360 Members of the House of Representatives), 187 were re-elected while the remaining 282 were elected for the first time. That is a 25% retention rate.

In the current 8th National Assembly, there is less than 31% retention rate. Low retention rate in the legislature does not give room for capacity building and results in loss of institutional memory, which are detrimental to effective legislative oversight. Furthermore, the lack of technical capacity of legislators, lack of clarity on the oversight role, lack of resources to engage in house professionals and consultants, as well as ineffective communication with military professionals often results to gaps in policy legislation and oversight.

Another factor is the inefficient use of the committee system in the legislature. Although there is an institutionalised and standing or permanent committee system in the National Assembly, in practice, it has been largely driven by what respondents have described as “ad-hocery” rather than a systematic arrangement underscored by general principles of oversight in the governance of the security sector. A respondent also noted that individuals, who have little or no competencies, are often in charge of security-related committees in the National Assembly and this manifests in the form of lack of understanding of security matters and weak oversight.

Another factor impeding effective legislative oversight of the security sector is what a respondent described as the “use of public offices for personal vendetta.” According to the respondent, there have been cases where retired and experienced military personnel heading legislative oversight committees have brought personal grievances with the service to bear on official duties, which turned out to impact negatively on quality and purpose of oversight.

The secrecy in which the security sector operates equally creates a challenge in legislative oversight. As has been noted, the narrow definition that restricts security to its military dimension precludes the notion that security knowledge should be widespread and its activities made transparent, even to elected representatives of the people. Thus, the security sector has employed secrecy and successfully managed to keep prying eyes at bay under the excuse of protecting national security, thereby preventing proper parliamentary and extra-parliamentary monitoring of security agencies.

On the contrary, while a respondent agreed that the security sector in Nigeria, like every other country, operates in an environment of secrecy, he argued that it should not be a hindrance to

effective oversight. According to him, “the problem lies in the deliberate refusal of politicians and practitioners to do their job” because of personal and pecuniary interests, which leads to undue demand from MDAs by oversight bodies resulting in compromise and poor oversight. The lack of will power and courage often exhibited by some legislators in security sector oversight has been attributed to the lack of integrity that characterises the performance of their oversight functions (Aluko, 2015).

A very good example cited was the 2012 House of Representatives investigation of the fuel subsidy scam occurring in the country at the time and subsequent allegation of demand and collection of a bribe of \$620,000 by Hon. Farouk Lawan from the Chairman of Zenon Oil, Mr. Femi Otedola.¹¹ Hon. Lawan was the Chairman of the investigative panel set up by the House of Representatives to probe the subsidy payments to various oil-marketing companies by the federal government and Otedola’s company was under investigation and to be indicted by the panel. Unfortunately, the bribery scandal compromised the report of the panel and completely scuttled the oversight process. The point the Respondent was making here is that non-enforcement of ethical standards and compromise within the ranks of the legislature makes effective implementation of legislative oversight near impossible.

Lack of political will is can also be attributed to ethnic and political loyalties. Often times, political party or ethnic loyalties and affiliations are prioritised over and above respect for and adherence to democratic values and principles. In practice, legislators are sometimes unwilling to challenge a member of the executive who is a member of their party or ethnic group for personal and political reasons. It is important to note that the executive (President and Governor) controls the machinery of the party and therefore wields extensive powers. Often times, this has resulted to legislators being unable to exercise political will to even use the oversight powers at their disposal constructively and effectively.

There is a somewhat unanimity among respondents on an overt failure of legislative oversight of the security sector in Nigeria, which has aided the creation of weak institutions in government. Pointers to this failure of oversight include the excessive financial corruption and economic crimes within the sector is evident by the ongoing investigations into and recovery from alleged culprits in the “Dasuki arms deal” scandal; an investigation into the misappropriation of USD 2.1

11 See: <http://www.premiumtimesng.com/news/top-news/230765-fuel-subsidy-fraud-sss-video-shows-farouk-lawan-receiving-bribe-otedola.html>

See also: <http://www.channelstv.com/2012/08/03/the-3-million-conversation-between-farouk-lawan-and-femi-otedola/>

billion meant for the procurement of military hardware by the Office of the National Security Adviser (ONSA) in 2012.

Aluko (2015) alluded to this manifest failure when he posited that the inability of Nigeria's legislative body to carry out its oversight functions over the security sector constitutes a major constraint to security sector performance. This he believed, has created loopholes for corruption and politicisation of the sector. Aluko argues also that this is largely due to executive or presidential control over the sector, rather than the representatives of the people, the National Assembly. The non-detection of the Dasuki saga despite the various alarms raised in 2014 as to the monumental corruption being perpetrated in the security sector is a clear indication of the shortcomings in security sector oversight in Nigeria. In 2014, an anonymous soldier had chronicled that:

"The corruption in the Nigerian military environs is higher than in the political sector. In my Unit, soldiers live without accommodation. In the little space available, they are being paired up to two and three in a room. Still, millions are being spent on the gigantic edifice of the Airlodge located near Ribadu Square, Jimeta, Yola, which is meant for senior officers. Millions are located to the ongoing project of the Air Chief Marshal A. S. Badeh's golf club (along Jambutu Numan Road, Yola). I know that soldiers serving in 37 BSG and 75 STG, Yola (war zones) are not being paid their operational allowances. It is crystal clear to us that the funds are coming from the DHQ Abuja, but the money is diverted to the private pockets of a few chosen ones. Our colleagues in the Nigerian Army have to endure a similar fate."¹²

Several factors have been identified as being responsible for the obvious failure of legislative oversight of the security sector. For some respondents, members of the legislative oversight committees for security related agencies and institutions lack the technical knowledge, the requisite expertise and relevant competences to provide the necessary oversight on the security sector. One respondent noted that in situations where members have the competence and expertise, "they see their membership of the legislature as an opportunity to avenge whatever wrong was done to them while in military service, which compromises quality of oversight." Other factors that account for the failure of legislative oversight were enunciated by the respondent to

12 Chris A. (2014). Corporal of Air Force on Corruption in Nigerian Military. Available at <http://www.informationng.com/2014/09/corporal-of-air-force-on-corruption-in-nigerian-military.html>. Accessed October 10, 2015.

include the following;

- i. Politicisation of the leadership of the oversight institutions;
- ii. Compromise of standards due to undue demands from oversight institutions on security agencies; and,
- iii. Politicisation of the military in internal security operations (ISOs).

While agreeing that the Dasuki scandal was largely due to the shortcomings in security sector oversight, some respondents, however, noted that there was a willingness on the part of the security agencies to utilise the money for the purposes of its approval but international regulations and politics forestalled the actualisation of that willingness. However on the contrary, another respondent was of the view that the Dasuki scandal was not a failure of oversight but “a clear case of corruption, bordering on irresponsibility and lack of fiscal and moral discipline on the part of the disbursing authorities.” This was further buttressed by a respondent who summarised the Dasuki scandal as “not just a failure of oversight but also of the nature and character of those involved in oversight responsibilities; cases of corruption, compromise and vested pecuniary interests.”

Box 6: Respondents' views on Security Sector Funding and Role of Oversight Bodies

1. The-need-to-know practice in the military is a hindrance to oversight, discomfort about informing oversight stakeholders details due to lack of trust (Respondent, Army)
2. NIA money and Dasuki gate case are clear examples why every operation must be subject to oversight and reports and accounts on how the operation went must be given to oversight bodies (Respondent, NASS)
3. Security sector funding systems haven't changed from since the military era, it is used for primitive acquisition for personal enrichment. The military used Boko Haram Insurgency as an ATM card from government. Oversight cannot cover all the loopholes in security sector finding due to the political nature of society. (Respondent, Academia)
4. Appointment of security chiefs should be done by the president and sent to the senate, it has never been done. The senate has also never challenged the practice due to the system of patronage and politics.
(Respondent, Academia)
5. Wars cannot be fought without a budget and even in peace time it is expensive to maintain the armed forces. It is not true that military spending is not transparent, the general laws and army laws govern it and the federal procurement act is binding on the army. There are also spending limits for service chiefs (Respondent, Army)
6. The former NSA case is a misnomer, it has never happened before and even the need to urgently procure arms was due to pressures of the insurgency. Needs during warfare change the procurement process. Politicization of security is a bigger problem than weak oversight. (Respondent, Army)
7. Oversight is engraved in the political economy of the country, the defence market is like any other market, besides military budgeting is not secretive, operations are. Politicians saddled with oversight responsibility are more interested in contracts for infrastructure and supplies and not the budget content or quality of work to be done with it. It is all about the interests of actors (Respondent, Academia)
8. Knowledge gaps in security create room for corruption and fraud, capacity is unavailable and this is because of the rotation of civil servants and deficiency of military personnel in the MOD. (Respondent, Navy))
9. Dasukigate was not a failure of oversight; you cannot oversee what you do not know. Even in emergencies a supplementary request must be made and approved. (Respondent, Academia)

5.3 Extra-Parliamentary Bodies

For extra-parliamentary bodies, especially the MDAs that have oversight and supervisory roles in

the security sector, lack of capacity and technical know-how is a major challenge in security sector oversight. For instance, the Ministries of Defence and Interior are structured in such a way that they do not have security personnel from the agencies they oversight as staff of the Ministries. Another challenge in security sector oversight by extra-parliamentary bodies is the secretive nature of the security sector, which hinders public scrutiny of the sector. Most fundamental of the challenges is the issue of executive corruption, which is prevalent in the extra-parliamentary bodies, especially the MDAs and the judicial arm of government.

5.4 Civil Society Organisations and Media

One major factor identified by a respondent that challenges the capacity of the media to effectively oversee the security sector is “the absence of a national communication strategy in Nigeria.” This, according to him, results in lack of direction by media practitioners given that there is no proper conceptual understanding of the role of the media in good governance and security sector oversight. Another factor identified by the same respondent is the low capacity and weakness of the media industry due to the absence of institutional direction and regulatory framework within the industry. By this he means that unlike other professions, the media is highly unregulated in terms of who practices and who becomes a professional. The respondent also identified corruption by media practitioners and poor funding by media owners as constituting challenges to effective oversight of the security sector (Caparini, 2014).

On the issue of the secret nature of the security sector, it is noted that one of the major obstacles to effective oversight of the security sector is lack of transparency and restrictions placed on the reporting of the activities, budgets and expenditures of the security apparatus. Thus, the media faces challenges in performing these functions vis-à-vis the security sector, traditionally among the most-opaque and secret of policy sectors even in mature democracies.

The tradition of secrecy also affects CSO involvement in security sector oversight.

A number of CSOs working on SSR have the ability to take on the roles of critics, catalysts and advocates for greater accountability, however the lack of trust between CSOs and security bodies also makes engagement and information exchange difficult.

5.5 Justice Authorities

Corruption and other forms of misconduct within the judiciary threaten its independence and

oversight role. In recent times, the Nigerian judiciary has been fraught with allegations of judicial rascality and bribery. Only recently, the DSS raided the homes of senior judges on suspicions of receiving huge sums of bribe in foreign currency and stashing it away in their homes. While these allegations have not been proved, they are sufficient by themselves to undermine public trust in the sector and their ability to demand accountability.

A key challenge in the oversight of the security sector may also be seen through the powers given to the Attorney General to commence, trial and discontinue suits. For instance, if a suit has been filed by the Attorney General of Federation against the Nigerian Army over unlawful exercise of their power and the matter is discontinued by the AGF or settled out of Court, it takes it out of the ambit of the court to perform its oversight functions. Other challenges facing the formal institutions in the justice sector include delays and backlogs, scarce resources as well as poor financial and personnel management.

Box 7: Respondents' views on Security Sector Funding and Role of Oversight Bodies

- (a) Oversight is poor because oversight institutions have issues that limit their capacity to perform oversight. These factors compromise their competence and objectivity.

(Respondent: Academia)

- (b) Military behaviour is for a purpose, it is derived from training and conditioning of the mind and body for combat. Military behaviour influences practitioners' reaction to civilian oversight. (Respondent: Army)

- (c) If you look at the challenges and bottlenecks, one can say that oversight is strong and performance is very good, even though there is always room for improvement.

(Respondent: National Assembly)

- (d) Oversight is generally weak but not necessarily because there is inadequate authority or power given to oversight bodies, it is more about the will to conduct oversight in national interest as opposed to political or other interests.

(Respondent: Air force).

- (e) The lack of women in decision-making positions reflects in the composition of oversight bodies for the security sector, fewer women in elective position means fewer women in committees. The implication is the exclusion of women in peace and security initiatives and the resultant skewed performance.

(Respondent:CSO).

- (f) Lack of constitutional clarity on the subordination of the armed force to not just the commander in chief, but the National Assembly as well is part of the problem. The soldiers don't think they have to answer to the National Assembly after they present and defend their budgets.

(Respondent:CSO)

A vibrant outdoor market scene with a large crowd of people. In the foreground, several people are seen from behind, looking towards the market. A police car with "POLICE" written on its side is parked on the left. The background shows various stalls and more people, creating a bustling atmosphere. The text "Chapter 6" is overlaid in the center in a large, white, italicized font.

Chapter 6

PERSPECTIVES ON GENDER ISSUES IN SECURITY SECTOR OVERSIGHT

On how gender roles and stereotypes influence democratic oversight and accountability of the security sector in Nigeria, there is unanimity among respondents that gender perspectives or dimensions in security sector oversight, whether in parliament, extra-parliamentary bodies or in the civil society, have largely been alien to the Nigerian State. In this sense, attempts at gender mainstreaming in security sector oversight have not been successful. As noted by a respondent, there is “high gender imbalance” in security sector oversight in Nigeria. According to the respondent, this situation is created by structural imbalances in State institutions and policies, especially in recruitment within these institutions. He traced these structural imbalances to the nature and character of the Nigerian State and those who act on its behalf, which he described as being skewed to recognise the male folk to the exclusion of the female folk. Generally, therefore, the discussion of the role of gender in security sector oversight feeds into the larger discourse on the issue of equity in terms of gender balance in security related decision making in Nigeria.

Attempts have been made by Nigeria to respond to the need for the inclusion of women in this process and in security related decision making. For instance, following the Nigeria’s adoption of United Nations(UN) Security Council Resolution 1325 on women, peace and security, the Ministry of Women Affairs developed a National Action Plan on the Resolution. The Presidential statement of 8 March 2000 by the President of the United Nations Security Council formed the foundation for the adoption of UN Resolution 1325 on Women, Peace and Security, adopted on March 31, 2000 in its 4213th meeting. The resolution was considered a landmark resolution being the first time the disproportionate effects of armed conflict on men and women were formally recognised (UN, 2002). UNSCR 1325 emphasises the importance of the appreciation and application of gender perspectives to the United Nations efforts in the areas of peace building, peace keeping and conflict prevention and resolution. The National Action Plan (NAP) by the Ministry on UNSCR 1325 in the context of women, peace and security in Nigeria is one of such, which strives to achieve the following;

- i. To increase women’s engagement in peace building and conflict management;
- ii. To increase access to reporting and protection services for girls and women affected by women’s rights abuses; and

- iii. To enhance a conducive environment for the implementation of UNSCR 1325

The implementation period for the Action Plan is indicated to be for 36 months, at the end of which a final report on its implementation will be submitted to the President and National Assembly. Some of the planned activities¹³ in the action plan dealing with the National Assembly include advocacy to NASS for revision of discriminatory laws against women related to sexual offences, gender based violence awareness activities and training for legislators, as well as advocacy to NASS for increased budgetary allocation to peace building and promotion of the Plan.

Respondents discussed the status of gender mainstreaming in relation to women and men's participation in security sector. The structural challenges to women's participation in governance were highlighted as the core challenge and some recommendations included:

- i. Deliberate policies to genderise recruitment into armed services;
- ii. Gender audit of policies and guidelines for women;
- iii. Review of extant laws on gender mainstreaming;
- iv. Deliberate policies that strengthen participation; and
- v. Increase awareness on the fact that security has no gender and everyone must participate at every level.

13 National Action Plan available at: <http://www.nsrp-nigeria.org/wp-content/uploads/2014/03/National-Action-Plan.pdf>

Box 8: Respondents' views on the Effect of Gender in Security Sector Oversight

1. Gender mainstreaming is still problematic in the media profession and still has its challenges in military settings.
2. Lack of implementation of 35% affirmative action hinders women's participation in oversight and there is also a knowledge gap for women in security matters.
3. Gender mainstreaming is in place in the military. Female generals and heads of their corps have emerged. We have the first ever female fighter pilot and the academy now takes female cadets as regular officers. However, this is yet to be replicated in other institutions, for instance, the number of women in the NASS is quite low.
4. Gender imbalance is prevalent on both sides (practitioners and oversight institutions). This stems from structural challenges to women's participation in governance and in leadership positions in the National Assembly.
5. Rules and policies for participation in the armed services are based on colonial rules e.g. policewomen cannot marry without permission. They must change and be reviewed to reflect the new realities.
6. The nature and character of the African State and those who act on behalf of the State is such that women are excluded from leadership, decision making and participation in issues relating to peace and security.
7. Most female officers prefer desk jobs as against fieldwork and this is a challenge because field or operational experience is a major consideration in attaining senior level appointments within the services.

(Respondents: Media and the Military)

A large crowd of people is gathered outdoors, possibly at a public event or protest. In the background, a police car with "POLICE" written on its side is visible, along with several police officers in uniform. The crowd consists of people of various ages and ethnicities, some looking towards the camera and others looking away. The scene is brightly lit, suggesting it is daytime.

Chapter 7

KEY FINDINGS

Security sector oversight by the relevant oversight bodies in Nigeria is inadequate and needs to be scaled up. This situation is informed by the following factors, among others:

- i. The Nigerian security sector, as currently constituted, is strongly controlled by the executive arm of government. Under such condition, legislative oversight of the security sector is weakened;
- ii. The Security Sector in Nigeria is also plagued with the activities of non-state security actors. These groups do not have officially designed guidance documents in the form of standard operating procedures, code of conduct or rules of engagement that regulate them in terms of their operations and relations with the formal security actors. This has partly accounted for ambiguity in their operations and excesses in their conduct, which makes oversight and accountability a major challenge in the context of security sector governance;
- iii. There is a lack of capacity and technical competences by some oversight bodies as it relates to oversight of the security sector. In the case of the extra-parliamentary bodies, for instance, it was noted that the composition of the Ministry of Defence, which is a non-legislative oversight body, is flawed by the non-inclusion of military personnel. This leaves gaps in knowledge and technical expertise in matters relating to arms procurement. In the case of the National Assembly, lack of capacity and technical competences among the Senators and Representatives is caused by low retention rates, which does not give room for the building of capacities and institutional memories by legislators. The lack of capacity by the National Assembly may have been aggravated by low retention rates. For instance, in the 7th National Assembly, 2011-2015, out of 469 legislators (109 Senators and 360 Members of the House of Representatives), 187 were re-elected while the remaining 282 were elected for the first time. This is 25% retention rate. In the current 8th National Assembly, there is less than 31% retention rate. This does not allow for development of capacity and institutional memory;
- iv. Issues of secrecy and lack of trust between civil society groups and the security sector creates creates challenges for effective civil society engagement with the sector and therefore, demand for accountability;

- v. Poor capacity by the media for effective security sector oversight is occasioned by the absence of or the existence of weak regulatory frameworks within the media industry. The lack of a National Communication Policy and Strategy also makes oversight by the media unreliable, inconsistent and difficult. Though empowered by Section 22 of the 1999 Constitution (as amended) the broad authority to oversee activities of government is not specific to the security sector and non-justiciable (i.e. non-enforceable in courts as rights);
- vi. There is a manifest lack of integrity by members of oversight bodies whether in the parliament or in the extra-parliamentary oversight agencies. Experiences showed that standards and principles in oversight have severally been compromised by staff of relevant oversight bodies due to personal gains or pecuniary interests;
- vii. Despite extant laws that requires sharing of public information such as the Freedom of Information Act, 2011, the security sector in Nigeria remains one of the most opaque and secretive sectors in the country. The consequence of this is a high level of corruption and impunity in security sector spending as seen in the investigations into the USD 2.1 billion arms deal scandal, otherwise referred to as "Dasukigate." This excessively secretive nature of the security sector is informed by the following factors;
 - a. Lack of subordination of the security sector in general and the military institutions in particular to civil authorities including elected representatives; This is a challenge that has been carried over from the long years of military rule where democratic institutions, especially the parliament, were non-existent and the military was a law unto itself; and
 - b. The highly militarised nature of the sector; which often lacks a clearly defined role, mission and strategy for operations due to the absence of a national security strategy in the country;
- viii. Gender mainstreaming remains a major challenge in the security sector. This is informed by the fact that the nature and character of the Nigerian state and those who act on its behalf show a proclivity towards structural and institutional imbalances that are antithetical to gender mainstreaming, especially in the security sector and its oversight bodies. This is reflected by recruitment policies and political processes that do not take into consideration the issue of gender mainstreaming, despite extant National Gender Policy.

A vibrant outdoor market scene with a large crowd of people. In the foreground, several people are seen from behind, looking towards the market. A police car with "POLICE" written on its side is parked on the left. The background shows various stalls and more people, creating a bustling atmosphere.

Chapter 8

RECOMMENDATIONS

From the findings made, the following recommendations and implementation strategies are hereby proffered:

Recommendation One

Government to initiate security sector reforms in Nigeria in order to deal with the challenge of secrecy in the security sector in a manner that seeks to de-politicise and subordinate the security sector to civil authority including elected representatives; constitutionalise and redefine the role and scope of the role of the security sector; re-orientate and re-professionalise the core security sector; and demilitarize public order and increase relevance of civil policing. There needs to be attitudinal change within government in the manner in which the executive tends to protect the security sector from legislative scrutiny.

Suggested Implementation Strategies

1. The Ministers of Defence, Interior and the Attorney General of the Federation and Minister of Justice should develop a joint security sector reform policy for presentation to the Federal Executive Council (FEC) for approval;
2. The Secretary to the Government of the Federation (SGF) should gazette and communicate the approved policy to the affected Ministries, Departments and Agencies (MDAs) for implementation.
3. The relevant MDAs should implement the approved Security Sector Reform Policy.

Recommendation Two

In order to maximise the opportunities created by the existence of non-state security actors in Nigeria, the federal government should design a legal framework and institutional mechanisms for their operations so as to ensure that their activities are within the ambit of the law and established rules of engagements. Such framework and mechanism should take into consideration their current operations in community policing, crime control and counter-insurgency operations as currently witnessed in the North East region.

Implementation Strategies

The Ministry of Interior should liaise with the Ministry of Justice in designing a framework and mechanism for the operation of non-state security actors. This can be done via the form of an independent regulatory agency or a review of the existing legal frameworks under the Nigerian Security and Civil Defence Corps (NSCDC)¹⁴ to capture current realities.

Recommendation Three

The National Assembly should liaise with key strategic training institutions to build the capacity of legislators on oversight of the security sector in Nigeria.

Implementation Strategies

1. National Assembly should engage strategic training institutions such as the National Institute for Policy and Strategic Studies (NIPSS), Kuru to develop training module for members of the National Assembly and their staff on security sector oversight in Nigeria. Existing NASS bodies such as the National Assembly Budget and Research Office (NABRO) modelled after the US Congressional Budget Office (CBO) should be fully operationalised and supported to provide independent and cutting budget analysis to the National Assembly's budgetary process (in this instance - on security sector budgeting and spending).
2. As representatives of the people, the National Assembly also needs to respond to the issue of accountability in the exercise of its powers. One way of doing this is to publish reports of oversight activities. While there may be aspects of such activities that would require protection for the purpose of national security, other aspects should be publicised. By so doing, members of the civil society and the public would be given an opportunity to be informed and as well, make vital contributions to public debate on fundamental issues of democratic governance.

Recommendation Four

Government should ensure that the need for confidentiality of security information in the interest of national security is balanced against the need for transparency and accountability. The failure to do this can result to the damage of public confidence and trust in the sector and exacerbate threats to the society that they are meant to protect.

14 Currently, the NSCDC registers private security companies

Implementation Strategies

1. The government should create an enabling environment for the implementation of the Freedom of Information Act (Fol Act); government institutions should be mandated to ensure the provision of appropriate training for its officials on public's right to access to information or records held by government or public institutions.
2. The National Assembly should amend or repeal the Official Secret Act, which might hinder the full implementation of the FOIA. This could force government to operate more efficiently and transparently while simultaneously inspiring citizens to become active participants in the civic process. In addition to the more obvious benefit of accountability, this could decrease government opacity and secrecy.

Recommendation Five

The Federal Ministry of Women Affairs and Social Development to review the National Gender Policy 2006 and other Gender Policies or frameworks of Security agencies in the light of the National Action Plan on UNSCR 1325 relating to women, peace and security. This is important, in order to make it more complementary and relevant to current realities in Nigeria, especially as it relates to gender mainstreaming in Nigeria's security sector.

Suggested Implementation Strategies

1. The Minister of Women Affairs to present the reviewed National Gender Policy to the Federal Executive Council for approval.
2. The Secretary to the Government of the Federation to gazette and communicate the approved policy to the affected Ministry for implementation.
3. The Federal Ministry of Women Affairs and Social Development to liaise with the National Coalition on Affirmative Action (NCAA) to review and update the Implementation of the reviewed National Gender Policy for the next 10 years.
4. Federal Government to make deliberate policies that are aimed at gender mainstreaming in Nigeria's security sector and parliamentary and extra-parliamentary oversight bodies.

Recommendation Six

Civil Society Organisations and the public should be included in security sector reform activities.

Suggested Implementation Strategies

1. Government should build public awareness and trust on security sector activities. Public awareness and engagement is imperative to give legitimacy to outcomes of security sector reform.
2. Civil society organisations should work on improving their capacities to ensure effective monitoring of security sector policy. CSOs could meaningfully contribute to enhancing the transparency of the security sector by engaging with key players in the security sector. CSO's should also identify incentives for reform with key actors and find champions that are aligned to this cause.
3. Civil society must communicate its call for accountability in a manner that is easily understood by the public, who are the ultimate beneficiaries of security sector reform activities.
4. The National Assembly should utilize available mechanisms such as public and investigative hearings, to enable it gain inputs from civil society organisations having knowledge of security and security-related issues. Some effort in this regard has been seen with the introduction of civil society participation in the budget process via public hearings.

Finally, in seeking to strengthen their oversight of the security sector, the parliamentary and extra parliamentary oversight bodies in Nigeria can draw on a range of cooperative structures, instruments, as well as the activities of other actors which, together, do work to create a momentum in favour of reinforced democratic governance of the security sector. This should constitute enough encouragement for parliaments worldwide to deliver on this important democratic requirement.

A vibrant outdoor market scene with a large crowd of people. In the foreground, several people are seen from behind, looking towards the market. A police car with "POLICE" written on its side is parked on the left. The background shows various stalls and more people, creating a bustling atmosphere. The word "References" is overlaid in large, white, italicized font in the center of the image.

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A large crowd of people is gathered outdoors, possibly for a public event or protest. In the background, a police car with "POLICE" written on its side is visible, along with several police officers in uniform. The crowd consists of people of various ages and ethnicities, some looking towards the camera and others looking away. The scene is set in an open area with buildings and trees in the distance.

Annexes

Annexes

Annex 1: Terms of Reference

Goal: To document and provide an evidence-based analysis of the state of democratic security sector accountability in Nigeria, looking at the different levels of impediments to effective democratic accountability.

Expectation:

- (i) a comprehensive mapping of Nigeria's security sector, including state security providers, non-state security providers, state management and oversight actors, non-state management and oversight actors, supported by the normative framework governing these actors and institutions;
- (ii) An analysis of the political, economic and social context in which the Nigerian security sector operates with a view to identifying impediments to sound democratic security sector governance;
- (iii) An identification of key accountability issues affecting the efficiency and legitimacy of the security sector – how do the challenges of accountability as per cost, performance and conduct translate in the Nigerian security sector?
- (iv) An analysis of how gender roles and stereotypes influence democratic oversight and accountability of the security sector in Nigeria.

Annex 2: Guide for Key Informant Interviews

- (i) What are the structures and mechanisms mandated with/involved in democratic oversight of the security sector in Nigeria;
- (ii) How legally mandated oversight institutions perform their oversight functions of the security sector: institutional tools and mechanisms;
- (iii) The perception of members of oversight institutions on the successes and good practices of their institutions, when it comes to holding security institutions and actors to account;
- (iv) The perceptions of members of oversight institutions on internal and external factors that

limit their ability to hold security institutions and actors to account;

- (v) How oversight institutions could improve coordination in the performance of their respective mandates for security sector oversight;
- (vi) How gender issues are currently being – and could be – integrated into security sector oversight by oversight institutions.

ABOUT PLAC: Policy and Legal Advocacy Centre (PLAC) is a non-governmental organisation committed to strengthening democratic governance and citizens' participation in Nigeria. PLAC works to enhance citizens' engagement with state institutions, and to promote transparency and accountability in policy and decision-making processes. The main focus of PLAC's intervention in the democratic governance process is on building the capacity of the legislature and reforming the electoral process. Since its establishment, PLAC has grown into a leading institution with capacity to deliver cutting-edge research, policy analysis and advocacy.

ABOUT DCAF: The Geneva Centre for the Democratic Control of Armed Forces (DCAF) is one of the world's leading institutions in the areas of good governance and reform of the security sector, established as an international foundation in 2000. In Africa, DCAF supports regional organisations, national institutions and non-state actors in their efforts to improve the effectiveness and accountability of the security sector.