



Enhancing Parliamentary Oversight of the Security Sector: Training Seminar on Comparative experiences of SSR

Manet Paradise, Ghana, 14-18 November 2007

Eka Ikpe

About this report

This report presents the outcome of the second training seminar in the African Security Sector Network (ASSN) training series on parliamentary oversight of the security sector in Liberia. The seminar examined a number of important themes with which Liberia's legislators are currently engaged, including transitional justice, national security architectures and security review processes. The seminar drew upon the experiences of a number of different countries such as Sierra Leone and Uganda. The seminar series, which is targeted at legislators and civil society groups, is part of a long-term commitment by the ASSN to support the rebuilding of Liberia's security sector and the wider post-conflict reconstruction process.

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The **African Security Sector Network (ASSN)** is an umbrella organisation that brings together leading African institutions and specialists working on security sector reform and transformation in Africa. The network provides support to African governments, civil societies and legislatures on a range of security-related issues and has unparalleled access to expertise in this area from Anglophone, Francophone and Lusophone Africa (www.africansecuritynetwork.org).

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Abbreviations

AFL	Armed Forces of Liberia
ASSN	African Security Sector Network
CDD	Centre for Democracy and Development
CPA	Comprehensive Peace Agreement
CSDG	Conflict, Security and Development Group
CSO	civil society organization
DCAF	Geneva Centre for Democratic Control of Armed Forces
ECOWAS	Economic Community of West African States
GC	Governance Commission
JCC	Joint Coordinating Centre
NRA	National Resistance Army
NSCCG	National Security Council Coordinating Group
PKO	peacekeeping operation
RSLAF	Republic of Sierra Leone Armed Forces
SSR	security sector reform
TRC	Truth and Reconciliation Commission
UN	United Nations
UNMIL	United Nations Mission in Liberia

This report is the product of the second training seminar following the seminal one that was held in July 2007. It was primarily intended for members of the Senate and House of Representatives Standing Committees of the Liberian legislature with direct security sector oversight roles, security sector agency officials and related civil society actors. The objective of this training seminar was to consolidate the training component of the African Security Sector Network (ASSN) programme of support for Liberia in addressing the lessons to be learned from comparative experiences of security sector reform (SSR), including shared experiences from processes in Uganda and South Africa. The ASSN continues to work with parliamentarians and the Governance Commission (GC),¹ offering support to the security transformation process in Liberia.

The following are some of the outputs from the ASSN-led initiative so far:

- *Conflict, Security and Development Group, King's College London (CSDG)–Geneva Centre for Democratic Control of Armed Forces (DCAF) Liberia Assessment Mission and Consultations, 28 July–1 August 2004*: The specific objectives of the mission included (a) to witness first hand the situation on the ground and assess efforts to implement the Comprehensive Peace Agreement (CPA); (b) to initiate discussions with local research institutions, in particular the University of Liberia, regarding options for collaboration that might lead to the establishment of a research centre on security and development at the university; and (c) to explore ways of facilitating and assisting civil and parliamentary oversight of the security sector.
- *Liberia National Dialogue on Security Sector Reform, 3–4 August 2005*. Jointly convened by the Ministry of Justice, Liberia and the United Nations Mission in Liberia (UNMIL), and facilitated by CSDG, DCAF, the Centre for Democracy and Development (CDD), and ASSN, this event sought to (a) place the notion of SSR on the pre- and post-election agenda in Liberia; (b) explore mechanisms for and approaches to a collective broad-based vision of security in Liberia; and (c) contribute to the promotion of local ownership of the post-conflict reconstruction process in Liberia.
- *Consultation with heads of Liberian security institutions and ranking members of parliamentary Defence and Security Committees, convened by the GC, 3–4 April 2006*: The objective of the consultation was to explore with the GC the necessary modalities and trajectories for assisting the security transformation process in Liberia.

¹ Formerly the Governance Reform Commission.

- *Interactive Needs Assessment for Liberian Parliamentarians on Security Sector Oversight, 28–30 March 2007*: The objective of the meeting included (a) to assess the authority, ability and attitude of the Liberian legislature with regard to conducting security sector oversight; (b) to facilitate the legislators' own assessment of challenges and opportunities and the requisite tools for enhancing the role of parliament in security governance; and (c) to provide the basis for drawing up a needs assessment that will inform a support programme for parliamentary oversight of the security sector in Liberia.
- *Training seminar on security sector governance for Liberian parliamentarians, 19–23 July 2007*: This was the first training seminar following the Interactive Needs Assessment. It was primarily intended for members of the Senate and House of Representatives Standing Committees of the Liberian legislature with direct security sector oversight roles and related civil society actors. The objective of the training seminar was to provide training on the foundational aspects of security sector governance for parliamentary oversight of the security sector by focusing on Liberia's security and environment and related governance issues. It especially highlighted the role of parliament in preventing a relapse into conflict in Liberia's fragile post-conflict environment.

The substantive part of this training seminar was held under the Chatham House Rule, and, as such, this report does not attribute the statements contained herein to any participant.

The training seminar began with introductions of new participants and updates. This included organizational changes in the amalgamation of the Security and Defence Committees. Legislators expressed thanks to the organizers of the seminar series and reiterated its continued relevance. Updates were provided on the current state of the security sector with regard to related legislation, including the dissolution of the Armed Forces of Liberia (AFL) and the creation of the Veterans' Bill targeting military personnel discharged in this arrangement, which was being deliberated by the Senate at the time. The Defence Committees in the legislature reiterated their commitment to ensuring that Liberia's Defence Act is in line with the Constitution. The training seminars were cited as useful tools for enabling the legislators to carry out these duties effectively.

The broad agenda of the seminars remain SSR and governance, within which they focused on, among other things, security review; the oversight role of parliament; and the importance of communication, not least between the legislature and executive, while highlighting comparative experiences from which Liberian legislators can learn relevant lessons.

2. Introduction to SSR and governance

SSR is a partnership, and should be viewed accordingly; hence, it is essential that legislators be engaged, as they form a critical part of the Liberian security sector, since they perform an essential oversight role regarding this sector. Toward this end, it is also necessary that the executive be assured of the legislature's commitment to cooperation. This will define legislators' interaction with the executive as part of this training process.

In the SSR process, although no two trajectories are exactly the same, there are shared norms. Any discussion of SSR essentially begins with a definition of the security sector. A generic definition is that it comprises the following:

- core security actors and institutions, namely the armed forces, the police, paramilitary organizations, immigration, customs, coastguards and border guards;
- civilian management and oversight bodies, namely ministries of defence, the interior and finance; the legislature; national security advisory bodies; and budgetary bodies;
- justice and law enforcement institutions, namely the judiciary, justice ministries, penal systems and criminal investigation bodies; and
- non-statutory security bodies, including militias, liberation armies and militia armies.

However, several factors vary this definition on a case-by-case basis. This includes differences in national security architectures and formal and informal dynamics, where politics is not simply to be found in the formal domain, as is generally assumed.

The broad objectives of SSR processes include:

- delivering security to a country and all its people sensibly and effectively;
- delivering security equitably in accordance with the rule of law, international humanitarian laws and norms of democratic security governance; and
- creating a stable climate for sustainable development and democratic governance.

Human security lies at the core of SSR. Although donors' extensive use of the concept has limited its political power, and it has been used in some cases to undermine oppressive and authoritarian democracy, it is an essential component of the process. On the basis of human security, SSR can be seen as inclusive in terms of its broadly participatory approach, based on the provision of security as a public good. The success of the SSR process is further buttressed by the four A's namely, that it should be *appropriate, adequate, affordable* and *accountable*.

In the discussion on SSR, there are competing notions, including security sector reconstruction and security sector transformation. Security sector reconstruction is concerned with rebuilding, but is neutral on the qualitative character of what is being rebuilt. On the other hand, security sector transformation is more revolutionary and is concerned with beginning anew in the security sector. Although what is happening in Liberia has been termed SSR, what may be required is an essential transformation of the existing structures.

There should be a national vision in the pursuit of a security sector 'reform' process that is popularly owned rather than one that is imposed. In this process, the legislature plays a fundamental role in the constitutional provision of oversight duties, as well carrying out the duty of representing the electorate.

Successful SSR should be holistic, contextual, locally owned and recognized as a political process. In Liberia, the process should necessarily encompass the breadth of the security sector, as earlier defined. It must also be intimately connected with the post-conflict reconstruction process according to the peculiarities of the Liberian case. The urgency of the Liberian setting ironically provides more space for the success of SSR.

Unfortunately, the local ownership of the SSR process in Liberia has fared poorly. Principal external partners are the United States and the United Nations (UN). The former was accorded its principal role in the process by the terms of the CPA. It then leased this claim to Liberia's SSR process to the private sector, with woeful results, including a failure to successfully assess local security needs. On the other hand, the UN has never had an SSR concept, and its engagement with the process has been non-consultative and corrosive of local ownership, based on the logic that because the country has engaged in conflict, there has been little domestic capacity for security sector governance.

Changing this outcome in Liberia requires a change in approach. Vital factors to consider include a collective national vision as to the SSR process, based on a needs assessment. Secondly, there should be a resources assessment in the areas of defence and human capacity. Thirdly, SSR should be based on an assessment of priorities and linkages, within a nationally owned framework. Fourthly, the security architecture must take account of realities on the ground, including traditional systems and their value to arbitration systems, and the widespread presence of private security companies, making a monopoly of security provision improbable in Africa. Fifthly, it is essential to review the regional security arrangements, chiefly within the Economic Community of West African States (ECOWAS) framework, in terms of what obligations have been undertaken. There should also be reference to the security support coming from neighbours and fellow ECOWAS members.

Implications for parliamentary committees and their relationship with the executive

A key role of the Liberian legislature is to ensure that ordinary citizens feel safe in terms of security delivery. To this end, it is essential that there is a consensus on the direction that Liberia's security sector takes. Accordingly, the national security strategy, incorporating

the defence policy, is best built on the basis of a participatory exercise with sound inter-parliamentary relationships. Security institutions are essential to the service delivery process, and interaction with the legislature should act as a guide to the efficiency of the process. This engagement should not be exclusive to statutory institutions. The reality of contemporary security provision in sub-Saharan Africa is that the private sector is a critical contributor. Furthermore, engagement with the private security sector is essential in order to oversee its members' activities.

Civil society is significant in the process of ensuring efficient security delivery. This is specifically through their substantive level of research capacity and their direct access to the realities faced by the populace as a whole. This research base can inform the legislature's interaction with the executive. Additionally, the media are an important forum for articulating thoughtful and useful debate on pertinent issues. Sound analysis is also vital to the process, and, as such, local capacity such as that being facilitated at the Kofi Annan Institute for Conflict Transformation at the University of Liberia is essential.

The local post-conflict and political context in Liberia defines the approach to ensuring security provision. The composition of the Liberian legislature necessarily conditions the way it functions. Currently, the ruling party has a minority in the House of Representatives. This can encourage mutual suspicion, although it also allows for a strong system of checks and balances. Additionally, the CPA is problematic in listing a single country as the main one to lead the SSR process, as this can exclude other possible partners. This speaks to the need for caution, as SSR can affect political and economic exclusion.

Regional actors have an essential role to play. ECOWAS has matured in its vision of the regional security architecture. The Liberia case is a critical component of this structure, as it developed out of the necessities of the Liberian civil war. Following the challenges that have ensued in the poorly monitored CPA arrangements, with a private security company taking charge of the SSR processes in Liberia, ECOWAS is drawing up minimum requirements for all private security firms working in the region. Unfortunately, it remains the vision of the ECOWAS bureaucracy and less so that of the member states.

In these activities, the legislature retains a central role. Its powers are legally delineated in the Constitution and its authority originates from this source. Its ability to fulfil its obligations in this role of security delivery oversight necessitates the support of parliamentary staff. This is especially important in the strengthening of the institution of parliament, given that parliamentary staff are permanent appointments. The attitude of the legislature defines its success, as it must be seen to be credible and legitimate in order to adequately represent the citizenry.

General discussion

There is a general misconception that the armed forces are not willing to work with civil society, whereas the reality is quite the opposite. However, there is a necessary level of selectivity to ensure the best use of capacity. Civil society would best serve by taking on the challenge posed by the legislature to support its work with adequate research and assistance.

In response to the challenge of scrutinizing the process of confirming senior officers of the armed forces, the Ghanaian case is pertinent. Here, such confirmation is the role of the Armed Forces Ruling Council, which is, however, selected by the president. In Liberia, the system has been resulted in abuse by the executive, as promotions are conferred with limited scrutiny, often via the president. This challenge highlights the need for clarity on the framework within which the security institutions are being restructured.

There needs to be a consultative peace dialogue to take the security delivery process forward. The question must be asked: How are ordinary Liberians being given the opportunity to engage in this conversation? Resorting to the limitations of the CPA is ineffective in this regard, as it does not provide a consensual conclusion.

3. Dealing with transitional justice: The role of parliament, security agencies and civil society

Transitional justice is a crucial aspect of transforming a post-conflict environment. It is broader than simply seeking justice in the traditional sense, and is essentially about the rule of law and addressing the past. The Liberian Constitution is exemplary in ceding the role of guardian of the rule of law to the legislature. Clearly, in conflict situations, stipulated roles are put in a state of disarray. Nonetheless, the legislature has a relatively more significant role in transitional justice than the judiciary, as it is focused on the rule of law.

There is a range of broad approaches to the operationalization of transition processes. The four key categories are as follow:

- traditional criminal prosecutions, as in Nazi Germany, the Balkans, the former Yugoslavia and Rwanda;
- absolute amnesties, as in Chile;
- lustration, as in identifying those who perpetrated injustices and precluding their participation in post-conflict governance systems; and
- partial amnesty, such as with truth and reconciliation bodies.

The question as to where the Liberian process fits into the aforementioned categories is open. The Truth and Reconciliation Commission (TRC) is functioning, but there are doubts as to whether it represents the expectations of the average Liberian. Regarding the earlier assertions, the legislature should have a central role in the process, although this has not been the case so far. Additionally, the challenge of guiding the process is heightened by the issue of the character of its leadership and has implications for transparency and accountability. An additional challenge is that of local ownership of the process. The process was essentially designed by the US authorities to be implemented by the UN.

The legislature has an oversight role to play in the TRC that is emphasized by the challenges stated above. Care must be taken that value judgements are not made about certain parties, as this may present additional difficulties. A system is needed that inspires confidence in the populace. In this role, partnership with the executive's leadership of the process is imperative. Challenges arise here, as the executive can be divisive by rewarding certain members of the legislature with certain 'perks'. This can damage the cohesion of the legislature and its efficacy. It is especially important that the legislators maintain and strengthen their legitimacy, given that this was highly compromised by the war.

There are critical challenges that continue to hinder the possible success of the TRC. The essential nature of reconciliation to the process is highlighted. Carrying out a historical assessment of the war will assist with moving the reconciliation process forward. There has been a history of abuse in a country that was arguably built on conflict. However, an approach to dealing with specific issues is needed, particularly in establishing a cut-off point for seeking redress. There is a sense that there are individuals within the system that are seen as having been 'prosecutors of the war'. This is in spite of the nominal attempt to publicly vet those in charge of the process, which necessarily compromises its legitimacy.

An additional point is that Liberians are not sufficiently aware of the activities of the TRC in relation to the reasons for its existence and its purpose. This highlights the essential role of the media. Thirdly, the TRC has stalled significantly because of the lack of funds, domestically and otherwise. As regards international partners, this lack of funds may be attributed to their attempts to entirely control the process. Fourthly, some of the support for the TRC was motivated by personal interests, as some proponents essentially aimed to gain access to positions in the government and ensure their escape from culpability. There was immense pressure from civil society for the peace negotiations to instate war crimes tribunals. Also, some parties lacked key capacities in the negotiation of the CPA.

What can parliamentarians do?

The way forward may be in legislators opting for extending the TRC's lifespan, which is critically behind schedule, but with good reason – truth and reconciliation necessarily happen over time. A line should not be drawn between victims and perpetrators, as they are not such distinct groupings in reality. Additionally, priorities need to be defined properly, for instance, no protection has been offered to potential witnesses that may be endangered by their testimonies. It is imperative that the ongoing process is engaged to the extent possible, as opposed to undermining it. The mandate of the TRC should legislatively be extended to collecting statements, investigating and holding public hearings. To this end, the legislature must have the right attitude. It must be able to articulate an agenda and be guided by it. Liberians must draw up their own agenda, because it is a very different context from what has occurred elsewhere. The options presented earlier should not present a straitjacket for the Liberian transitional justice approach, but should merely elucidate possibilities.

Legislators have the primary responsibility of protecting the rule of law. It is essential that they work with the executive on an independent basis to ensure that power is not abused under the guise of working in the interests of the public. It will be in the legislature's interests to build a network of actors with similar objectives, such as the Bar Association, to create a critical mass in protecting the rule of law and ensuring an efficient working environment.

4. SSR experiences in other countries: Drawing lessons for Liberia

The analysis of aspects of the Uganda process will be useful for Liberian legislators to ascertain how to address security needs and requirements. It is now evident that the legislature must assert its role as early in the process as possible in order to be influential.

The Uganda case is especially useful for the following reasons:

- It was the first time that Uganda had carried out a defence review.
- It was the first time the UK government provided support for a defence review (this is a very new area of support for donor governments and they are still learning what to do).
- There are lessons of process that will be useful, including consulting, analysis and dealing with donors (of course, it is understood that contexts differ).

The Uganda Defence Review is a particularly valuable assessment. It was undertaken as a result of pressure from donors. Additionally, the army was deemed a potential political liability, particularly in its perceived failure to address the challenge of the activities of the Lord's Resistance Army.

The core recommendations were that there was a need to reduce defence spending and increase funds for social services, and to increase transparency and accountability. The UK government provided technical assistance for this process, with an expectation that the army restructuring would be affordable. Additionally, it saw reform as a stronger means of achieving sound financial management, accountability and transparency while recognizing the need for a stronger army. However, the Ugandan government expected that defence restructuring would imply strengthening the army with increased expenditure and facilities. This was a legitimate stance, in light of the challenges of the conflict in the north of the country. These are instances of the various commonalities and differences surrounding the process.

Key components of the Defence Reform Programme were as follows:

- the Defence Reform Unit in the Ugandan Ministry of Defence, with technical assistance from the UK government;
- political support for the process from the British High Commission in Uganda;
- local and international consultants, including South African officials, King's College London, academics and local private sector actors;
- government officials;

- parliament, with its contribution in the early stages of analysis and oversight, and eventually providing legislation for the process. (However, this role diminished over time.)

The Defence Review was comprehensive, with a sequence of stages of analysis followed in a logical manner, with no picking and choosing. There was wide-ranging participation from all involved, including civil society. It was a transparent process, with audits and effective record keeping. At least initially, parliament also debated the findings.

The review had three stages:

- *Stage 1:* looking at broader security framework in strategic security assessment and reviewing foreign policy framework;
- *Stage 2:* assessing the organization of the defence components, including the number of soldiers required, the arsenal, orientation and management (information technology, procurement and the civilian component); and
- *Stage 3:* political decisions regarding financial requirements and affordability.

The outcome of the Review highlighted the need for substantial time to carry out such an exercise, as the 18-month period was found to have been appropriate. The two main positive outcomes were: the unprecedented level of debate in Uganda on defence issues; while financial and policy processing were highlighted. The negative outcomes were that there was divergence of opinion between the Ugandan government and donors; and problems in agreeing how much money was to be allocated to the process. The result was a fragile framework for defence reform. The government's commitment to the process was weak. There was also poor government ownership of the process, and donors became ambivalent over continuing their support because of low ownership and commitment locally.

Some key lessons are detailed below.

■ **National ownership**

It is rare that conditions will be ideal for national ownership. However, this should certainly be a principal aim. Nonetheless, sometimes it is necessary that the review process should simply begin, and ownership is then improved and strengthened along the way. With external support, it is essential that external actors will have a critical influence on the process. This is not necessarily a negative factor, as it may help with linking the process to international best practice. However, the fact that donors often have a political agenda that governs their advice may damage the process.

■ **Methodology**

If an external model is used, it may be suited to the context. It is very important that models are adapted to the specific context. Defence and security reviews can be carried out in many different ways; however, the approach should be rooted in the broader security framework.

■ **Managing the process**

The process is complex and its management should be anticipated as necessarily being politically sensitive. In Uganda, problems arose from the neglect of key high-level gov-

ernment officials in the process. It is essential to identify a formal management structure such as a parliamentary committee, cross-governmental body, or committee comprising donors and local officials. Informal procedures should be used in a balanced manner.

- **Technical assistance**

A balance should be struck between accepting help and controlling the process. It is important to understand the sensitivities of politics surrounding access to sensitive information. Those providing technical assistance need to understand the political system and hold dialogue with all involved parties.

- **Stakeholder involvement**

Prevailing political conditions are very important with regard to stakeholder involvement. Realistic expectations are needed in engaging with stakeholders in terms of the time frame, prevailing political circumstances, finances, methodology and strategy. A process such as a security review will generate different expectations from different groups. It is essential that stakeholders understand that a broad process is under way that extends beyond their particular interests. For example, in Uganda, donors were not all supportive of the Defence Review; for example, while the UK was supportive, the United States was concerned with terrorism and tried to influence the process to take into account regional issues such as Somalia.

In conclusion, it is essential that both government and donor priorities are efficiently managed. This is as important, if not more so, as achieving specific outputs in efficiently managing SSR. In this process, legitimacy is as important as legality. In both of these issues, the legislature has a critical role to play as the elected representative body of the people and as the country's law maker. As such, it is imperative that legislators assert their role in the review and reform processes at the outset to ensure that they provide guidance to the process.

Discussion: Lessons for Liberia

The Liberian case faces a challenge with regard to balancing national and international interests in the contextual realities of a seeming preference for externally driven ideas. This was demonstrated in the politics of the CPA, which gave the United States a lead role in the SSR process, with UNMIL being headed by an American.

In Uganda, parliamentarians played largely a supportive role in the Defence Review, as it was a policy of the ruling party. This was also because the scrutiny capacity of the Defence and Security Committees was very weak. As such, the tendency was for the government to use the parliament as a 'rubber stamp'. A white paper endorsing the process was supposed to be tabled and debated in parliament ahead of adoption. However, it was approved by the cabinet and provided to parliament merely as a reference document. Furthermore, the donors did not insist on parliamentary involvement, even if the methodology permitted this. Nonetheless, the onus was on parliament to assert its role.

The UK has been less interventionist than the United States in its approach to supporting defence reviews and reforms. Because of this, the outcome has been holistic and relatively

hands-off when the UK has been involved. This has implications for the Liberian situation, where the United States has a dominant role. The capacity of the Liberian government to engage donors and successfully negotiate its interests is also an issue of concern. This speaks to the need for balance between technical assistance and political sensitivities. To increase the efficacy of this process, it is necessary for domestic revenue to be put towards supporting the process in order to strengthen the government's role in the process.

Following on from the US role in the Liberian process, it is important to raise the issue of partners in their engagement with the SSR process. Especially topical is the role of the private security firm DynCorp, whose engagement in Iraq and Afghanistan calls into question its continued involvement with SSR processes elsewhere on behalf of the United States. In Liberia, the company's involvement created extensive discrepancies between the outcomes of the reforms and the expectations of the stakeholders. This is partly due to parliament's failure to engage on all issues, including cost implications and oversight, from the outset.

Currently, the Liberia situation is similar to the juncture in Uganda when the National Resistance Army (NRA) took over power. At that time, the national army was fragmented, providing space for the NRA. However, this process faced many challenges from excluded groups, including former army personnel. The result was that in the late 1980s² the other groups were co-opted into the new Ugandan army.

In Uganda, the Defence Review came out of a national security policy, emphasizing the need for defence not to be equated with security, but to be treated as a component of it. However, the limitation of a defence review that excluded certain groups that are vital to some security and defence roles, such as paramilitary forces and the presidential brigades, undermined the otherwise commendable sequencing within the process.

Below are some recommendations for parliament to secure a key role in the SSR process in Liberia:

- Be proactive in approaching the executive, recommend the steps that should be taken and define the role that the legislature should take in the SSR process.
- Raise questions on the current state of the SSR process, even if the legislature's involvement has been limited up to that point.
- Foster increased dialogue between the security institutions and the legislature in order to overcome the communication challenges that arise.
- Take a critical lead role in ensuring that transitional justice catches up with the SSR process.

2 The NRA took over power in 1986, following the war in the period 1981–86.

The justice system is a vital component of the security sector, as it is in direct contact with people on a constant basis, embodies state capacity to protect the citizenry from abuses and provides a peaceful means of conflict resolution. More broadly, the justice sector embodies democratic governance, and supports poverty reduction and human development by supporting the social and economic rights of the people.

The justice system can be organized in various ways. A viable means of organization is to categorize it into four component parts. Firstly, there are the courts, public prosecutors, defence lawyers, ombudspersons, police and prison services, who serve as justice administrators. Secondly, there are the bar associations, law faculties, legal aid institutions – which are especially vital for providing legal aid if the state is incapable of doing so – research and academic organizations, forensic and medical institutions, media organizations and non-governmental organizations that support the building of the capacity of the justice system through training, research education and investigation.

Thirdly, the ministries of justice, human rights, the interior, defence and finance; national legislatures; national human rights commissions; law reform commissions; judicial training centres; and police academies are all integral to the formulation and implementation of the legislative process and policy. The ministry of finance is especially important, as it is responsible for allocating resources to strengthen the justice system, and it is imperative that there are mechanisms to prevent these funds being diverted to other uses. Fourthly, the contextual realities and efficacy of the justice system necessitate the engagement of non-state institutions, including non-state justice and security systems, traditional leaders, religious authorities, neighbourhood watches, vigilantes and traditional leaders in the broader processes of providing justice.

Justice reform in the context of SSR is growing in importance; however, there continues to be a lack of recognition of interlinkages between the sectors. The entry points to the reform of the justice sector are numerous, and include:

- economic growth and foreign investment;
- legal reform;
- the rule of law (with a focus on public order vs. citizens' security);
- the criminal justice system (the focus is on different aspects in different countries, such as the balance of prisons vs. police vs. the prosecutor's office);
- transitional justice agendas;

- access to justice programmes; and
- human rights programmes.

The general trends in the justice agenda in post-conflict societies are identifiable as follows:

- The centrality of justice has been recognized.
- Justice reforms are determined by aid/donor trends and interests.
- The agenda is bound by a general pattern of stronger executives vis-à-vis legislatures in Africa.
- There is a lack of accountability of governments to the people vis-à-vis the interests of international financial institutions and donors.
- Donors fail to identify reform constituencies such as civil society and the legislature, which are often left out of the process.
- Donors fail to identify local capacity, because they use a static approach.
- Donors tend to fund politically safe programmes.
- Difficulties are experienced in ensuring longer-term support, due to constraints in terms of internal politics and international rules.
- Human rights sometimes seem to be disconnected from the justice agenda in the approach of donor assistance.
- There are problems of resistance to change and how to balance outcomes, particularly as regards those who may 'lose out' in the reforms.

The challenges of the justice reform agenda can be very limiting. It is essential that a clear mandate is identified and delineated. The operationalization of the process can be challenged by the paucity of human and financial resources in a post-conflict society. Additionally, it is especially imperative that knowledge and understanding of the context is sound, given that post-conflict settings are especially delicate. A final point is the reality of many competing priorities, given the urgency of reconstruction on all fronts.

The role of the peacekeeping operation (PKO) in the transitional justice system is important. This is because it fills in the void during conflict and can be critical in terms of the probable collapse of the justice process during a conflict and in its immediate aftermath. Particularly, in the post-conflict period, the PKO has a role to play in improving the management and administration of courts, as well as in assisting in recruiting judges, prosecutors and court personnel and training all judicial personnel. On this theme, the PKO can participate in vetting exercises to scrutinize the qualifications and past performance of judicial personnel. As these personnel will be part of the post-conflict judicial system, it is essential that they have not been complicit in past human rights abuses and crimes against humanity.

The PKO also has a role to play in establishing or strengthening independent oversight and disciplinary mechanisms. In this, it can monitor the judicial system and identify problems, such as the failure to uphold human rights standards, corruption, political interference or intimidation, absenteeism and lack of resources. In order to develop a functional justice system, it will need to raise and disperse material resources to run that system.

In order to carry out these responsibilities, justice should be treated as a sector positioned at the interface of security and development. The possible challenges to this are in a lack of strategic planning, such as a failure to assess all actors; a lack of advance research; a lack of participatory needs assessments; a lack of planning assistance; and the prevalence of ad hoc activities, which are often very prevalent in a post-conflict setting. Additional challenges reside in the setting itself in the uncertainty and difficulties in engaging with political interlocutors. This uncertainty is intensified by the gap between the exit of the PKO and the establishment of a sustainable justice system.

At the heart of the transitional justice agenda should be human security. Here, access to justice is primary. This access, in essence, is reflected in the ability of people from disadvantaged groups to seek and obtain a remedy for their grievances through the justice system in accordance with the principles and standards of human rights.

When the areas involved in the development of an effective justice system are examined, there is an immediate problem of access to justice for all. With regard to normative protection, there is the need, if necessary, to be able to provide a remedy in terms of international and constitutional law, legal and regulatory frameworks, customary norms and jurisprudence. Regarding the capacity of individuals to seek remedies for injustices, there is the need for legal empowerment. This is supported by legal awareness, legal counsel, and the capacity to access formal and informal justice services. Finally, regarding the capacity to provide an effective remedy, there is the need for proper adjudication, enforcement and oversight. This is enabled by effective adjudication and due process, including judicial, quasi-judicial, informal and traditional systems; enforcement via police and prisons; and civil society oversight of the justice system. The possible tensions in this process are rooted in the independence of the judiciary, accountability and the level of development of the institutions concerned.

6. The centrality of the justice sector and prisons reform: Linking the justice sector to SSR in practice

Overview of the challenges

There are immense challenges within the justice sector as regards the prison system. Within sub-Saharan Africa, there are problems with prison overcrowding and high numbers of remand prisoners, as there is not enough legislation dealing with non-custodial sentences. This is reinforced by the lack of speedy trials and inadequate legal representation, in terms of both quantity and quality. There is the issue of poor coordination within the criminal justice system, as well as a dearth of functional remand policies. In terms of support structures, there is a lack of adequate institutionalized oversight and review mechanisms. Additionally, there is poor coordination among different levels of government, and insufficient engagement and collaboration with private and voluntary sectors.

There are linkage issues in the high rate of reoffending and therefore increasing community insecurity. This in turn leads to strain on the limited court system capacity and prison congestion. These realities challenge the realization of reintegration of offenders into society, thus spurring the cycle of reoffence. Additional to this, prison conditions are problematic in the paucity of support facilities, as well as overarching structural problems, with a general lack of gender sensitivity.

Highlights of intervention in sub-Saharan Africa

There are critical issues around successful interventions in the justice sector. These include a clear understanding of the interventions in terms of delineating the objectives, rationale, activities and challenges of the process. Particularly significant for any intervention process is a linked approach that includes partnership and multi-agency collaboration.

Patterns of activities can be identified across the continent that aim at preparing the structures for intervention. These are as follow:

- effective identification of the challenges, for example, conducting prison censuses/audits, as in Kenya, Malawi and Uganda, and tracking prisoners and developing a database, as in Senegal;
- improving inter-agency and intra-agency cooperation, for example, linking the components of the criminal justice system, as in Uganda with the Chain-Linked project, and Nigeria with the criminal justice administrative committees;

- managing the processes with case flow management committees and court user committees, as in Tanzania, Kenya, Malawi and Uganda; and
- intensifying the provision of legal aid and assistance, as in the use of paralegals in Malawi, and pro bono legal support, as in Nigeria.

There have been interventions in many areas on the continent, some examples of which are mentioned below:

- engaging the media with prison open days in Tanzania, Botswana and Ghana, and the Penal Reform Media Network in Nigeria;
- encouraging creativity among those in prison, as in the holding of fashion shows in Kenya and dance performances in Swaziland;
- human rights training and other skills acquisition activities, as in Nigeria;
- integrating the provision of drugs and treatment for HIV/AIDS, as in Botswana and Uganda;
- consolidating a structured code of conduct for prison officers, as in South Africa;
- developing a strategic plan for the prisons system, as in South Africa, Kenya and Rwanda;
- developing alternatives to imprisonment, as with the option of community service in Zimbabwe and Tanzania;
- strengthening oversight mechanisms, as in South Africa with the Prison Inspectorate and Nigeria with the National Human Rights Commission and monitoring visits by legislators; and
- developing parenting and family link programmes, as in Kenya with the Parenting Programme and Nigeria with the Family Link Project.

Challenges of intervention identified in some of these projects in sub-Saharan Africa are as follows:

- lack of adequate institutionalization of review/oversight processes;
- poor recording and inadequate documentation;
- apathy of support personnel, including lawyers, police officers and prison officers;
- the need for an integrated approach;
- lack of adequate support for entrenching sustainable oversight; and
- inadequate or non-existent proper re-entry initiatives linked to prison decongestion exercises.

Responses to the exercise

Group 1 was challenged in its task by the limited resources. Group 2 was concerned with the lack of coordination and the need for a clear sequencing pattern. Group 3 was additionally unable to coordinate its activities with the other groups.

CSOs have a pivotal role to play in addressing gaps in legislation and encouraging the legislature to deal with shortfalls. Implementation is the mandate of the executive, and the legislature has the vital responsibility of oversight in this regard. Civil society also has a monitoring mandate with regard to the executive. All concerned partners must act as partners, keeping the broader goal in sight.

Group exercise

The following pointers for programming were used as the basis of a group exercise for the parliamentarians. A three-fold plan for improving the justice sector was put forward: preparing a strategy programme, implementing the programme and monitoring the programme. All groups were required to propose a set of objectives; delineate available resources; and identify key concerns, possible constraints and activities to achieve objectives.

Group 1

The objectives were as follows:

- to revamp the system so as to ensure unhindered access to justice;
- to ensure the expeditious disposition of cases;
- to promote confidence in the system; and
- to ensure that the rule of law is observed and adhered to by all.

The resources available were:

- local financial resources and capacity;
- international non-governmental organizations' financial resources and capacity; and
- the financial resources of donor governments and institutions.

Key areas of concern in this process included:

- the political will to carry out the process;
- resilience, and the determination to see the process through; and
- an environment conducive to facilitating the process.

Possible constraints included:

- inadequate local capacities; and
- limited financial resources and infrastructure.

Activities to promote the objectives included:

- human capacity building, particularly of lawyers, police and other professional officers;
- a review of legislation, for example, whether bail can be set for armed robbery offences;
- infrastructural improvement;
- improvements to institutional framework/mechanisms; and
- coordinating all activities and making sure that all stakeholders know their roles.

Group 2

The central goal was to restore the rule of law through the implementation of the reforms. The objectives were as follows:

- to reform the criminal justice system and prisons system;
- to promote respect for human rights;
- to ensure collaboration and communication in working with the media; and
- to include various components of justice agencies.

Requirements for implementation included:

- human and material resources;
- training for lawyers;

- personnel incentives;
- logistical support;
- improved working conditions; and
- funding.

Enablers of the implementation agenda included:

- personnel; and
- collaboration among the relevant partners.

Possible constraints included:

- lack of collaboration; and
- weak statutes.

Group 3

The objectives were as follows:

- to ensure coordination and collaboration among international and local partners;
- to monitor effective implementation of the process;
- to monitor donor funding of the process; and
- to ensure local ownership of the process.

The resources available were:

- logistical support in terms of offices, vehicles, funds and materials;
- donor funds;
- the ongoing reform of the judiciary and the criminal justice system;
- civil society and human rights groups; and
- the governance reform process.

The enablers of the process were:

- the Constitution;
- legislative enactments; and
- additional international instruments on SSR.

Possible constraints were:

- lack of access to information and communication;
- inaccessibility due to poor infrastructure;
- inadequate logistics;
- shortfalls in funding;
- lack of cooperation from some major actors; and
- the lack of capacity of local stakeholders.

Activities to promote objectives include:

- desk studies;
- focus group discussions; and
- research and interviewing stakeholders.

Institutional frameworks available for the process were:

- the formation of committees;
- the Committee on Human Rights-related Matters;
- the Committee on Judicial Reform;
- the Committee on Gender-related Matters; and
- the Committee on Security Sector Transformation.

7. Guide to the sessions: Assessment of the Liberian legislature

The Liberian legislature is a bicameral House comprising 80 male and 14 female members. There are 7 statutory committees and 21 standing committees with appointed chairs in the House of Representatives. In the Senate, there are 5 statutory committees with elected chairs and 17 standing committees with appointed chairs. In the Defence and Security Committees, chairs are appointed on the basis of competence and experience in the various fields and therefore they tend to be former military/paramilitary personnel. Committee membership lasts for 6–9 years, but members can be moved around among groups.

Leadership is selected on the basis of experience by the Speaker in the House of Representatives. In the Senate, leadership is selected by the Leadership Committee. In the House of Representatives, all the committees have seven members, including the Defence and Security Committees. The Finance Committee has 15 members, with one representative from each county.

Currently, no resources are available to these committees, but there are expectations that this will change. In order to ensure efficient use of resources, the committees work with a joint pool of centrally recruited staff. The preference would be for staffers (two to three people per committee) to be specifically assigned to a particular committee. Their recruitment would therefore be on the basis of expertise on the issues of pertinence to each committee. There are two research departments in both the House of Representatives and the Senate. Additionally, each representative and senator has a legislative research assistant, so there are 94 in total, who are individually recruited by the legislators and paid for by the legislature.

The legislature performs its oversight duties by inviting members of the executive to account for their activities in the execution of their duties. This can occur in the form of invitations to ministers to answer queries, the organization of public hearings and requests for reports on issues of significance. However, committees are given access to information on a 'need to know' basis.

8. Experiences of SSR in other contexts: Building a national security architecture in Sierra Leone

Liberia is necessarily affected by Sierra Leone and must thus learn from that country's experiences, given the similarity in contexts. In Sierra Leone, the reality that security and justice are public goods has been the basis of the government's drive to ensure their provision.

The context of this discussion is the coordination of a national security architecture. The basis of this initiative has been four-fold, as follows:

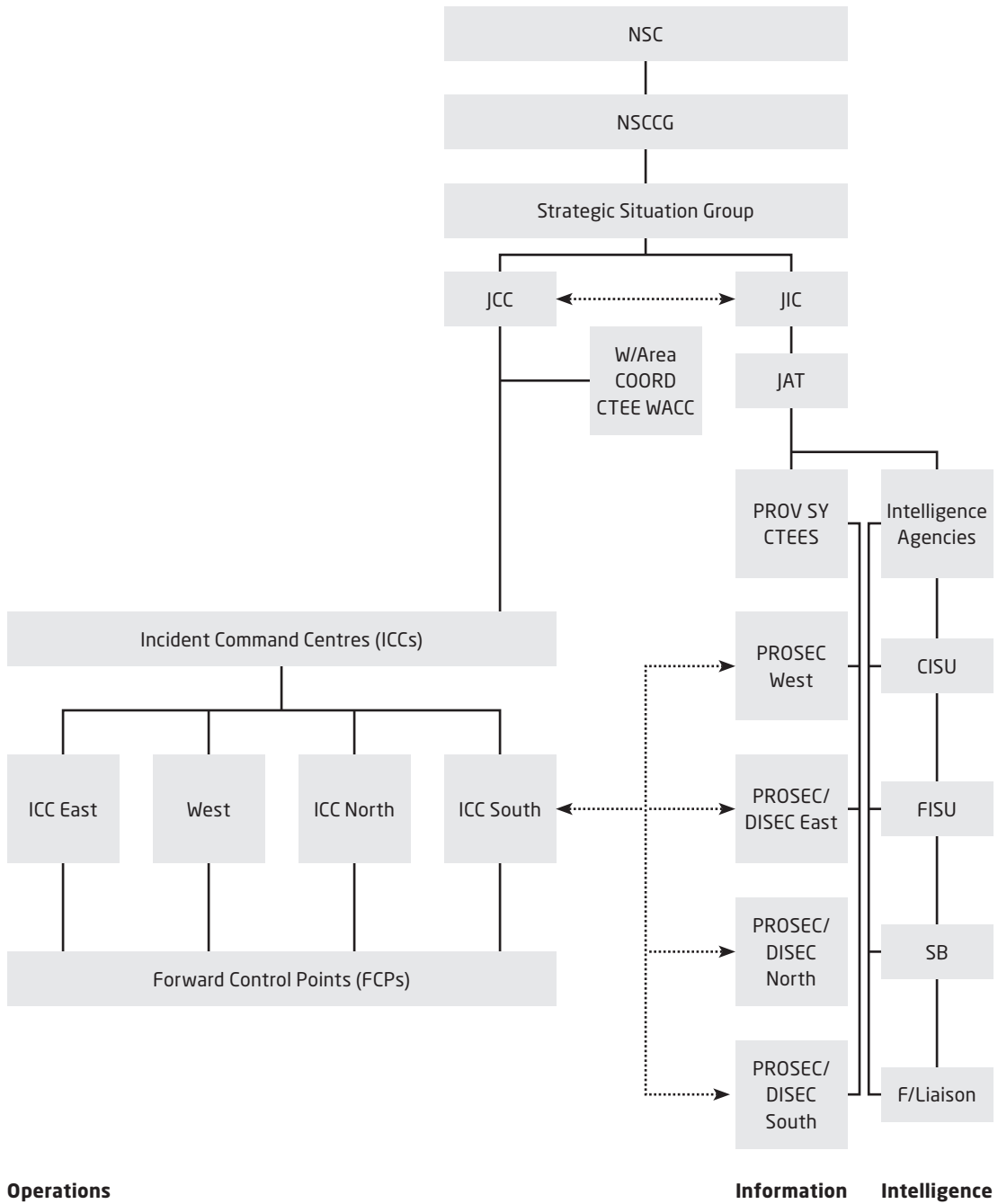
- crisis prevention, management and resolution;
- conflict regulation through early warning threat analysis;
- contributing to domestic revenue mobilization for poverty reduction; and
- the nature of the subregional conflict situation.

Prior to the conflict situation, political interference in security provision with limited space for parliament was at the root of a highly uncoordinated approach to the issue. This was followed by the outbreak of conflict and the resultant situation, involving a large and ill-equipped military force operating in a troubled and insecure environment with many challenges, including drug and human trafficking. The post-conflict reality has been dominated by a reform process. Presently, a Defence Review has been completed and the restructuring of the Republic of Sierra Leone Armed Forces (RSLAF) has taken place. This process has evolved into the creation of a national security architecture.

Within the reform process, the central policy goal was securing human security. The strategy for transformation was to build the capacities of security sector institutions, security forces and intelligence services in order to secure public confidence and enable an environment for sustainable development. This included institutionalizing effective partnership with the non-traditional security sector. Critical to this process was ensuring civilian-led democratic oversight of the security sector.

The National Security Council (NSC) is advised by the National Security Council Coordinating Group (NSCCG), which comprises senior representatives from the police, the RSLAF and the security agencies. This broad base ensures that information is collated from a wide range of sources. This allows for more effective cooperation among departments and agencies of government in matters of national security.

Figure 1: Sierra Leone's national security architecture*



Operations

Information

Intelligence

Note: For an explanation of key abbreviations used in this figure, see below.

The NSC is well supported by a coordinated framework of committees that form Sierra Leone's national security architecture. This includes the NSCCG; the Strategic Situation Group; the Joint Intelligence Committee (JIC); the Joint Coordinating Centre (JCC); the Provincial Security Committees³ (PROSECs North, South, East and West); and the District Security Committees (DISECs).

The operational process, as opposed to the normative process, is managed at the level of the JCC, Incident Command Centres and Forward Control Points. The Provincial and District Security committees have a critical role to play in Joint Border Security and Confidence-Building Units within the Mano River Union Security Institutional Framework, which comprises Guinea, Liberia and Sierra Leone. Both committees are designed to provide early warning of security threats to the government, via the Office of National Security. The policy and legislative framework for effective management and oversight of the security sector agencies and institutions are now well established.

The process makes efficient use of traditional and non-traditional security actors. These include diplomatic actors in the Ministry of Foreign Affairs and the various foreign missions, the Ministry of Information, the Ministry of Finance, border control agencies in neighbouring countries, parliament, civil society and the media. Although complementarities to government policy are important, impartiality is essential to this engagement. The role of parliament is especially pertinent, as legislation, monitoring and oversight are vital for longevity and sustaining SSR beyond regime change.

Key achievements of the Sierra Leonean process include the following:

- linking security to development by making it a priority within the Poverty Reduction Strategy Paper;
- the pursuit of a national process that has taken the regional security architecture into account;
- the passing of legislation that has necessarily targeted broader issues of human security, including money laundering and drug and human trafficking;
- linking governance processes to SSR in addressing electioneering together with the security architecture; and
- focusing on internal threats vis-à-vis external threats based on a domestically generated threat analysis process.

Key challenges of the Sierra Leonean process have included the following:

- understanding complex political dynamics;
- commitment from the key parties, particularly the executive and legislature;
- the capacity of the executive and legislature to accept information and policy advice;

³ Designated as PROV SY CTEES in figure 1.

- sensitivity in recruitment, personnel selection and legislative process in the security sector; and
- budget constraints in the post-conflict situation affecting support for implementation of the process.

In conclusion, the success of the process is necessarily driven by political commitment from all parties involved. In this area, the approach must be participatory, particularly with regard to governance procedures, in order to ensure broad support and the pursuit of a process that will benefit all citizens. Thus, the issue of local ownership is essential to any participatory process that speaks to the reality of SSR and security provision. As such, the essential twinning of security and development has to drive success, as this is the reality of the central goal of human security.

9. Security sector restructuring in Liberia

The restructuring of the security sector in Liberia is central to the current debate on SSR. This restructuring has been most topical regarding the AFL. Throughout the conflict, the AFL was bloated and factional, as recruitment was increasingly driven by cronyism. However, it is notable that its restructuring did not begin with the CPA, as civil society placed this on the agenda in 1990, although it has been consistently maligned for doing so. Nonetheless, the CPA has been the most vocal overarching national document on the SSR processes.

In 2004 the US government carried out an assessment of the Liberia situation. This was the basis of the decision to use the services of a private security firm to pursue the SSR process. At the time of this debate, AFL troops had a high average age, and army personnel were demobilized and disbanded, with the option of being recruited. In this armed forces restructuring process, the focus has been on the physical requirements of the troops, as opposed to the governance processes involved. This conflation can be seen as drawing from the broader SSR discourse, where international organizations, donor governments, the Liberian national government, the Liberian parliament and civil society have been very involved in the associated SSR processes. The attempts to clarify definitions and achieve a unified view of SSR have often not been successful.

In the Liberian context, the National Security Task Force has been very useful in synchronizing the debate on security. A nationwide consultation was carried out in the effort to develop a security policy. It is important that the process is driven without turf battles. Recently, there has been a more positive approach to security policy with links being drawn with the Poverty Reduction Strategy Paper in order to create a holistic security and development agenda. A substantial amount of work remains to be done.

Regardless of the challenges surrounding the ongoing approach to SSR, it is essential that the process should continue, to avoid a vacuum. The way forward would be a negotiation on the approach with all parties concerned. At this point, it is essential for all parts of the government, including the legislature and the executive, to be on the same page. The GC, the National Security Agency and the Ministry of Defence should work together, given their shared responsibility of carrying out research and generating policy regarding the security sector. This process will be best secured by a clear definition of the roles and responsibilities of all stakeholders.

10. Points on effective communication

There are five main reasons for engaging the media:

- to be seen;
- to clarify a situation;
- to address sensitive issues;
- to send signals; and
- to draw attention to particular issues.

Press conferences are useful, but it is essential that discussions should be guided by the press statement that has been issued prior to the press conference. Since press conferences are public processes, invitations to attend should be extended to anyone who is interested and selectivity should come with selecting questions to be answered. Questions, and answers to them, basically elaborate on an initial well-prepared statement. Journalists usually use open-ended questions, using such words as 'why', 'when', 'what', 'how' and 'which'. It is important to be cautious and not get 'caught out' by closed questions. This is also the case with leading and suggestive questions that may ultimately lead to misrepresentations.

Appendix 1: Agenda

DAY 1: Wednesday, 14 November

Arrival of participants in Accra (Erata Hotel)

DAY 2: Thursday, 15 November

- 11:00 Departure from Accra to Manet Paradise, Ada
- 13:00 Lunch
Meeting of facilitators
- 14:30 Introduction to the seminar
Dr 'Funmi Olonisakin
Review of agenda and report back from last training seminar
Objectives of the meeting and envisaged outcomes
- 15:00 Introduction to security sector reform and governance
Prof. Eboe Hutchful
- 16:00 Coffee
- 16:30 Implications for parliamentary committees and relationship with the executive
Discussion led by Dr Adedeji Ebo
- 18:00 Close
Review meeting by facilitators

DAY 3: Friday, 16 November

- 09:30 Dealing with transitional justice: The role of parliament, security agencies and civil society
Prof. Ademola Abass
- 11:00 Coffee
- 11:30 Post-conflict justice issues
Democratic Republic of the Congo (DRC)
Anicia Lala
- 13:00 Lunch
- 14:00 Experience of security sector reform in other contexts: Drawing lessons for Liberia (plenary)

- 14:30 Break-out groups
Group 1: Uganda – led by *Dylan Hendrickson*
Group 2: Sierra Leone – led by *Jonathan Sandy*
- 16:00 Coffee
- 16:30 Plenary: Implications for Liberia (report back from case study discussion)
- 18:00 Close

DAY 4: Saturday, 17 November

- 09:30 The process of defence reform in Liberia
Thomas Jaye
- 11:30 Coffee
- 12:00 Setting priorities for programme design
Jonathan Sandy and Dylan Hendrickson
- 13:00 Lunch
- 14:00 Communicating SSR through the media (simulation exercise)
Dr Abiodun Onadipe
- 16:00 Coffee
- 16:30 Simulation continued
- 17:30 Taking stock and future plans
- 18:00 Close

DAY 5: Sunday, 18 November

- 09:30 Departure from Manet Paradise, Ada to Accra

Appendix 2: List of participants

Liberian Senate

1. Sen. Lahai G. Lansanah, chairman on National Defence and head of delegation
2. Sen. Mobutu V. Nyenpan, member, Defence Committee
3. Sen. Joyce Musu Freeman Sumo, member
4. Sen. John A. Ballout, member
5. Sen. Jonathan J. Banney, member
6. Sen. Nathaniel Innis, member
7. Sen. Roland C. Kai, member
8. Ms Jannave Massaquoi, assistant secretary of the Senate

Liberian House of Representatives

9. Hon. Saah R. Gbollie, chair, National Security Committee
10. Hon. Elijah Flahn Seah, co-chair, National Security Committee
11. Hon. Rufus Gbieor, chair, Defence Committee
12. Hon. Regina S. Teah, member
13. Hon. Bhofal Chambers, member
14. Hon. Edwin Juah, member
15. Hon. Albert Toe, co-chair, Defence Committee
16. Hon. Dave Koomey, member
17. Hon. Vaforay Kamara, member
18. Mr Sampson Cisco, resource officer

Liberian civil society

19. Joe Wylie, ASDR
20. Debey Sayndee, director, KAICT, University of Liberia
21. Caroline Bowah, SSR Working Group, Liberia
22. Cecil Griffiths, SSR Working Group, Liberia

Facilitators and resource persons

23. Prof. Ademola Abass, Brunel University
24. Dr Abiodun Alao, CSDG, KCL
25. Dr.Uju Agomoh, executive director, PRAWA
26. Stella Amadi, CDD
27. Dr Adedeji Ebo, DCAF
28. Gen. Carl Coleman, ASDR, Accra, Ghana
29. Dauda Garuba, CDD
30. Dylan Hendrickson, CSDG, KCL
31. Prof. Eboe Hutchful, chair, ASSN
32. Eka Ikpe, CSDG, KCL
33. Dr Thomas Jaye, KAIPTC
34. Al Hassan Kondeh, Ministry of Defence, Sierra Leone
35. Anicia Lala, ASSN
36. Zeedah Meierhofer-Mangeli, Resource Centre for Black Women, Zurich
37. Dr 'Funmi Olonisakin, director, CSDG, KCL
38. Dr Abiodun Onadipe, UNDP, Nigeria
39. J. P. J. Sandy, ECOSAP