Workshop Report

The state of the region

Security Sector Governance in Southern Africa

Compiled by Lauren Hutton
17–19 March 2010, Kievits Kroon, Pretoria, South Africa

INSTITUT D'ÉTUDES DE SÉCURITÉ · INSTITUTE FOR SECURITY STUDIES

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Contents

List of acronyms and abbreviations

AU	African Union
CIO	Central Intelligence Organisation
DDR	Disarmament, Demobilisation and Reintegration
DRC	Democratic Republic of Congo
EISA	Electoral Institute of Southern Africa
EU	European Union
FARDC	The Armed Forces of the Democratic Republic of Congo (*Forces Armées de la République Démocratique du Congo*)
GPA	Global Political Agreement
ICP	International Cooperating Partner
ICT	Information Communication Technology
ISS	Institute for Security Studies
MDC	Movement for Democratic Change
NGO	Non-governmental Organisation
PMSC	Private Military Security Company
RISDP	Regional Indicative Strategic Development Plan
SADC	Southern African Development Community
SADC-CNGO	Southern African Development Community Council of Non-Governmental Organisations
SANDF	South African National Defence Force
SARPCCO	Southern African Regional Police Chiefs Cooperation Organisation
SIPO	Strategic Indicative Plan of the Organ on Politics, Defence and Security Cooperation of SADC
SSF	SADC Standby Force
SSR	Security Sector Reform
STAREC	Stabilisation and Rebuilding Programme to Regions of Post Conflict
UN	United Nations
UNCAT	United Nations Convention Against Torture
ZANU-PF	Zimbabwe African National Union Patriotic Front

Executive summary

It is widely accepted that governance of the security sector in a manner consistent with democratic norms and values and the rule of law is an essential component for the equitable, efficient and effective delivery of security services. Good governance of the security sector can only be achieved through broad-based participation and local ownership. Understanding the dynamics of the security sector and the arrangement of power relations within the security sector requires in-depth knowledge of the actors, structures, processes, values and behaviour that inform the delivery of security services and how citizens access those services.

The aim of this conference was to explore dynamics that influence the democratic governance of the security sector in Southern Africa. The 1990s was a period of democratic transition for many states in Southern Africa. These transitions often entailed a transformation of the security apparatus with a particular focus on the defence sector. This was evident in the priority given to transforming liberation and guerrilla movements into professional armed forces and the demobilisation of ex-combatants. The democratic agenda brought with it a need for broader participation in governance and for greater accountability of the security services.

In recent times, there have been a number of political developments in Southern Africa that have called into question the fabric of the democratic orders and the depth of transformation of the security sectors. For example, the politicisation of the security apparatus in Zimbabwe; the unconstitutional change of government in Madagascar; suspected coup plots in Malawi and Lesotho; the continued violence in the DRC; the questionable behaviour of security actors towards citizens across the region; and the generally partisan, exclusivist and regime-centred nature of the security structures. These issues have highlighted the need to reconsider an agenda for security sector reform (SSR) in Southern Africa.

As noted in the GFN-SSR Topic Guide on Southern Africa[1]:

> There are few SSR processes that can be seen to fulfil current ambitions of SSR as a multi-sectoral approach based on a broad assessment of the security and justice needs of the state and its people. As indicated in the available literature, many of the states that undertook some form of SSR have primarily followed sector-specific reforms to meet certain security and justice needs. Furthermore, much of the SSR that has occurred in Southern Africa has been defence or police reform with little focus on the other security service providers or on the interdependencies and interrelationships between the various sub-sectors.

A conversation on improving security sector governance in Southern Africa needs to be based on concrete analysis that encapsulates an overview and understanding of the legislation, structures and practices that inform the delivery of security and justice services. The Security Sector Governance Programme, through its project on Security Sector Governance in Southern Africa, seeks to provide this overview and understanding as the platform for devising locally grown agendas for change. This workshop brought together regional experts, academics, civil society representatives and national and regional security practitioners and provided a platform where they could exchange ideas on the status of security sector governance in the region with a view to identifying agendas for change.

The identification of entry points for reform has a five-fold purpose:

- To enable input from the region into the international agenda for SSR
- To enable input from Southern Africa into the continental framework for SSR
- To enable input from regional experts into the possible strategic orientation for the Organ on Politics, Defence and Security Cooperation of the Southern African Development Community (SADC)
- To have an available knowledge base on the security sector to enable civil society participation and local ownership
- To assist think tanks in the region to develop sound strategies for applied policy research and capacity-building interventions

It was against this backdrop that the Security Sector Governance Programme of the Institute for Security

Studies convened a three-day conference on Security Sector Governance in Southern Africa at Kievits Kroon Country Estate from 17–19 March 2010. The conference brought together parliamentarians and representatives from the security services of various countries as well as members of the academic community and civil society organisations in the region. The programme provided ample opportunity for debate and in-depth discussion of the challenges involved in the democratic governance of the security sector and the delivery of rights-respecting and equitable security and justice services. The following key challenges were highlighted as areas requiring further intervention:

- The general legal enunciation of civilian control, oversight and democratic norms and standards for the governance of the security sector is adequate, but implementation is tenuous due to weak institutions, human and financial constraints, party partisanship and political interference
- There is a lack of coherent, integrated national and regional security strategies that enable efficient utilisation of resources and alignment between national and regional priorities and approaches
- The primary security challenges facing the region are embedded in the socio-economic conditions and economic disparities. The role of the security sector in providing security and justice services within this broader security agenda needs to be discussed further. The key question is how the tasking of traditional security sector actors aligns with non-traditional security vulnerabilities
- Civil society, except for think tanks that specifically work on peace and security issues, is not meaningfully engaged in the discourse on security (either nationally or regionally) or in the oversight of their respective national security institutions. They have largely been excluded by states and the SADC and they are ill equipped to meaningfully execute this function. There is a need for more involvement by civil society, including women's groups, in the setting of the regional and national security agendas and discourse. In order to be able to participate in a meaningful manner, civil

society groups and the media require access to information and enhanced security fluency
- In general the security institutions are under-resourced, suffer from skills shortages and are challenged to deliver security services. In particular, Policing and Correctional Services require significant investment in resourcing and training and in the development of a rights-respecting culture. The penal sector is often overlooked and suffers from a lack of national priority and investment. Throughout the region, prison conditions are harsh and alternatives to incarceration need to be explored
- The independence of the judiciary is, in some instances, compromised. In all instances the judiciary suffers from a lack of capacity that results in severe backlogs in the administration of justice
- Labour relations in the security sector have become an increasingly contested issue. More attention must be given to the management of human resources in terms of grievance procedures and mechanisms, recruitment and retention strategies, and remuneration packages
- Poorly conceptualised and implemented disarmament, demobilisation and reintegration (DDR) processes have had long-term effects in the region: (a) incomplete DDR processes present threats of the circulation of weapons, criminal activity and the potential for remobilisation, (b) ill-conceived reintegration programmes have left many ex-combatants vulnerable and open to criminal and political exploitation and (c) there is a lack of coherent policy and institutional frameworks catering to the needs of war veterans

NOTE

1   *Topic Guide: SSR in Southern Africa,* Global Facilitation Network on Security Sector Reform (GFN-SSR). Available online at: http://www.ssrnetwork.net/topic_guides/introducti4.php.

Welcoming

Col (Rtd) Stephen van Neel

Head (Acting), Security Sector Governance Programme, Institute for Security Studies

Col (Rtd) van Neel officially opened the conference by welcoming the distinguished delegates. He noted that the conference had generated much interest from policy makers, practitioners and civil society representatives. This interest from such a wide and diverse group of actors and partners demonstrated the continued relevance of discussing the governance of the security sector in Southern Africa. Col (Rtd) van Neel made some additional comments on the necessity of democratic governance of the security sector and the principles on which this necessity is based. These principles included democratic imperatives for accountability, transparency and participation. He observed that the current political, security and socio-economic trends in Southern Africa highlighted the need for civil society to remain engaged on these issues and that this conference provided a platform for such engagement.

Keynote address

DR JAKKIE CILLIERS
Executive Director, Institute for Security Studies

Dr Cilliers began his presentation by outlining the security context in Africa as it was commonly portrayed, namely as one characterised by violence and conflict, corruption, proliferation of arms, kidnapping and cyber-crime, widespread poverty, sexual exploitation, lack of opportunities and despair. He questioned this frequently heard and pessimistic view of the continent and contended that the 21ˢᵗ century was an 'era of unprecedented peace and prosperity'. At the end of the previous century, sub-Saharan Africa was the most war-affected region in the world but, between 1999 and 2006, the number of conflicts in sub-Saharan Africa had halved. Dr Cilliers attributed the overall decline in inter-, intra- and extra-state conflict to 3 factors, namely: (1) the end of colonialism, (2) the end of the Cold War and (3) increased international activism by the United Nations (UN) and other international organisations such as the African Union (AU).

After addressing these broad conflict trends, Dr Cilliers charted some key economic trends for the continent. He observed that Africa was not as badly affected by the recent global economic crisis as other parts of the world. This was accredited to the increased resilience of African economies due to the long-term impact of structural adjustment programmes pursued in the 1980s. He emphasised that economic growth rates in Africa remained well above the global average. In particular, future economic growth would be influenced by remittances and the potential role of the Diaspora, continued increases in foreign direct investment and sustained steady increases in official development assistance.

Dr Cilliers attributed the achievements to a range of national, regional and global developments. At the national level, there has been improved agricultural output and industrial management that has contributed to efficiency and economic development. At the regional level,

increased aid and debt relief to African states has eased the burden on national fiscus. At the international level, global economic growth and increased demand from China in particular has created global markets for African raw materials and outputs. Complementing the positive trend is improved governance.

Reflecting on future trends, Dr Cilliers noted the potential positive and negative impacts that urbanisation and population growth could have on economic growth and development in Africa. Urbanisation can be interpreted as an adaptation strategy for climate change and will partly offset some of the worst impacts of climate change as people move into urban centres to overcome the impact of environmental factors characteristic of rural livelihoods. However, rapid urbanisation will continue to drive the development of massive urban slums. Since Africa will experience the highest population growth in the world, it will face the greatest demand for food production or imports in a region currently experiencing a declining ability to meet these demands.

Future trends of democratic governance on the continent will be affected by various factors, including the impact of increased relations with China, information communication technology (ICT) and deepening globalisation. Dr Cilliers gave statistics on the penetration of mobile communications and cellular telephones in order to highlight the capacity for growth in the ICT sector in Africa. These statistics suggest that there is massive potential for future growth in this sector.

Regarding the impact of globalisation on governance, it was highlighted that increases in trade, travel and communications have outpaced the development of mechanisms for global governance. Furthermore, increased communication and interactions have created a greater awareness of relative deprivation and has contributed to

the creation of a global underclass. Dr Cilliers also discussed the relationship between corruption, governance and development.

In conclusion, Dr Cilliers acknowledged the short-term concerns facing the continent, including violent competition for scarce resources, militant Islam, and the manipulation of elections. Given all these dynamics, he concluded that Africa would follow its own development path but it would be one that required investment in infrastructure, education and healthcare systems and improved governance.

DISCUSSION

The participants raised important questions about the relationship between democracy, development and security. It was highlighted that democratic trends in Southern Africa had not necessarily been accompanied by greater development and security. Questions were raised as to whether the style of democratic rule in the region was conducive to the realisation of development and security dividends. Participants noted that the liberation history had impacted on the nature of democracy and governance. In particular the impact of single-party majority rule on state institutions and democratic governance

requirements needed to be explored further. In relation to democratic governance, participants noted that most African states were still in the early stages of democratic evolution and the processes of delayed state formation had negative impacts on democratic governance and institutional sustainability.

In reference to its effect on the nature of democratic governance, the participants highlighted the impact of corruption and the exploitation of national resources. It was noted that the extraction of national resources through corrupt practices and the subsequent investment in external markets had a negative impact on domestic economic growth. The plunder of national resources for self-enrichment has become characteristic of some regimes in the region. It was observed that in the case of the DRC the interests of political and economic elites superseded the development needs of the people. This case highlights the importance of national leadership and the need for more national ownership of development and security priorities.

Delegates also expressed concern about energy security on the continent and questioned the sustainability of our energy resources. This area was emphasised as crucial to long-term development and part of the package of investment into infrastructure to support economic growth.

The state of the region

Chairperson: Dr Cheryl Hendricks
Senior Research Fellow, Security Sector Governance Programme

REGIONAL SECURITY CHALLENGES AND RESPONSES

Mr Richard Cornwell
Cornwell & Associates, Independent Consultant

Mr Cornwell began by highlighting that events since the end of the Cold War suggested an urgent need to develop new security paradigms that moved beyond the state and military-centred conceptions of national, or even regional, security. This enabled debate on the subjective nature of security and raised key questions such as: whose view of security should count? Are we still to talk about the view of security as it might be viewed by international statesmen concerned with the balance of power and the defence of national interest, or should we consider the perspective of a landless peasant, whose view of security might be altogether different, though no less valid? Perceptions of security might be adapted by each of these actors to suit their own agendas. Mr Cornwall noted that the one constant amongst various perceptions of security was uncertainty; uncertainty about the future, be it in terms of the survival of the ruling regime or survival in the face of hunger and disease.

Mr Cornwell then addressed perspectives on security in Southern Africa and noted that the lens through which we viewed security was particularly important. Although there are areas that raise concerns among those with a more traditional view of security, most SADC countries have more to fear from structural and environmental problems. He evidenced this view with reference to the position of SADC countries in the Human Development Index. Further, Southern Africa contains some of the most economically unequal societies including Namibia, South Africa and Botswana.

Not only do these examples highlight concerns about human security, they also suggest a need for attention lest socio-economic distress feed into real conflict, even at a low level.

Mr Cornwall posited that the long-term prognosis for social and environmental change allowed little room for complacency. He observed that, particularly in the southernmost parts, the region suffered from growing water stress. This could result in deteriorating prospects for rain-fed agriculture and for the provision of adequate services for rapidly expanding urban and peri-urban areas. These problems exacerbate and are exacerbated by unplanned urban drift, which leads to settlement patterns that are difficult to service or police.

An additional challenge pointed out by Mr Cornwell is that fragile and vulnerable economies provide weak and unpredictable tax bases – a problem exacerbated by the development of informal economies. This prevents the state from meeting its citizens' demands for services, and creates alternative locations of power. It also reduces state autonomy by increasing donor dependency. According to the speaker, security analysts often overlook the links between taxation and effective state formation.

Mr Cornwell then provided insight into some of the key tensions within selected states in the region. He highlighted tensions occurring within Angola, Mozambique, DRC and Madagascar and reflected on internal political and conflict dynamics. He stated that in Angola and Mozambique there was the need to address the underlying regional social and economic imbalances that fuelled the conflicts in these Lusophone states. In Angola, the dominance of a Luanda-based political and economic elite has delayed the distribution

of the peace dividend across much of the country. The ruling party has consolidated its power and co-opted some of its erstwhile opponents, using state patronage to marginalise recalcitrants. Recent modifications to the constitution suggest a move to a more narrowly based presidential system in which parliamentary powers will be further eroded. Furthermore, the Cabinda secessionists continue to pose a highly visible threat, which has not been deflected by negotiation or co-optation. Recent tensions regarding maritime boundaries with the country's northern neighbours on the Atlantic seaboard also give cause for a measure of anxiety. Mr Cornwell observed a similar process of political centralisation in Mozambique, leading him to conclude that in both Angola and Mozambique it was becoming almost impossible to distinguish between the aims and operations of the ruling parties and those of the state.

Mr Cornwall then turned attention to the DRC. He noted that the tensions that gave rise to the civil war remained unaddressed, except at a formal and superficial level. Though post-war elections have been held in the DRC, there appears to have been only slow and partial progress towards the creation of effective state machinery. The situation is particularly serious in the east of the country where rebel movements continue to exercise a measure of control over territory and resources in the Kivus. He emphasised that effective peacebuilding in the DRC would be a process that took decades rather than years, and must involve addressing the concerns of numerous different communities at a local level to avoid the aggregation of micro-level conflicts into a broader conflict zone. The tensions between Kinshasa and other provincial power centres will remain a threat to the reconstitution of an effective state apparatus and will be exacerbated by the very uneven geographical distribution of natural resources.

Finally, Mr Cornwall made some observations on the protracted political crisis in Madagascar. He noted that the current issues could be traced to the island's structural and developmental problems. Issues of uneven development and unfulfilled expectations, combined with a degree of political ineptitude, led to the ousting of Ravalomanana by the youthful and populist mayor of Antananarivo, Andry Rajoelina, in 2009. This coup was widely condemned, and towards the end of 2009 diplomatic attempts to resolve the impasse appeared to have borne fruit. However, this was short lived and the failure of the power-sharing arrangements will make it that much harder to generate confidence in similar mechanisms in future. A broader peacebuilding process, incorporating but not limited to political concerns, thus seems the most sensible way forward.

CIVIL SOCIETY PERSPECTIVES ON SOUTHERN AFRICA SECURITY CHALLENGES AND RESPONSES

BOICHOKO A. DITLHAKE AND
BOB L. MUCHABAIWA
SADC Council of Non Governmental Organisations (SADC-CNGO)

Mr Ditlhake's presentation provided a critical synopsis of the security challenges facing Southern Africa. He argued that although there was evidence of concerted efforts to address security challenges in the region, progress had been slowed by five main deficits:

- Democratic and governance deficit
- Leadership deficit
- Delivery deficit
- Security conceptualisation deficit
- Genuine regionalism deficit

Before addressing these deficits, Mr Ditlhake provided an analysis of the regional security context and regional response mechanisms.

He noted that most of the security challenges facing the region were articulated in the Strategic Indicative Plan of the Organ on Politics, Defence and Security Cooperation (SIPO). The most salient of these are intra- and inter-state conflicts; refugees; illegal immigrants; internally displaced persons; disarmament, demobilisation, reintegration of ex-combatants and the rehabilitation of child soldiers; weak democracy and governance frameworks; HIV and Aids; imbalances in the accessibility of natural resources and wealth; corruption; weak disaster-management mechanisms; illicit trafficking of small arms; and constitutional and electoral disputes. The countries with specific peace and security challenges include the DRC, Lesotho, South Africa, Madagascar and Zimbabwe.

Mr Ditlhake highlighted that the mere absence of violent conflict in most SADC countries masked a number of security challenges. For instance, reports of shrinking civil society space, human rights violations and consequently increasing human insecurity are commonplace in most SADC countries. Women continue to suffer abuse and violence in both private and public spheres. Some of the security challenges that haunt the region are crime syndicates; small arms dealing; xenophobia; the marginalisation of minority communities; and tribalism. In addition, natural disasters such as droughts, cyclones and floods also pose serious challenges to human security. He emphasised that severe poverty, unemployment, corruption, the widening gap between the rich and the poor, unequal access to means of production and other social injustices were perhaps

going to be the main security threats and therefore the key drivers of internal unrest and political instability in Southern Africa in the future.

At the inter-state level, Mr Ditlhake highlighted the fact that issues of shared water and other natural resources, territorial boundaries and historical factors (particularly those related to colonialism and the involvement of specific countries in inter- and intra-state conflicts) tended to strain relations. For example, water bodies or rivers such as Lake Tanganyika, Cahora Bassa and the Okavango are potential sources of insecurity. He contended that population growth, migration and the search for livelihoods would increase contestation over shared resources, which in turn would become a potential source of conflict and insecurity among states in the region.

Mr Ditlhake then turned to the SADC peace and security architecture. In line with the Africa Union, SADC is establishing a regional standby brigade and a Regional Early Warning System. He noted that apart from limited human and financial resources to implement agreed commitments and strategies, the SADC structures and processes have been criticised for the state-centric approach and for excluding civil society on matters of regional security cooperation. It is only recently that there is evidence of any opening-up of the SADC Organ to civil society.

Mr Ditlhake's presentation further addressed the five areas of deficit identified in the introduction as regional security challenges. These were outlined as follows:

- **Democratic and governance deficit** - Consolidating democracy and good governance is one of the greatest challenges facing Southern Africa. Weak governance and electoral frameworks, as well as the lack of a culture of tolerance, pluralism and respect for diversity have emerged as sources of insecurity, internal unrest and political instability
- **Leadership deficit** - One of the greatest challenges facing Southern Africa is that the post-liberation era has failed to produce enough accountable, responsible and transparent leaders for the region. Elite politics, patrimonial networks and close interdependencies between access to political and economic resources characterise the political environment
- **Delivery deficit** - SADC and individual member states are falling short on delivery in a number of areas. Four sub-types of delivery deficits feature prominently: 1) slow implementation of protocols, declarations and agreed strategies, 2) weak or non-existent enforcement mechanisms, 3) poor delivery on socio-economic development, and 4) piecemeal security sector reform
- **Security conceptualisation deficit** - The security architecture of SADC and even of individual member

states reflects a state-centric approach to security. This conceptualisation deficit falls short of the recent drive towards human security
- **Genuine regionalism deficit** - The challenge, looking ahead, is to strike a balance between sovereignty and regionalism if regional security challenges are to be collectively addressed. SADC member states need to ensure that the basis for developing a regional security community are in place, such as technology, economic growth, mutual trust and collective identity

Mr Ditlhake provided a set of recommendations for enhancing regional security, which included:

- Security sector governance should be strengthened and governance of the security structures should be characterised by transparency, accountability, participation, and responsiveness to the needs of the people
- Broadening the scope of security: SADC and individual member states should be challenged to broaden the concept of security from a state-centric to a comprehensive human security approach
- The Regional Early Warning System should be opened up to involve a broader base of stakeholders
- Civil society should be more involved in regional security in terms of setting priorities and implementation (for example, in the civilian component of the SADC Brigade)
- Implementation and enforcement of existing instruments: If SADC is to make progress regarding regional integration, the issue of enforcement mechanisms for non-compliance with protocols needs urgent attention
- Capacity strengthening of the SADC Organ
- Poverty and social justice: Southern African states need to address the urgent issues of poverty, marginalisation and social injustices as potental sources of insecurity

Mr Ditlhake concluded that steps taken by SADC indicate a commitment to address regional security challenges. He emphasised that addressing the security challenges in their various forms and shapes called for collaborative interventions involving state and non-state actors.

INSTITUTIONAL RESPONSES TO REGIONAL SECURITY CHALLENGES

Prof Anthoni van Nieuwkerk
Director of Centre for Defence and Security
Management, University of the Witwatersrand

This presentation reviewed the evolution of politics and security cooperation in Southern Africa, after which it located SADC's current focus areas. It then briefly

examined the state-centric approach to politics, defence and security cooperation, the NGO/civil society terrain, and areas amenable to state support.

Prof van Nieuwkerk began by outlining the evolution of security cooperation in Southern Africa and particularly within the framework of the SIPO. Apart from stating a clear link between development and security, the SIPO was designed to do three things:

- Provide guidelines for action through strategies and activities
- Shape the institutional framework for the day-to-day activities of the Organ
- Align the regional peace and security agenda with that of the AU and UN

The rather exhaustive list of objectives, strategies and activities contained in the SIPO can be summarised to include democracy building, peacekeeping training, police cooperation (especially with regard to cross-border crime), disaster management, conflict management (with the emphasis on mediation), and food security. Management of the HIV and Aids pandemic also features prominently. In the longer term, the organisation plans to promote institution building, peace enforcement and harmonisation of foreign policies.

Prof van Nieuwkerk noted, however, that in light of the region's history and developmental profile, the achievement of peace and stability remained a challenge. Poverty and underdevelopment are at the heart of the region's human insecurity and, given external as well as internal dynamics, that insecurity will deepen. SADC and the SADC Organ, in particular, should strive to respond more effectively to these security challenges.

He then made some observations about the current focus of the Organ, noting that thinking regarding the promotion of peace and security in the SADC region was increasingly benefiting from the so-called 'development/democracy/security' perspective. This is a human security-inspired approach that argues that none of these themes can be advanced in isolation from the others. Development requires secure and democratic environments. Similarly, securing the interests of people and states becomes a difficult undertaking in the absence of development and democracy. The latter thrives under conditions of safety and security (although democratisation is not always a peaceful process, and does not always lead to increased human security). Indeed, progress in one area needs to be understood in the context of progress in all these areas.

For this reason Prof van Nieuwkerk contended that the relationship between the Regional Indicative Strategic Development Plan (RISDP) and SIPO was critical as

these were the two legs on which SADC walked (together, they constitute the SADC common agenda). SADC – the Secretariat and member states – was not always able to sucessfully promote the 'two legs' approach, especially among beneficiaries (the non-state sector) and outsiders (International Cooperating Partners (ICPs)). For example, in Mauritius in 2008, at the international consultative conference on poverty and development, not much was said of politics, defence and security cooperation. It was as if the 'other leg' was missing.

Prof van Nieuwkerk suggested that by adopting the 'development/democracy/security' perspective, the Organ and SADC Secretariat decision makers would be able to enhance their ability to develop regional responses to the critical challenges of poverty and disease, underdevelopment, environmental degradation, and democratisation, both in terms of its consolidation and of state capacity.

Prof van Nieuwkerk outlined the approach of the Organ and SIPO, which use a five-fold categorisation of its activities: Politics and Diplomacy, Defence, State Security, Public Security, and Police. He observed that although this is a logical and practical division of labour, it tends to complicate attempts at prioritising SADC's key security challenges and opportunities. In general terms, the work of the Organ directorate falls into two broad areas. The first is peace and security, which is dominated by the preparations for the standby force and by SADC's mediation efforts (Lesotho, Zimbabwe, DRC and more recently, Madagascar). Second are issues of politics and governance, dominated primarily by the deployment of election-observer missions in member countries.

Prof van Nieuwkerk addressed some of the complexities involved with cooperation between the SADC Organ and the international community. He noted that the level of donor funding to or through the Organ directorate remained limited.

He also noted that a number of new, powerful Southern hemisphere countries, spearheaded by China, India and Brazil, were entering Southern Africa and that this presented new challenges and new opportunities for development as well as for aid-effectiveness. These countries have the potential to become important partners for several SADC member countries. Although traditionally there has been limited or no engagement with SADC, India is emerging as a partial exception to this. More recently, the November 2009 Fourth Ministerial Conference of the Forum on China-Africa Cooperation (FOCAC) identified a range of areas of mutual cooperation and direct Chinese support. These include a Strategic Dialogue Mechanism; institutional capacity building; post-war reconstruction; peacekeeping training and

exchanges; and enhanced cooperation in disaster reduction and relief.

He then provided an outline of the NGO environment and detailed the activities of a number of NGOs engaging with governance and peace and security issues in the region. These are the Institute for Security Studies (ISS), Accord, Centre for Conflict Resolution, Pax Africa, the Institute for Global Dialogue (IGD), the SA Institute of International Affairs (SAIIA), the Centre for the Study of Violence and Reconciliation (CSVR), the Southern African Defence and Security Management network (SADSEM), the Electoral Institute of Southern Africa (EISA), and a few others.

Prof van Nieuwkerk noted that over and above these specialised think tanks and educational institutions, civil society networks in the region had not always been active or well organised when it came to SADC. SADC-CNGO has played a key role in this regard and the Organ Directorate has established some cooperation with SADC-CNGO, although it remains unclear how this will be utilised in future. He concluded that the role and contribution of other organs of civil society – such as community-based organisations, faith-based formations, organised interest groups of a wide variety, organised labour and organised business – in the promotion of democracy, peace and security, needed further examination.

The final part of the presentation provided an indication of potential areas of cooperation between external partners and SADC.

Regarding **politics and diplomacy**, the region and the SADC Secretariat need support in the following areas:

- The creation of the SADC Human Rights Commission, SADC Electoral Advisory Council (SEAC) and the Disaster Mitigation Unit
- Ongoing training in election observation and mediation
- Consultative meetings between the Directorate of the Organ and civil society
- Regarding the envisaged SADC Mediation Unit, SADC needs to draw on a pool of trained mediators for future mediation, and both Track I and Track II initiatives are necessary to deepen SADC's conflict prevention, management and resolution capability
- Regarding post-conflict reconstruction and development, there is a need for human and financial resources for ongoing peacebuilding/ Post-Conflict Reconstruction and Development (PCRD), as well as Security Sector Governance analyses, policy formulation, and training

Regarding **defence**, the region and the SADC Secretariat need support in the following areas:

- The SADC Standby Force (SSF) by boosting logistic support and the operationalisation of the logistics depot; interoperability (of equipment); and effective coordination and communication
- Transforming the Regional Peacekeeping Training Centre into a truly multi-dimensional peace support operations training institution

Regarding **public security and policing**, the region and the SADC Secretariat need support in the following areas:

- Harmonisation of national legislation in line with regional legal developments, and the continuous evaluation of implementation of legal instruments to ensure relevance and applicability
- Joint training, joint cross-border operations and exchange of information on cross-border crime
- An overall evaluation of human-rights training needs and courses
- Measures by the South African Police Chiefs Cooperation Organisation (SARPCCO) to strategise for the better management of crimes such as drug trafficking, terrorism, trafficking in small arms and light weapons; human trafficking; and illegal migration
- Capacity-building in the areas of crime prevention and crime management, including disaster management and humanitarian assistance
- Regarding immigration and border control, there is need to implement the UNIVISA (the single visa) with a focus on containing the threat of cross-border crime, and to implement a common border management system, which would include technical, financial and human resource requirements

In conclusion, Prof van Nieuwkerk posed several probing questions to the participants of the conference to stimulate debate on the role of civil society in regional security. He questioned what role might be identified for those in the Southern African non-state sector (whether think tanks, NGOs, Community Based Organisations (CBOs), academia, or others subscribing to democratic values) who are committed to strengthening the region in its quest for human and state security. Secondly, he asked what security-related issues and themes should be recognised as priorities.

DISCUSSION

The role of SADC in regional security was discussed. Participants questioned whether the regional body had the will and capacity to intervene in crisis and conflict situations. One of the key factors noted was the manner in which regional priorities were defined. The role of civil

society in setting the agenda for peace and security in Southern Africa was emphasised. Related to this, delegates observed that robust civil society engagement was a pre-requisite for democracy, development and security. It was felt that democracy should be nurtured from within states and that democratic institutions should be emboldened and grown from grassroots level.

The participants further discussed the role of war economies in fuelling conflicts in the region. The regulation of national assets and national fiscal functions, including the collection of tax revenues and trade tariffs, is an important and often overlooked element of economic growth. Delegates highlighted that these areas required more attention from researchers and policy makers.

Perspectives on security

Chairperson: Prof Maxi Schoeman
Head, Department of Political Sciences, University of Pretoria

BALANCING INTERNAL SECURITY WITH REGIONAL DEMANDS: THE CASE OF SOUTH AFRICA

Col Laetitia Olivier
South African National Defence Force

Col Olivier's presentation addressed some of the most prominent perspectives on security currently impacting on the South African defence debate. Her presentation began with an introduction to the mandate and functions of the South African National Defence Force (SANDF). The SANDF has the constitutional obligation to defend and protect South Africa – its territory and people. As a member of the AU and SADC, the SANDF has to fulfil its role under international law and agreements.

The SANDF has the duty to utilise military skills and capabilities to support the people of South Africa, especially in times of crisis. In order to fulfil the range of tasks asked of the defence force, the SANDF must provide combat-ready forces and contribute towards the development and upliftment of South Africa, its people and the African continent. The speaker noted that the functions of the SANDF were evidence that the essentially state-centric and military-focused perspectives on the role of the military had changed significantly. She emphasised that new security actors and referents had expanded the application of the concept of security. Thus, the notion of security includes the economic well-being of societies, the functioning of their political institutions and the integrity of cultural identities and minorities.

Col Olivier continued to discuss the evolving concept of security as one that had moved from an orientation centrally concerned with state security to one that focused on human security. This is a paradigm shift, away from a focus on the rights of states to protect themselves under the rubric of 'national security' towards a focus on ensuring that people can live free from fear. The concept of human security remains contested and Col Olivier noted the differences between broad definitions of such (freedom from fear and freedom from want) and more narrow definitions (freedom from fear). A broad and inclusive notion of human security entails personal security as well as economic, food, health, environmental, community and political security.

The presentation then addressed the manner in which the broader concept of human security had impacted on the definition of the role of the military. Col Olivier highlighted the increased complexity of the environment in which the SANDF operated and the increased complexity of the tasks that were required of the defence force. These tasks range from activities associated within both the spectrum of peace and the spectrum of conflict and include diverse activities such as disaster relief and arms control, as well as counter-terrorism and conventional warfare. In the African context, the complexity of the theatre of war was presented as including the impact of diverse threats, poor physical conditions, poor infrastructure and large-scale humanitarian emergencies.

In defining security in Africa, Col Olivier noted that external actors had essentially shaped African security perspectives. She also observed a notable dichotomy between African and non-African conceptions of security. A defining characteristic of the African security perspective is the regionalisation of security. This is indicative of the shift from state-centric perceptions towards the establishment of a larger African peace and security architecture. In comparison to other regional organisations, the African security architecture is unique in the extent to which cooperation at the continental level relies on sub-regional organisations as pillars and implementation

organs of its policies. She noted, however, that geography was not the only determining factor in African security cooperation. The role of shared values could take precedence over physical proximity.

Within Southern Africa, sub-regional security cooperation has changed significantly since the advent of democracy in South Africa. However, the region remains plagued by a range of socio-economic ills and underdevelopment, which frame the security complex. Col Olivier further highlighted two important areas within sub-regional security cooperation that require further attention: (1) there is a distinct lack of civil capacity to manage and respond to natural disasters and much of this responsibility is reliant on defence capabilities and (2) there are challenges to address maritime security needs.

Col Olivier pointed out that in South Africa the government faced questions about motives when engaging militarily in the region while facing internal development needs. As with many states, South African leaders have to be attentive to domestic concerns and to protect their national power base. Although South Africa's homeland security environment has generally improved since the inception of democratic governance, the increase in levels of violence during recent public protests has had critical implications for the operations of the defence force. South Africa is faced with the challenge of balancing internal security wth regional demands. Col Olivier noted that to deal with this challenge it was essential to develop a sound theoretical foundation for the central concept of security. The manner in which the conceptualisation of security is framed has both political and financial implications for the functions and tasks of the security service providers. The structure of the security forces will follow from the strategic imperatives for which they were designed. The key question to address is to what extent current concepts accurately reflect and are appropriate to the complex nature of Southern African and South Africa's geostrategic, political and economic reality.

Col Olivier highlighted that much of the defence debate in South Africa had been concerned with the roles and tasks of the defence force and, more specifically, the so-called primary and secondary tasks of defence forces. One argument proposes that the employment of armed forces in secondary roles threatens non-partisanship and could result in the undue politicisation of the military. However, Col Olivier pointed out that this was not always the case and the relationship between primary and secondary roles was impermanent.

The final part of the presentation addressed future expectations of the SANDF. Col Olivier indicated that there was a gap between the perceived capability of the SANDF and the required capability to meet regional and continental security needs. The defence force needs to be defined as policy instruments placed at the disposal of the state to manage crises which other state departments are not equipped to manage. Thus the deployment of the defence force should be targeted to achieve specific outcomes. The current focus of the SANDF, however, is to structure and prepare for both primary and secondary roles and not either one or the other.

In conclusion, Col Olivier emphasised that the SANDF's tasks would span the total threat spectrum, especially when considering that the variety and complexity of requirements were arguably greater than at any previous time in history. Demands of non-defence needs have escalated considerably yet the resources allocated to defence have been severely limited. This means that defence planners and academics need to adopt new understandings of the roles for which armed forces should be used.

Col Olivier advocated for the application of a very open-ended philosophical and intellectual approach to draw on the diversity and plurality of intellectual currents. The focus of thinking in the modern era in Africa needs to be on diversity in defence planning and structure. She cautioned that we should not focus on meta-narratives that glossed over the unique characteristics that defined African regions and individual states.

GENDER PERSPECTIVES ON SECURITY IN SOUTHERN AFRICA

DR CHERYL HENDRICKS
Senior Research Fellow, Security Sector Governance Programme

In this presentation, Dr Hendricks addressed three central questions:

- What is a gender perspective to security?
- What is the value-add and relevance for security sector governance?
- How is it being incorporated into peace and security frameworks and actions in the region?

The final part of the presentation sought to identify gaps in the implementation of gender equity into peace and security frameworks.

In answering these questions, Dr Hendricks began by quoting Simone de Beauvoir, who said that 'representation of the world, like the world itself, is the work of men; they describe it from their own point of view, which they confuse with the absolute truth'. The presenter then provided some definitions within which to frame the discussion on gender perspectives of security. Patriarchy was defined as a governance system – political, social, cultural and economic – in which men dominate. Gender refers to the construction of relationships between male and female and the attendant power dynamics around these

relationships. Acknowledging that gender issues did not equate only to the experiences of women, Dr Hendricks emphasised that women's experiences played a central role in gender analysis because they were the ones that had been most commonly marginalised. She observed that patriarchy had normalised constructed gender dichotomies.

In terms of perspectives of security, Dr Hendricks noted that when talking about security, three basic questions were asked, the answers to which determined the perspective. These three central questions are: (1) security for what or whom? (2) security by whom? and (3) security through which means? Prior to the human security perspective, the dominant answers to the questions above positioned the state as the primary beneficiary of security, to be obtained through the projection of power. This was encapsulated in a typically Realist perspective to security studies and international politics. However, as the human security perspective gained currency in the 1990s, the referent for security shifted from the state to the individual. This paradigm shift was indicative that there were many sources of insecurity that did not necessarily stem from an external military threat. These sources of insecurity include lack of good governance and democracy, food shortages, environmental degradation and violence against women.

Human security has been defined as incorporating freedom from fear and freedom from want as well as the freedom to live in dignity. Thus the concept addresses aspects of physical security, economic security and social security. The emphasis of a human security perspective is on the multi-dimensionality of security and implies also that peace – in line with Galtung's theories – has to address the structural violence of societies. The creation of peace is thus larger than just the absence of war and reflects, rather, the notion of a positive peace.

Feminists on the margins of international relations theory, pushing for alternative conceptualisations of security, had earlier articulated the human security approach. This type of perspective entails giving voice to those who are silenced, primarily women, and noting that interpretations of peace and security that do not address the needs of women leave half of the society in a state of insecurity. Dr Hendricks noted that it was often observed that for women there was no differential aftermath of war as the violence against them continued into the post-conflict phase. The experiences of women in terms of violence and insecurity have manifested as a breakdown in the distinction between public and private spheres of life. Many commentators make linkages between war, military culture and violence.

Thus, Dr Hendricks summarised the first section of her presentation by highlighting that a gender lens problematised the concept of security so that the security needs of those who are most marginalized, especially women, were addressed. A gender perspective argues for an end to all forms of violence, not just war. The gender lens emphasises that security must be linked to empowerment and that the fundamental structures of power that reproduce insecurity need to be addressed. It is broader than merely adding on the security needs of women; it is about rethinking what we do and the gendered impact of our actions.

In the next section of her presentation, Dr Hendricks examined the relevance of a gender perspective to security sector governance. She did this through exploring the integration of gender into security sector reform (SSR) programming. SSR was defined as the processes through which the security sector was transformed in a manner consistent with democratic norms and sound practices of good governance. The aim of reform initiatives is to create a system that provides security services in a manner that is accountable, representative, transparent and efficient. Part of this process includes mainstreaming gender into the security sector through policies, programmes, recruitment and deployment practices.

The integration of gender into SSR processes is predicated on the need to conform to the democratic norms and standards of representivity and equality. Furthermore, the presenter noted that international, continental and regional frameworks provided for the incorporation of women into all aspects of public life. She also noted the argument that integrating women into security services, from a human resource perspective, provided a larger pool of potential recruits and a greater variety of potential skills. This is particularly relevant in the context of multi-dimensional peacekeeping and the potential benefits of having women deployed as part of these forces. This rationale is based on the recognition of the beneficial role that female peacekeepers can play, as there are some situations that women are more capable to deal with.

A final argument in support of the mainstreaming of gender into SSR was framed in terms of the roles of women in conflict. Dr Hendricks emphasised that women had and continued to participate in conflict, as both actors and victims, and they should therefore also be part of the solutions. She further quoted a United Nations International Reseach and Training Institute for the Advancement of Women (UN-INSTRAW) document, which observed:

> Women have remained markedly absent from the upper echelons of decision-making within the security sector … The sector itself is not renowned for being inclusive of diverse views and ideas, and consultations with civil society actors and individual citizens have been minimal.

The thrust for the incorporation of women in the security system comes from United Nations Security Council Resolution 1325, which emphasises the 3 'P's – Prevention, Protection and Participation. There has been a major push by gender activists working in the peace and security field to popularise and implement Resolution 1325. Dr Hendricks noted that there was a sufficient basis to do so on the continent and in the region, not least because of the levels of sexual violence against women during conflicts.

Dr Hendricks proceeded to outline the continental and regional frameworks that set the normative standards for the mainstreaming of gender into peace and security in Southern Africa. These included:

- The Constitutive Act of the African Union, which provides that the AU 'shall function in accordance with the promotion of gender equality'
- The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2003) - Article 10, which reflects that women 'have the right to a peaceful existence and the right to participate in the promotion and maintenance of peace. State parties shall take all the appropriate measures to ensure the increased participation of women in (a) programmes of education for peace and (b) in the structures and processes for conflict prevention, management and resolution at local, national, regional, continental and international levels'
- The AU's Common African Defence and Security Policy (2004) notes the 'right to protection against marginalisation on the basis of gender' and stresses the principle of the promotion of gender equality
- The Solemn Declaration on Gender Equality in Africa (2004) - Article 2, which proposes to 'ensure the full and effective participation and representation of women in peace processes, including the prevention, resolution, management of conflicts and post-conflict reconstruction in Africa as stipulated in UN Resolution 1325 and also to appoint women as Special Envoys and Special Representatives of the African Union'
- The AU Gender Policy (2009) calls for Gender parity and Gender mainstreaming. Commitment 8 is to 'promote effective participation of women in peace-keeping and security including efforts aimed at reconciliation in post conflict reconstruction and development'
- The SADC Treaty (1992) - Article 6 (2) states that there must be no discrimination on the basis of gender

Within Southern Africa, the 1997 SADC Declaration on Gender and Development set important targets for the operationalisation of a commitment to gender mainstreaming. The Declaration set the target of 30% representation for women in political decision-making structures and equal representation in SADC's structures at all levels. In 2008 the Declaration was converted into a Protocol, giving it a binding status on member states. Article 4 establishes that by 2015 all signatory states will enshrine gender equality in their constitutions. Article 12 notes that by 2015 participating states commit that at least 50% of decision-making positions in public and private sectors are to be held by women. Lastly, Article 28 provides that state parties shall endeavour to put in place measures to ensure that women have equal representation and participation in key decision-making positions in conflict resolution and peacebuilding processes by 2015 in accordance with Resolution 1325.

Regarding the status of implementation of the Protocol, Dr Hendricks informed the audience that Gender Links had conducted baseline studies on gender in the region that revealed that only 12 of the 15 SADC member states have ratified the Protocol. Botswana, Malawi and Mauritius have yet to do so. Further, 6 countries still have to include the provision of gender equality into their constitutions. Only 6 countries have affirmative action clauses in their constitutions. According to Dr Hendricks, the overall proportion of women in parliament in Southern Africa has increased from 17.5% in 1997 to 25% at present. There are, however, disparities between countries in the region, with South Africa having 42% representation of women in parliament, the DRC only 7%, Angola 1.2% and Lesotho 58%. Throughout the region, women remain under-represented at cabinet level.

In conclusion, Dr Hendricks identified some gaps to be addressed in terms of the integration of gender into the security sector. She noted that gender remained an add-on phenomenon in the peace and security arena and many in the security sector were not even aware of the relevant frameworks. The political will that does exist needs to be translated into implementation. She also emphasised the importance of information and highlighted that research must be conducted to establish the current status quo in terms of accurate numbers and statistics so as to enable planning and implementation of policies and practices that will result in the greater participation of women in the security sector. Lastly, it was noted that strategic partnerships should be forged among women in security services throughout Southern Africa and between women in uniformed services and with outside organisations.

DISCUSSION

A rich discussion followed this series of presentations. Many participants raised the broader issue of how security was defined and the implications of this definition on

the priorities and tasking of security service providers. Questions were raised about the usefulness of a broad definition of security and it was acknowledged that tensions existed in the conceptualisation of security on two levels. Firstly, in terms of defining security threats, participants noted the centrality of having the voice of civil society in the debate. This was also related to the need to recognise that women have a place in defining security debates.

Secondly, the relationship between the definition of security priorities and the tasking of security services was discussed. Participants questioned who should protect us in the face of the range of threats and what responses to these threats should be considered. How do we define who protects us from what? It was observed that within Southern Africa, there was a need for integrated approaches to security management and more focused national and regional security planning. This relates to the need to create a better match between the range of threats and the range of security actors. For example, the role of the military should be seen in the context of what it can achieve in terms of security as part of broader political tools, which include diplomatic and economic initiatives. Furthermore, concern was voiced about the role of South Africa in the region, especially with regard to the use of the military and its relative economic power.

The issue of combating gender-based violence and the role of women in the security sector was debated. Gender stereotypes still find resonance in discussions about women in defence and police. It was emphasised that positions in the military should be awarded on competency and skill and that the focus should be on making all opportunities accessible for men and women as professional soldiers. Responses to gender-based violence were questioned and it was noted that a multi-faceted response was required to secure women and guarantee their rights. This involves continental, regional, national and community-level interventions to integrate women and women's voices into security.

Creating security in an insecure environment

The case of the Democratic Republic of Congo

Chairperson: Col Prosper Nzekani Zena
DDR National Structure, Ministry of Defence, Democratic Republic of Congo

SECURITY SECTOR REFORM IN THE DEMOCRATIC REPUBLIC OF CONGO

Phillipe Asanzi
Independent Consultant

Mr Asanzi's presentation provided an overview of the security sector in the DRC. He began by outlining the context in which SSR had been pursued. The security forces in the DRC were depleted and scattered as a result of decades of civil war. At the onset of the political transition in 2003, reform of the security sector emerged as a key priority for the transitional government. In 2005, the UN and EU developed a strategic document – the governance compact – that envisaged SSR in the DRC after the transition to democratic rule. The EU also developed a strategy to guide European engagement on SSR in the DRC entitled 'Towards a single EU approach to SSR in the DRC'.

Mr Asanzi then outlined the manner in which reform had been undertaken in different dimensions of the security sector, highlighting the specific challenges that had been faced. The following section serves as a summary of some of the pertinent points raised in this regard.

Defence sector

In 2003, the transitional government decided to create, through a process of *brassage*, 18 brigades and 1 rapid reaction force consisting of 2 to 3 brigades as the main defence force of the DRC. According to the speaker, by the time of the elections in 2006, only 15 of the envisaged 18 integrated brigades had been formed. The *brassage* process was flawed due to poor conceptualisation and limited financial resources. As a result, Mr Asanzi concluded that the cohesion and performance of the integrated brigades

was weak and the military of the Democratic Republic of Congo (FARDC) was an ill-disciplined, ill-trained and ethically divided military and a dysfunctional institution. The military had been associated with human rights violations that included rape, murder and looting.

After the 2006 elections, the reform of the military was obstructed by conflicting visions of the future defence structures between the Minister of Defence and the Chief of Staff. These opposing views were presented by the speaker as being the choice between a mass army versus a professional army. In addition, the defence reform process has been dogged by inconsistencies in the use of resources. Mr Asanzi noted that military commanders opposed the EU project, which sought to separate the chain of payment from the chain of command in order to stop the embezzlement of soldiers' salaries by military commanders. In 2009, the new Minister for Defence restricted the mission of the military to the defence of the territorial integrity of the state. A new master plan for reform of the military has since been developed. This new plan emphasises training and the rejuvenation of personnel, as well as the transformation of the territorial units and infrastructure. The defence reform agenda in the DRC remains a challenge due to political, logistical and financial factors.

Police sector

A primary objective of the transitional government, with the support of the international community, was to set up a police unit capable of securing the elections. A special unit – the rapid intervention force – was created to serve this purpose. This unit was composed of elements of former rebel groups as well as police officers from the former government. According to the speaker, after

the elections, the focus of police reform shifted to the conceptualisation of the structures and functions of the Congolese national police. A consultative group was established which produced recommendations and drafted legislation. The draft police bill outlined the status of the police and training policy, as well as the establishment of a committee on police reform to guide the process.

Mr Asanzi indictated that since 2003, thousands of police officers had received training from various partner states including South Africa, Angola, France and Belgium. There has also been steady progress in the area of equipment and infrastructure, evident, for example, in the rehabilitation of training centres and the police academy. However, many challenges still remain. Mr Asanzi noted that police officers were not well paid and were often alleged to be involved in human rights violations. Furthermore, the police still have military status and contain many former soldiers.

Intelligence sector

The presenter outlined the intelligence sector in the DRC as consisting of military and civilian services such as the ANR, DGRG and the former *Détection Militaire des Activités Anti-Patrie* (DEMIAP). He noted that the intelligence agencies had largely been excluded from the SSR processes by the government of the DRC. Due to overlapping mandates and tasking, the intelligence agencies often compete against each other. Further governance challenges lie in the lack of oversight as the president solely controls the intelligence agencies. Mr Asanzi also observed that the intelligence agencies were perceived to be involved in human rights violations, especially against opponents of the ruling regime.

Justice and penal sectors

According to Mr Asanzi, reform of the judiciary had gained momentum in recent years. In 2007, the government presented a plan that sought to resolve structural problems in the management of the judiciary, including human resource and financial management. This plan is still under consideration in parliament. The government has also initiated a series of draft papers aimed at restructuring the judiciary through the establishment of new jurisdictions. The EU and the UN have funded projects on the rehabilitation of infrastructure, the training of judges and the facilitation of access to justice, especially for women.

However, Mr Asanzi noted that more than 300 judges had been retrenched or fired. There are plans for the appointment of 500 new judges in 2010 and a further 1000 in 2011. He concluded that, despite these measures, the

Congolese judiciary remained plagued by many challenges such as corruption, poor remuneration, job insecurity and political interference. Mr Asanzi also highlighted the importance of reforming the military justice system, especially in light of the allegations of abuses in the east of the country. He noted that a primary challenge within the military justice system was interference in judicial procedures by commanders seeking to protect their soldiers.

Mr Asanzi then discussed the penal sector and the challenges related to its reform. He noted that the government had embarked on a plan aimed at modernising the governance framework, including the penal code. In addition, with the support of the EU and UN, several prisons around the country have been rehabilitated. Despite such initiatives, he concluded that the penal sector remained in a pitiable state, characterised by overcrowding, poor sanitation, inadequate food and outdated laws and regulations.

After addressing the specific challenges and opportunities in the reform of the security service providers, Mr Asanzi then turned his attention to oversight mechanisms, specifically exploring the role of parliament and civil society. He noted that the Congolese parliament had been unable to hold the executive to account, especially on sensitive issues such as the reform of the security forces and the unlawful conduct of members of the security forces.

Civil society has been actively engaged in SSR in the DRC although their focus has been primarily on defence and police reform. Mr Asanzi cited the involvement of civil society in the conceptualisation phase of the police reform process as an example of this. Civil society has also been engaging with parliament and has dispatched a team to parliament to provide expertise and assistance to the parliamentarians who are examining draft papers on the reform of the police, judiciary and military. Despite this progress, he noted that civil society in the DRC still faced challenges in terms of limited expertise and lack of cooperation from the government. There have also been allegations of government hostility and violence.

In conclusion, Mr Asanzi observed that SSR in the DRC had made slow progress. He felt that the key constraint to the successful implementation of SSR was the lack of political will on the part of the government and that this was a consequence of factionalism within the political elites and the continued instability in the east of the country. Other constraints to the implementation of SSR programmes are technical and financial: skills and resource shortages obstruct successful programming. Furthermore, the bilateral approach favoured by Kinshasa in the area of SSR has, according to the speaker, enabled the government to avoid dealing with pressing issues of accountability, transparency and efficiency.

THE CHALLENGES OF DISARMAMENT, DEMOBILISATION AND REINTEGRATION AND SECURITY SECTOR REFORM IN AN INSECURE ENVIRONMENT

Col Les Gardiner
South African National Defence Force

Col Gardiner began his presentation by outlining the background to the disarmament, demobilisation and reintegration (DDR) and SSR processes in the DRC. He paid particular attention to the Global and All-Inclusive Peace Agreement, also known as the 'Sun City Agreement', which was signed in December 2002 in South Africa. The imperatives for DDR and SSR were contained in the Sun City Agreement, which assigned five major objectives to the transitional government, including the re-establishment of the state's authority over the national territory and the formation of a restructured and integrated national defence force.

Col Gardiner noted that those negotiating peace had opted for *brassage* to create integrated brigades and that the intention was to then place these integrated members within an approved and functional military structure as stipulated in Law 04/023: The structure of the FARDC. Initially, the military side of the SSR process was started through an SSR round-table discussion where all role players – international partners, non-governmental organisations and the Ministry of Defence – produced a Ministerial Reform Master Plan in 2007. This consisted of a 4-pillar approach consisting of Deterrence, Production, Reconstruction and Excellence. Col Gardiner suggested that because different international partners advised different structures in the DRC, two defence reform plans emerged – one from the office of the Minister for Defence and the other from the office of the Chief of General Staff of the FARDC. Although the Ministerial Reform Plan was accepted, it created delays in the development of the Military Strategy. The Congolese officers believed that the Ministerial Reform Plan should first be approved by parliament before the Military Strategy could be developed. The newly appointed Minister for Defence and Veterans changed the plan and retained only the 2 pillars on Deterrence and Excellence.

Col Gardiner then outlined the involvement of the South African National Defence Force (SANDF) in assisting the Chief of General Staff in formulating a Military Strategy. Some of the challenges faced included:

- An initial lack of capacity within the FARDC to develop a Military Strategy and the absence of a dedicated structure for strategic planning at Headquarters
- Previous Military Strategy and doctrine was destroyed during the regime change and the constitution and

Law 04/023 were the only approved documents available to give direction
- The process was hampered by the instability in the personnel appointments and movements. For example, there were 5 different chiefs of general staff between 2000 and 2008
- Incoherence and disjointed initiatives on the part of international partners
- The absence of a united approach from the Ministry for Defence, the FARDC and other governmental stakeholders. Erratic decision-making, different and complicated chains of command, a lack of political will and indecisiveness contributed negatively to a unified effort
- Progress with developing the Military Strategy has also been delayed because of the continued conflict and instability in the eastern DRC. Resolving that conflict has become a military priority, leaving a leadership vacuum for the strategy development

Col Gardiner emphasised that the absence of clear political direction and a detailed, politically agreed upon programme with objectives, timelines and procedures guiding the SSR process led to a resistance to change in military echelons. Lack of political leadership hampered the formulation of realistic strategies and plans to implement and operationalise SSR initiatives. He observed that commanders and staff offices were reluctant to provide information and to cooperate with workgroups. He concluded that the perception existed within the military that reform would take away the power that they had in their current positions; participants in the planning and implementation of SSR programmes were also the beneficiaries thereof and did not accept proposals that they thought would not benefit them.

Furthermore, Col Gardiner pointed out that SSR initiatives were costly and the DRC, without the resources to fund them, was highly dependent on foreign support. The development of brigades and the provision of equipment and rations are being funded through donor money. There have also been complications in the DDR process as former combatants sometimes arrive at the demobilisation station with their families and this places an additional burden on the limited resources available. The speaker emphasised the importance of coordinating with NGOs to provide additional support.

Col Gardiner observed that the absence of a well-structured and resourced FARDC to integrate into was negatively influencing the SSR process. Among the problems noted by the speaker were:

- Combatants integrate into an ineffective and untrustworthy system

- Soldiers are irregularly paid and underpaid
- The facilities and equipment are dilapidated
- Career development is nonexistent
- The relationship between civilians and the military is bad, with the general population having a negative perception of soldiers

This combination of factors often leads combatants not to integrate or to leave the assembly points before the integration process is completed. Col Gardiner noted that training of the integrated members had also posed challenges. The SANDF provides exercises to newly integrated FARDC members over a period of approximately three weeks. The programme aims to improve group cohesion, *esprit de corps*, military culture and the development of slogans, songs and general group dynamics. He noted that this had been difficult because of the large number of ethnic groups, languages, customs and values in the DRC. A collateral focus is to 'train the trainers' so that the FARDC can take ownership of the integration programme and execute such training in the future.

Battalions have been trained by Angola, Belgium and currently South Africa. The USA and China are also involved with other training. This creates a challenge as every group is trained according to the donor country's doctrine. This leaves the FARDC with the challenge of compatibility and inter-operability when these forces are employed as a cohesive force. The FARDC is slow in building and maintaining the training facilities, providing equipment and grouping the battalions to be trained.

Col Gardiner further detailed some challenges that were being faced in the DDR process. These included:

- Combatants are unwilling to volunteer and participate in the process, particularly in the eastern DRC
- The areas of integration are not co-located with the training and barracks resulting in ex-combatants that have been through the integration process not completing the prescribed training in time. There is a lack of transportation to move participants from the integration centres to the other centres
- Some integratees leave the integration points and go back to the bush, mobilise against the integration process and continue to participate in illegal activities. This poses threats to local security and leads to renewed reports of conflict and criminal incidents
- Some members go through the process of demobilisation, receive the demobilisation package (that is, $50 and a bicycle) at one assembly point and then show up months later at another so as to go through the process again under another name

- Although general criteria exist for the allocation of ranks, it is not applied properly and inconsistencies are common
- The issuing of identity cards in the different colours to indicate whether combatants will integrate or demobilise is perceived as a form of favouritism. This is due to the absence of fixed and credible criteria for demobilisation or integration and the absence of clear communication with combatants

Col Gardiner also addressed the accelerated integration process (known as Amani) that was implemented in the Kivus between January and July 2009 and is currently continuing in Maniema Province. The aim of the Amani programme was to integrate all militant groups that were part of the Goma Peace Agreement. Col Gardiner explained that the accelerated integration meant that members of the National Congress for Defence of the People (CNDP) were integrated directly into the FARDC and immediately deployed. There was no additional training or requisite changes in command and control.

The speaker informed the audience that the Stabilisation and Rebuilding Programme to Regions of Post Conflict (known as STAREC) had since replaced the Amani programme. The integration process seems to be open-ended as there are no specific criteria that predetermine when integration will end. He observed that it seemed that the process would continue for as long as there were militant groups in the DRC. The success of STAREC depends on the coordinated involvement of national and international partners as well as local and international civil society organisations. However, Col Gardiner highlighted the central role that the FARDC needed to play in the DDR process. He noted that the FARDC's capacity to provide normal administrative, financial, logistic, medical and other support functions to the common soldier in the field was very limited. The FARDC lacks the administrative processes and capacity to manage the information of the integration process in an effective manner. The absence of an integrated computerised information management system hampers the verification of information and does not enhance information sharing with other environments that require it.

Col Gardiner concluded by providing a set of recommendations for improved DDR and SSR programming in the DRC:

- A coordinated and integrated effort by the DRC government with all the role players and donors is crucial for SSR. A well-sequenced and properly controlled plan must be implemented as a matter of urgency so that previous efforts are not lost

- DDR is a precursor to successful SSR and the completion of the DDR process to essential for future reform initiatives as well as for stability
- Solving the conflict and problems in the eastern DRC is vital and requires strong political will. This will hopefully bring all the armed elements under one umbrella
- A multilateral rather than a bilateral approach to SSR will ensure a unified and focused effort by international donors, the DRC government and NGOs. The DRC must also commit resources to the SSR process and not expect donors to fund everything
- The Minister of Defence and Veterans must finalise the Reform Plan. The FARDC must operationalise and implement the Reform Plan. This must include a clearly defined human resource framework that supports proper career management, acceptable working conditions and realistic conditions of employment with specific focus on remuneration
- The transition period from identification to fully trained and employed integratees must be as short as possible. No unnecessary time should be spent in the assembly and re-groupment areas
- An integrated information management system must be established as a matter of urgency. This must be linked to the databases of other government departments to enable the vetting process of the integrated members

A CIVIL SOCIETY PERSPECTIVE ON SECURITY AND GOVERNANCE IN THE DRC

Mr François Butedi
Executive Director, Forum of Congolese Organizations in South Africa (FOCAS)

Mr Butedi's presentation provided a civil society perspective on security and governance in the DRC. He began by noting that the transition to democratic rule in 2006 was not necessarily accompanied by fundamental changes in the political culture and governance practices. Democracy, according to the speaker, should be viewed as a process in which citizens continually engage with the leadership; democracy is not a single event heralded by an election and imposed or created by external forces.

According to Mr Butedi, events in the immediate post-election period in the DRC provided evidence of the continuing governance deficits. This has been exemplified by:

- Fighting between Jean Pierre Bemba and Joseph Kabila's soldiers on the night before the announcement of the election results (July 2006)

- The refusal by the Supreme Court of Justice to examine the electoral contentions brought by the opposition party coalition, Union of the Nation (June 2006)
- Alleged violations of human rights in Bas Congo when Joseph Kabila deployed the army to fight traditional believers of Di Bundi dia Kongo (March 2007)

Mr Butedi highlighted that the democratic elections were an important step on the path to peace and stability but said that the ruling government had not lived up to the expectations of all sectors of society.

Mr Butedi then turned to the challenges and opportunities for peace in the DRC and Southern Africa. His analysis of the situation in the DRC focused on the opportunities for development created by the natural resource wealth of the country. He acknowledged that the political and security instability in the DRC threatened the potential for peace there. This situation is also complicated by severe weaknesses in the public administration and justice systems. Regarding opportunities for peace in the region, Mr Butedi pointed to the potential benefits of having countries with stable economic and political trends such as Botswana and South Africa. On the negative side, his analysis included the impact of the 'brain drain', skills shortages, and the high electricity, water and agricultural land demands.

The speaker then provided a civil society perspective of the actors, structures and priority programmes in relation to SSR in the DRC. These included:

- Civic education
- Redefining the roles, mandates and functions of the security actors including the military and intelligence agencies
- Providing adequate equipment and training to fulfil these functions
- Reinforce the capacity of the public administration sector
- Create mechanisms for national reconciliation
- Establish effective systems for the protection of human rights and the enforcement of punitive measures for human rights abuses

Having outlined the initiatives required for improved security and governance in the DRC, Mr Butedi noted that the potential for peace existed in the DRC and the Great Lakes Region. He emphasised the importance of responsible leadership if this vision of stability was to be achieved. Such leadership should promote democratic governance that should be characterised by public participation, respect for human rights and regional cooperation. He noted that the DRC had a central role to play in terms of security in the Great Lakes Region. In

order to fulfil this potential, Mr Butedi highlighted the need for:

- State capacity and effective administration
- Accountable and effective security forces and an independent judiciary
- Equitable and sustainable development and reconstruction programmes aimed at improving livelihoods
- Inclusive governance in which various civil society stakeholders have a voice
- Capacitated civil society organisations that are trained, professional and engaged in a variety of public policy areas, including security and economic justice

In conclusion, Mr Butedi emphasised that the social and economic tensions in the DRC should be viewed as potentially destabilising. His perspective was that the Congolese people had suffered at the hands of dictatorial leaders and violent civil war and that the democratically elected government had failed to deliver on developmental promises. He cautioned that the lack of delivery of improved socio-economic conditions under the current administration could lead to instability as social tensions and ethnic cleavages could be manipulated and violence incited. The lack of internal political cohesion and sustained underdevelopment were at the core of the continuing instability. Lastly, he warned against the personalisation of state power and against subverting the instruments of the state for the narrowly defined purposes of the ruling regime.

DISCUSSION

Lively debate highlighted the complexities of the situation in the DRC as diverse issues came to the fore. There was agreement that stability in the DRC was central to stabilising the Great Lakes Region and that the DRC had a role to play in continental security and development. However, the politically sensitive and explosive context within the country was an obstacle to security and development. The internal context is characterised by abrasive national identities, social cleavages and values tensions, which challenge the construction of a unified national vision.

Due to these tensions in national governance and the general weaknesses of local government, participants raised the notions of partitioning and devolution. Decentralising state power structures could lead to an enhanced participatory democracy but the concentration of power and leadership at central government level and the severe weaknesses in administration at local levels would make the challenges of devolution seemingly insurmountable. Furthermore, the lack of continuity in senior leadership has delayed the implementation of reform initiatives.

The situation in the DRC illustrates the complexities involved in the task of state building, and challenges many assumptions about post-conflict reconstruction and SSR. Participants emphasised the importance of national leadership and national ownership of the reform agenda. It was noted that external solutions were inevitably perceived as having been imposed from the outside and, although models could be used to generate lessons learned, solutions had to come from within. An example of this was provided by the experiences of the SANDF in the DRC where it was apparent that although they could provide the framework for reform, the government of the DRC had to be committed to its implementation. This emphasised the need for legitimate national leadership and participatory democratic governance processes. Furthermore, participants emphasised the importance of foresight and long-term planning. They suggested that the DRC government needed to lead with a concrete vision for the reform of the security sector and then to look for suitable international partners to assist with the implementation thereof.

Related to this, the rule of law and justice was highlighted as central to SSR in the DRC. The constitutional order of the state should be respected and equality before the law practised as the foundation for good governance. The need to invest in the capacity of civil society was acknowledged in order to enable participation, advocacy and monitoring. The role of women's movements was also discussed. It was noted that they had limited resources and the adequacy of the frameworks to guarantee the participation of women was debatable.

In search of security and justice for all

The case of Zimbabwe

Chairperson: Mr Takawira Musavengana
Senior Researcher, Security Sector Governance Programme

POLITICAL CONTEXT: PRIORITIES AND OPTIONS FOR SECURITY SECTOR GOVERNANCE IN ZIMBABWE

Dr Martin Rupiya
Office of the Prime Minister, Zimbabwe

Dr Rupiya began his presentation by outlining defining features of the political context in Zimbabwe that affected analysis of the security sector. His aim was to highlight key issues that were often missing in debates and analyses of the current situation in Zimbabwe. The political context in Zimbabwe is unique for many reasons and central to understanding this is that an unarmed social movement (Movement for Democratic Change – MDC) has unseated a liberation movement (Zimbabwean African National Union Patriotic Front – ZANU-PF) through democratic means. This is an anomaly in the region and sets the tone for the relations in the transitional government. Dr Rupiya noted that with the current change in government, MDC had to confront ideological challenges in the region, primarily existent as the legacy of the liberation struggle and the ghost of Pan-African unity.

The political dynamics in Zimbabwe in general and for the MDC in particular are complicated by the existence of an *alternative* political party that has political licence. Dr Rupiya used the notion of an *alternative* political party to refer to the role of the security sector and specifically the military, which has become highly politicised and significantly involved in domestic political affairs.

Dr Rupiya also identified the flawed Global Political Agreement (GPA) as impacting on the current power-sharing dynamics, but felt confident that there remained great potential for the implementation of reforms in the public sector that would be inclusive of the security agencies. The complexity of the power relations in the current transitional government and the potential for reforms were complicated further by the existing bankrupt economy and 'official' corruption. The vested interests of political and economic elite negatively impact on the potential for change and need to be carefully managed to facilitate the creation of an enabling environment for democracy and development.

Dr Rupiya then outlined some of the priorities that MDC policy was aiming to address. He highlighted the opportunity presented by the constitution-making process and the commissions to expand and consolidate the democratic space nationwide. He also noted the centrality of parliament in governance and that priority had been accorded to building knowledge and capacity among parliamentarians to enhance their oversight role. Outside of national democratic development, a further priority is the need for the MDC to retain and expand its own political constituency and to establish new alliances. Strategic alliances need to be forged within SADC and the AU as well as with external partners.

Dr Rupiya identified three additional priority areas, namely:

- Economic recovery
- Public service
- Security sector governance

The management of a stable economic recovery during the transition is essential to rebuilding the country. Similarly, the rebuilding of the public administration is a priority, which requires the creation of a cadre of capable officials and staff. Dr Rupiya noted that there were members of the current public administration who were waiting for political change and had the potential to be used by a prospective administration and thus should be retained.

The final priority area Dr Rupiya identified was the need to understand the challenges of security sector governance and to address these through the National Security Council.

In the next section of his presentation, Dr Rupiya explored some options for engagement in Zimbabwe. These were largely based on the priority areas identified above. He noted that the MDC had to prepare to usher in a new era that recognised and respected the liberation legacy but provided human security without sacrificing state security. The options he presented supported this position and can be summarised as follows:

■ Consolidating the democratic space through constitutional and institutional reform
■ Supporting parliament to fulfil its oversight role. For example, through the provision of training on civil-military relations, national security policy and oversight of security expenditure
■ Building relations with new alliance partners
■ Growing the economy

In conclusion, Dr Rupiya emphasised that the political context in Zimbabwe was unique. One of the biggest challenges is to address the *alternative* political party. He further noted the challenges of balance that needed to be addressed, specifically referring to:

■ The need to attain political power
■ The need to ensure economic growth and provide relief to workers, students and peasants
■ The need for the foundations for sustainable recovery and growth to be developed
■ The need for the restoration of the dignity and pride of ordinary people
■ The fact that there exists an honourable opportunity for SADC and the AU to support a change in government

A CIVIL SOCIETY PERSPECTIVE ON SECURITY SECTOR GOVERNANCE IN ZIMBABWE

McDonald Lewanika
Crisis in Zimbabwe Coalition

Mr Lewanika introduced his presentation by highlighting the role of the security sector as responsible for maintaining peace and order, defending the people and national interests. He maintained that in a democratic dispensation the security sector must be accountable to the people whom they protect. The security sector is an integrated and integral part of the public administration and the governance system and structures and should be bound

by the same governance principles and practices as other areas of state activity. He emphasised the role of civilian oversight structures as central to ensuring that the state security apparatus did not become a source of insecurity as had been experienced in Zimbabwe.

In order to understand how the security sector operated in Zimbabwe, Mr Lewanika detailed a historical narrative of post-independence security sector governance. He noted the role of the Rhodesian Security Forces and the liberation armed forces in the protracted war of liberation and the subsequent integration, post-liberation, of the Zimbabwe African Liberation Army (ZANLA, the military wing of ZANU) and the Zimbabwe People's Revolutionary Army (ZIPRA, the military wing of ZAPU) into the Zimbabwe Defence Force. The central role that armed forces had played during the liberation struggle placed the armed forces at the forefront of the political process. If the deference that the liberation political movements made to the fighting forces is examined, it is easy to understand the genesis of the security sector as it now exists in Zimbabwe.

Mr Lewanika asked significant questions about the transition from liberation movement into government and the extent of transformation that occurred, particularly with regard to the relationship between political and military power. Furthermore, he questioned the amount of transformation that had occurred from the security services of the colonial administration and the newly independent state, with specific reference to the intelligence agency – the infamous Central Intelligence Organisation (CIO). He also emphasised that a holistic approach to security sector governance was required for analysis of the Zimbabwe case, particularly because of the existence of extra-legal or paramilitary groups like the war veterans and youth militias.

Mr Lewanika reflected on the developments that led to the formation of the current transitional unity government. This context influences perspectives on security sector governance because:

■ There was no wholesale regime change in Zimbabwe. What came into being was a shaky hybrid regime that had both the conservatives and reformers on board, who for a long time could not see eye to eye and whose relationship is still characterised by mistrust. The possibility of critical reforms in the security sector has been limited from the start because of the tenuous power arrangement
■ While the state security sector was not formally represented at the negotiating table, they had played a central role in the crisis. As such, critical power peddlers were not part of the arrangements agreed to by the negotiating political parties in 2008

- Because of the nature of negotiations and governing arrangements, accomodation may have been made at a symbolic level in the higher echelons of power, but the rest of the state infrastructure, including the security services, remained largely unaffected by the political developments

Mr Lewanika proceeded to provide an overview of the current governance arrangements for the state security structures. The constitution of Zimbabwe in chapters 9, 10 and 10A establishes the police force, defence force and prison service respectively. There is no legislative framework for the CIO. After providing an outline of the key legislative provisions for the governance of the police, defence and prison services, Mr Lewanika provided the following analysis:

- It is the executive branch of the government that largely provides oversight of the security sector. The president is at the forefront of all key appointments and determines service continuity and conditions
- The consultation clauses are largely a façade because the service boards that are put in place are almost entirely appointed by the president
- Thus the president has excessive powers of appointment and demotion

Mr Lewanika further provided perspectives on the role of the security sector in supporting the ZANU domination of the political space. He noted the involvement of the police and military in the land redistribution and the lack of law enforcement as regards illegal occupations and violent behaviour. The various arms of the security services had been actively engaged in the execution of operations Murambatsvina (get out the filth), Maguta, Mavhoterapapi (post-election violence campaigns) and Operation Hakudzokwi (diamonds). By 2008, virtually all of the strategic institutions of the state were run by retired and serving military personnel, from ministries to parastatals to constitutional bodies like the Elections Commission and, for some time, the Attorney General's Office. Appointments were based on political patronage and not professional competence and qualifications. The intelligence services are suspected to have been behind the selective application of the law, the violent clampdowns on protesters, as well as the arbitrary arrests and detentions of civil society and opposition leaders and activists. During elections they are believed to have provided the software for vote rigging, while the military and paramilitary groups provided the hardware and through action cultivated the culture of fear that still pervades Zimbabwe today.

Mr Lewanika emphasised that the need for democratic governance of the security sector in Zimbabwe was clear

and that the need for the reform of the state security structures was essential for future stability and security. The GPA and the transitional arrangement present an opportunity to consider such reforms and to overcome not only legacies of the colonial era but also the scars left by the post-liberation government. The current dispersion of access to political and economic power means that any reform agenda for Zimbabwe will be negatively impacted by fears not only of persecution for human rights abuses but also of loss of political and economic power. As such there is the potential for security sector actors – the military in particular – to challenge the transitional arrangement. Given the situation, the agenda for democratic security sector governance in Zimbabwe has to, in the words of the Right Honourable Prime Minister of the Republic of Zimbabwe, Mr Morgen R. Tsvangirai, 'balance the cries of the victims with the insecurities of the perpertrators'.

According to Mr Lewanika, civil society generally shares the view that despite the challenges highlighted above, there still has to be reform before the country goes to the next elections. At the very least this should involve dialogue between the security sector and the citizens that aims at building a vision and roadmap for the security sector and the drawing-up of a National Defence and Security Strategy. Mr Lewanika provided some perspectives on an SSR agenda for Zimbabwe, emphasising the importance of a holistic approach pursued in an inclusive and participatory manner. He also highlighted the importance of creating a sound legal framework as a foundation for the security sector. This legal framework should include mechanisms for accountability and oversight and the process of legal reform should be participatory and inclusive.

Mr Lewanika further noted that the constitutional reform process presented an opportunity to lay a foundation for a legal order that ensured the professionalism and non-partisanship of the security sector. It then becomes civil society's task to ensure the constitutional entrenchment of the following principles as a starting point in terms of security sector governance:

- That while the president is commander-in-chief there is mandatory parliamentary engagement and the approval of commanders and sub-commanders in the defence forces, and the equivalent in other sectors of the security sector, including the appointments of the various commissions and committees that are put in place as oversight bodies, based on professionalism, seniority, experience and other specific requirements that are non-partisan in nature
- That the role of the security services is clearly to serve national and not partisan or regime-continuity

interests. Adherence to international normative standards should also be a key ingredient in principles guiding the security services.

Mr Lewanika further emphasised the important role of parliament in security sector governance and called for initiatives to enhance the capacity of parliamentarians to conduct oversight of the security services. Public participation in parliamentary processes should also be supported and encouraged. He also highlighted the potential roles of civil society and the media in national reconciliation and facilitating dialogue as a means to improve civil-security relations. Civil society organisations could also be useful in providing training to the security sector on transparency, accountability, human rights and other issues. Civic education on the making of the constitution, national healing and other national issues should also target members of the security forces.

DISCUSSION

Participants highlighted that to enable the implementation of SSR, it is important to have the support of security sector actors; the security agencies have the potential to be spoilers and need to be engaged to create an environment amenable to reform. Part of this would entail discussions about reprisals and recriminations for past offences. It was also observed that at the time of negotiating the GPA, SSR was not part of the agreement because of the associated sensitivities. In the current situation there seems to be some willingness on the part of the security sector actors to embrace change, but there is continuing unease due to the unresolved issues of redress and justice.

The impact of the GPA and the nature of the transitional arrangement were discussed. One view was that the focus on the inter-party nature of the agreement had left little space for civil society participation. As such the GPA and the transitional arrangement could be seen as an elite bargaining process. The importance of the role of civil society in consolidating the democratic space was recognised. More focus should be directed towards supporting

the capacity of civil society to engage in reform processes. It was recognised that there had been some positive movements in terms of democratic space, as exemplified by increased media freedom.

The change dynamics in Zimbabwe are part of a broader continental trend towards the transformation of power arrangements through alternative, negotiated means. The key question is how to manage these change dynamics and the transitional political power-sharing arrangements. Part of the problem in Zimbabwe lies in addressing contested spaces around the access to power and resources, which lies at the heart of the conflict. Sustainable stability and entrenched democratic practices will need to redress inequalities and inconsistencies in the access to power and resources. A further issue that was acknowledged as hampering the transitional process was the targeted sanctions regime being imposed against specific ZANU-PF members.

A salient issue, brought to the fore by the Zimbabwe case but finding resonance in many countries in Southern Africa, was the persistence of the legacy of liberation movements and the defining impacts that these have had on domestic and regional politics and priorities. The question was asked at what stage in democratic evolution would Southern Africa be free of the ghost of the liberation struggle? One view was that tensions, in cases such as Zimbabwe, were part of that change but growth would come with conflict over fundamentals of state power. A more balanced approach needs to be fostered regarding liberation movements. This approach should take into account the positive roles played by certain actors in securing independence and freedom from colonial rule, but it should also recognise some post-independence governance challenges.

The discussion also highlighted some contention about the role of oversight mechanisms and actors in ensuring democratic security sector governance. How does oversight become a meaningful practice? One view is that oversight needs to be viewed as a system of checks and balances and that it needs to move beyond parliament and include other actors – for example, the Organ on National Reconciliation in Zimbabwe.

Democratic governance of the security sector

Selected case studies

CHAIRPERSON: PROF ANDRE DU PISANI
Professor of Politics, University of Namibia

GOVERNANCE AND CAPACITY OF SECURITY AND JUSTICE INSTITUTIONS: THE CASE OF LESOTHO

MR THEMBA MASUKU
Research Manager, Community Agency for Social Enquiry

Mr Masuku began his presentation with an overview of the political context in Lesotho, noting that the evolution of democratic practices had defined the form and content of the security structures. Lesotho is a constitutional monarchy and the king is the head of state, albeit with no executive powers. Although some commentators have argued that real political power is located in the security institutions, Mr Masuku acknowledged the centrality of the executive arm of the government. The king, in consultation with the prime minister, appoints cabinet ministers and senior civil servants. The role of parliament is primarily concerned with legislative processes and the level of oversight of the executive is questionable. State security institutions and the judiciary were part of the democratic institutions that were transformed after the transition to a democratic order in 1994.

Mr Masuku then outlined the agencies that comprise the state security institutions in Lesotho and provided an indication of their functions. They can be summarised as follows:

- Lesotho Defence Force – tasked with protecting the territorial integrity of the state
- Lesotho Mounted Police Service – tasked with internal security, addressing the problem of crime and performing prosecutorial duties in the magistrate courts
- National Security Services (NSS) – transferred from the police to the Ministry of Defence, the NSS is tasked

with both civilian and military intelligence (strategic and operational intelligence)
- Correctional Services – tasked with the rehabilitation of offenders

In terms of institutions tasked with providing access to justice for the people, Mr Masuku highlighted the following points:

- The courts are structured in a manner that allows for a system of appeal
- Judicial independence is guaranteed
- The Appeal Court meets twice a year. Of the 7 judges of the Appeal Court, 6 are South African
- The High Court consists of 10 judges (5 female and 5 male) and has unlimited jurisdiction in criminal and civil cases
- There are also magistrate courts at local level
- Traditional courts are widely used in rural areas to deal with customary law
- The Directorate of Public Prosecution is responsible for criminal prosecutions
- The Legal Aid Board is responsible for ensuring access to justice for marginalised people

After outlining the structures and institutions charged with the delivery of security and justice, Mr Masuku provided an analysis of the progress achieved in instilling democratic governance practices within the sector. He noted that all state security institutions were placed under civilian authority and administration. Political (executive) oversight is provided through ministries headed by political figures. There are also civilian oversight structures such as the Complaints Authority and the Ombudsman. Regarding representation, women have been appointed

to senior leadership positions in both the police and military but, in the rank and file, male personnel are in the majority. A further interesting point was made about the unionisation of the security sector through, for example, the Police Staff Association and the Lesotho Correctional Service Staff Association.

Mr Masuku then provided a brief overview of the oversight mechanisms that have a role to play in the democratic governance of the security sector in Lesotho. These include:

■ Parliament
   The Office of the Ombudsman
■ The Police Complaints Authority
■ The Defence Council
■ The Police Negotiating Council
■ The Law Society
■ The Judicial Services Commission
■ The media, civil society and non-governmental organisations

The final section of the presentation focused on the challenges and opportunities for the enhancement of the democratic governance of the security sector. Mr Masuku highlighted that the oversight bodies were generally weak. Specifically, he noted weaknesses in the functioning of parliament, statutory oversight bodies and the ombudsman. For example, the Police Complaints Authority requires permission from the Commissioner of Police in order to conduct investigations. He also noted that civil society lacked the capacity to monitor state security institutions. The delivery of security and justice services is compromised by poor infrastructure, especially at police stations and prisons. HIV/Aids has also had a devastating impact on the security sector and an estimated 33% of Lesotho Mounted Police Service officers are HIV-positive and do not work during the winter.

Regarding opportunities for enhanced democratic control, Mr Masuku explained that because of Lesotho's dependency on the international donor community, security institutions were more open to engagement with external institutions such as the ISS, EISA and IDASA in the areas of HIV/Aids and governance. There are also opportunities for engagement and interventions to strengthen statutory oversight institutions. However, corruption within the public service and security sector undermines the rules of good governance. There is scope for interventions to strengthen the role of civil society and non-governmental organisations.

In conclusion, Mr Masuku noted that despite the progress towards democracy achieved by Lesotho in the past decade, there were still vulnerabilities, as evidenced by the recent attempted assassination of the prime minister. The weak oversight of the security institutions means that security personnel operate with a sense of impunity and allegations of abuse remain unaddressed.

DEMOCRATIC GOVERNANCE OF THE DEFENCE AND INTELLIGENCE SECTORS IN BOTSWANA

Prof. Mpho G. Molomo and Gabriel Malebang
Centre for Strategic Studies, University of Botswana

Prof. Molomo began by noting that although Botswana was widely regarded as a model for democracy in Africa, little was done to deconstruct the model to understand the dynamics of its internal politics. Democratic politics is about how politics is conducted within a framework of democratic values and practices; it is about power relations between the state and its people. In a quest to examine security sector governance, he emphasised the necessity of looking at leadership and the manner in which leadership styles interacted with democratic practices. The key question is whether leadership is empowering or disempowering. Prof. Molomo hypothesised that when democratic politics was effective, people felt a sense of security, but when it encountered serious challenges people felt insecure.

Prof. Molomo outlined the key issues that the presentation sought to address, highlighting that:

■ National security must go beyond state-centric approaches to include human security
■ To make the country safe and secure there is a need to discuss the interaction between the state and various security actors, especially the military and intelligence agencies
■ The link between security sector governance and democratisation exists within the overall framework of a liberal, democratic state
■ The extent to which security organisations are accountable to elected civil authorities needs to be explored

An important point of departure, according to Prof. Molomo, was the need to go beyond the traditional misconception that all civilian governments were democratic. He emphasised that analyses needed to recognise that civilian governments often used their security establishments to suppress their own people. The security sector, broadly defined, is all those organisations that have been given the legitimate authority to use force – that is, the military, police, intelligence, border control, etc. In Botswana, the primary responsibilities for the democratic governance of the security sector is centralised in the

Ministry of the State Presidency and the Ministry of Defence, Justice and Security.

The speaker stressed that democratic governance recognised the professional integrity of defence and intelligence. However, he observed that secrecy, under the cloak of national security, had been used to undermine democratic oversight in Botswana. Democratic oversight of defence and intelligence is a broad process that involves a variety of actors ranging from statutory institutions to non-statutory institutions. This oversight can be performed by all three arms of the government – executive, legislative and judicial – and within the purview of the separation of powers each has its own jurisdiction and mandate. These oversight structures are complemented by oversight of public interest institutions such as the ombudsman and civil society.

Prof. Molomo provided further information on the legislative framework for parliamentary oversight of defence and intelligence. He noted that the constitution is the supreme law of the land and that the president is the commander-in-chief of the armed forces. The president also has powers to appoint and dismiss members of the armed forces as per Section 48 of the constitution.

He then provided additional information about parliamentary oversight of the defence and intelligence sectors, paying special attention to the role of members of parliament and opposition parties. He also provided an overview of the parliamentary committees with oversight functions relating to the defence and intelligence sectors. These committees include:

- The Public Accounts Committee
- The Parliamentary Committee on Intelligence and Security
- The Parliamentary Committee on Foreign Affairs, Trade and Security

In the final section of his presentation, Prof. Molomo explored the potential of the defence and intelligence sectors in Botswana to be perceived as a threat to democracy. He noted that under the current executive president there were concerns about the securitisation of development and of the state apparatus. He also reported increased intolerance to opposing views and creeping authoritarianism. This was evidenced in media censorship and the excessive powers of the intelligence agency in relation to search and seizure and arrest and detention. There have also been allegations of extrajudicial killings at the hands of state security personnel. Prof. Molomo pointed to the democratic deficits in the broader political context as 'framing conditions'. This was exemplified by the practice of automatic succession.

The speaker concluded that, in Botswana, security sector governance was centralised in the Office of the President and the country was sliding towards authoritarian rule. The president is widely supported, indicating that he enjoys a tremendous amount of goodwill, but his leadership style, based as it is on discipline, is likely to squander that. Prof. Molomo warned that free speech and debate should never be suppressed in the name of discipline and people should never be intimidated into acquiescence and complicity.

THE NEED FOR DEMOCRATIC GOVERNANCE OF THE PRIVATE SECURITY SECTOR

Sabelo Gumedze
Senior Researcher, Security Sector Governance Programme, Institute for Security Studies

Mr Gumedze noted that while much had been said about the democratic governance of the security sector in the public sphere, very little was said about the democratic governance of the private security sector. His presentation thus focused on the democratic governance of the private security sector, which is equally important in the security sector governance discourse.

Mr Gumedze observed that many states today, even powerful democratic states, were increasingly relying on private military/security actors to manage peace and security functions in conflict and peacetime. He then outlined the various manifestations of the privatisation of security as:

- Private Security Companies (PSCs): these specialise in the provision of security and protection of personnel and property, including humanitarian and industrial assets
- Private Military Companies (PMCs): these specialise in the provision of military expertise and other professional services essential to combat and warfare
- Private Military/Security Companies (PMSCs): corporate entities that provide compensatory military and/or security services by physical persons and/or legal entities

Southern African states in the past decade have witnessed a steady and unprecedented increase in the use of PMSCs. Mr Gumedze opined that PMSCs presented a serious threat to the notion of state monopoly on the use of force. This is evidenced by the manner in which state power is gradually eroding through the use of non-state actors. The use of force, among other things, characterises a state under international law. Further, the state's use of PMSCs violates the idea of a social contract, especially where the *populis* is not consulted. The risk, as posed by Mr Gumedze, is that this situation

may take us back to the Hobbesian notion of the 'state of nature'.

In terms of the scope of the private security sector, the presenter noted that many soldiers who were once known as mercenaries had become private military/security contractors. PMSCs have been linked to African conflicts, peacekeeping missions, undertaking SSR, the extractive and construction industries and arms manufacturing. Some PMSCs recruit third-country nationals to work in conflict zones. Mr Gumedze provided examples of such activities such as the work of DynCorp International in Liberia and the recruitment of South Africans to work security details in Iraq.

He noted, however, that the concept of the privatisation of security was complex and contested. This was illustrated through providing the following variety of definitions:

- To Mandel (2002), it represents armies without borders
- To Singer (2002), it represents the dogs of war who have gone corporate – corporate warriors
- In 2003, Singer concluded that these 'dogs' were becoming the Ultimate Military Entrepreneurs
- To Brooks & Rathgeber (2008), it represents contingency contrators

There are also larger organisations of PMSCs. The speaker noted there was a consortium of military firms in the US that called itself 'International Peace Operators'. This consortium was originally formed as the International Peace Operations Association, but has since changed its name to the Association of the Stability Operations Industry. Similarly, in the United Kingdom, a consortium of both military and security companies is called the British Association of Private Security Companies (BAPSC). BAPSC is restricted to UK-based security firms providing armed security services in foreign countries.

Mr Gumedze also informed the audience of a comparable association on the African continent – the Pan-African Security Association (PASA). PASA is a South African-based organisation that aims to ensure that legitimate companies complying with internationally accepted regulatory standards and the laws and regulations of African states solely discharge all security and related contracts in Africa. There currently exist no internationally accepted standards for PMSCs and generally there are no specific laws and regulations for PMSCs in Africa. South Africa was cited as one of the few exceptions to this.

Mr Gumedze proceeded to outline the challenges posed by PMSCs in Africa. He highlighted that generally there was a deficit in the democratic governance of the private security sector. There are challenges related to the transparency of the contracting processes and

many of the activities of the sector are not made public. The democratic governance principle of parliamentary oversight is also being challenged, as parliaments do not exercise oversight of the activities of PMSCs. In general, regulatory and monitoring mechanisms are weak. Given these factors, he concluded that the activities of PMSCs infringed on the state monopoly on the use of force. Thus PMSCs present serious challenges, especially in weak states with weak governance structures.

In order to reduce the challenges posed by private security companies, Mr Gumedze highlighted the importance of establishing systems for democratic governance. He observed that the attainment of democratic security sector governance required that the public and private security services be made both accountable and responsive to citizens, which could only be achieved through an inclusive process of SSR that integrated private security providers. Mr Gumedze emphasised that the democratic governance of the security sector required an effective regulatory regime for PMSCs. He proposed an interlocking framework of national, regional and international control mechanisms that include effective national frameworks; effective regional frameworks; effective subregional frameworks and international frameworks.

The development of statutory regulations and enforcement mechanisms needs to be complemented by promoting transparency, accountability and oversight mechanisms, including parliamentary oversight of the private security sector. He also noted the importance of promoting professionalism and voluntary regulation for PMSCs.

Mr Gumedze concluded that in view of the challenges posed by PMSCs, there was a need to address deficits in the democratic governance of the private security sector. Strengthening the democratic governance of the private security sector will entail:

- The development and implementation of a legal framework consistent with international law and democratic practice
- The development of effective, well-functioning civil management and oversight bodies
- The development of viable, accountable and affordable private security providers
- The development of the institutional culture of a private security sector that respects legal frameworks, international law, good democratic practice and civil management and oversight bodies

DISCUSSION

Participants engaged with the diverse issues raised in this panel of presentations. The oversight system in Lesotho

was discussed and questions were asked about the role of the military in the small kingdom. One of the key challenges for the Lesotho defence sector has been in the realm of broader civil-military relations and the manner in which liberation veterans have been incorporated into the formal defence structures. Concerns were expressed about the democratic fabric of civil-military relations in Lesotho and the nature of the relationship between the military and the political authority. Questions were raised about lessons that could be learned from the Lesotho experience regarding transformation from military to civilian rule.

Furthermore, access to justice in Lesotho was questioned, especially given the particular arrangement of the Appeal Court meeting only twice a year and the appointment of South African judges.

Regarding the privatisation of security, discussion focused on whether the involvement of the private sector in the provision of security services was the result of a loss of confidence in the ability of the state to provide security. This is part of the manifestation of private security capacities as people feel the need to pay for additional security services – either because they are not offered by the state or because of deficiencies in the public service.

It was also noted that debate on the private security sector and the regulation thereof needed to be cognisant of the variety of roles played by private actors in conflict and post-conflict situations. In Africa, the role of PMSCs has recently changed from a traditional role in enforcement (or the hard end of security) to a more peacebuilding and post-conflict reconstruction role. Governance of the private security sector needs to become subtler, and not just focus on regulating its involvement in military security.

Discussions that emerged from the presentation on Botswana highlighted the need for further discussion in the region on the role of intelligence as part of national and regional security structures. Issues about the political trajectory of Botswana were also raised, and included the drivers and obstacles to increased securitisation and the perceived authoritarianism of the current government. The nature of the democratic space was discussed and the role of the media in particular was questioned. It was noted that, in some instances, the media could not be considered part of the oversight and monitoring system because politicians may actively seek to manipulate and influence journalists. The freedom of the media should be protected but it should not be taken for granted that the media is apolitical or non-partisan. Nevertheless, the media has the potential to play an important oversight role to compliment the capacity of state institutions and as a pillar of an open, participatory and democratic society.

Criminal justice in Southern Africa

Chairperson: Ms Cheryl Frank

Office Director, Pretoria, Institute for Security Studies

CRIMINAL JUSTICE IN SOUTHERN AFRICA

Dr Annie Barbara Chikwanha

Senior Research Fellow, African Human Security
Initiative, Institute for Security Studies

Dr Chikwanha's presentation provided a snapshot of the criminal justice sector in Southern African countries, reflecting on developments at both national and regional levels. She asked several key questions, namely: (1) How can we build a regional justice system that is capable of tackling common challenges associated with criminal justice systems in Africa? (2) How can reforms in the criminal justice sector contribute to the enhancement of human security in the region? (3) How can regional blocks and instruments (for example, SADC and the African Peer Review Mechanism) enhance the quality of citizens' experience of criminal justice in Africa?

Dr Chikwanha began by providing an overview of the different criminal justice systems in Southern Africa. She differentiated between criminal justice systems as follows:

- **Civil Law** – Angola, DRC, Madagascar and Mozambique
- **Common Law** – Botswana, Lesotho, Malawi, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe
- **Hybrid (Civl and Common Law)** – Mauritius and Seychelles

Dr Chikwanha pointed out that customary law practices cut across all systems and were prevalent in some form in all countries in the region. She further noted that Roman-Dutch and English law influenced the common law systems and in the hybrid systems the statutes were based mainly on old French codes, with more recent laws with English precedents.

In general, there are major variations in criminal justice systems across the African continent. Even though there have been reforms over time, the colonial legacy has remained intact; Francophone, Lusophone and Anglophone traditions have led to differences in the conception and goals of criminal justice systems. An example of this can be drawn from punitive versus corrective approaches to the administration of justice. The legal systems of 18 sub-Saharan African countries are derived from the Roman, or civil law, system that was introduced into former French and Belgian territories, and Common Law that was introduced by the British. The dual heritage of colonialism and traditionalism indicates that it is essential to look at national criminal justice systems across the region and also, in historical terms, as being subject to transformation over time.

Also, due to the democratic development of the state, there are differences in the manner in which criminal justice systems function. Dr Chikwanha observed that different stages in the democratisation process have influenced the development of institutional and policy frameworks. Other specificities in the national context include the internal harmonisation process and the extent to which customary laws and formal justice systems exist in harmony. There are also questions about external harmonisation and the extent to which formal national justice systems are congruent with international legal standards.

Dr Chikwanha then considered the potential for criminal justice reform in Southern Africa, given the particular post-colonial and independence governance arrangements. She mentioned the dominant- or single-party tendency that was evident in the sub-region, citing examples from Angola, Botswana, Mozambique, Namibia,

(post-apartheid) South Africa and Zimbabwe. She also noted the impact of conflict and changes in internal order on the delivery of justice services in countries such as the DRC, Lesotho, Malawi, Mauritius, Swaziland and Zambia.

Dr Chikwanha then turned her attention to the nature of policing in the sub-region. She noted that in general the police services lacked adequate operational and institutional capacity. She cited the example of Zambia, where there were 13 000 officers and the identified need was for 27 000 officers. Weaknesses in terms of investigative capacity also result in a lack of credible evidence and low prosecution rates. Related to this is the limited forensic analysis capacity of many countries in Southern Africa. Dr Chikwanha highlighted the negative public perception of the police services, which could be related to their perceived inability to administer law and order, high levels of police brutality and allegations of human rights violations. Redress of this situation is hampered by weak oversight mechanisms.

The speaker then listed some of the frequently heard public complaints against the police, noting the following:

- Poor or no response to crime calls and late arrival of police at crime scenes
- A lack of professionalism in handling offences
- The use of unnecessary levels of violence in apprehending suspects
- Violations of the rights of persons in police custody
- The long distances people have to travel to police stations
- Perceived corruption in the police service
- Lack of protection of whistleblowers

In terms of prosecutorial processes, Dr Chikwanha observed a widespread problem in that prosecution is often not undertaken by lawyers but by police officers, who largely prosecute cases in the lower courts. Police prosecutors are not trained lawyers and do not fare well against better-trained and more qualified defence attorneys. Furthermore, the authority of the state prosecutors has in many instances been eroded because of the reluctance to check government excesses. It has been argued that presidential appointments of chief prosecutors place excessive power in the president's hands and this undermines the independence of the prosecutorial services. This opinion is further evidenced by the lack of public faith in prosecution, especially in cases involving high-ranking public officials.

Dr Chikwanha also referred to problems in states that lack comprehensive national criminal prosecution services. In Zambia, for example, prosecution is not coordinated under the direct supervision of the Directorate of Public Prosecution. Other challenges include organisational

reach and the ability to provide prosecution services in all provinces and areas of the state.

Attention was then turned to the state of the prisons in the region and Dr Chikwanha made some general points about prison conditions. She highlighted the connection between weaknesses in the administration of justice and prison conditions, noting, for example, overcrowding and the lack of resources for court hearings. Inadequate prison budgets, cruel treatment of prisoners and poor working conditions for prison staff were also identified as challenges facing this sector.

Returning to the issue of the judicial system, Dr Chikwanha noted the impact of dual legal systems on the administration of justice services. In the formal justice system, court performance is characterised by a low rate of disposal of cases, resulting in a large and perpetual backlog. Judges do not always enjoy adequate independence at both institutional and individual levels. The poor performance of courts is largely due to lack of infrastructure and inadequate human resources. The state of the justice system has in some countries been further weakened by strikes and labour unrest. Thus, Dr Chikwanha concluded that justice systems in the sub-region were weak and some of the consequences of this were:

- Courts are slow and legal aid departments are understaffed
- Many accused are detained for long periods without trial
- Bribery and corruption are rife

For citizens, access to court systems is obstructed by high legal fees and the absence of legal aid systems in outlying or peripheral areas. This led Dr Chikwanha to question disparities in urban and rural experiences of legal systems and dispute adjudication. People in remote areas often do not know how to access justice. In all countries in Southern Africa, the proportion of offences taken to court is low, as is the proportion of offences resulting in convictions. Dr Chikwanha provided statistics from Zambia and Tanzania in support of this conclusion.

Referring to the courts and the administration of justice, she told of severe resource constraints at all levels of the juvenile justice system across Southern Africa. Most Anglophone countries have antiquated legislation regulating juvenile offenders based on an approach to juvenile offences prevalent in Britain in the 1930s. Justice officials are often not trained to deal with children in conflict with the law and lack knowledge of children's rights in the criminal justice system. A high turnover and the constant transfer of police officers, prosecutors, magistrates and probation officers who have received juvenile justice training further undermine this situation. In many instances,

there is also no specific budgetary allocation for juvenile justice administration.

Dr Chikwanha then reflected on customary justice practices in Southern Africa. She noted that citizens often perceive customary courts to be more democratic in that all parties get a hearing without much bias, except with regard to age and gender, where inconsistencies in ruling were frequent. Access to the formal justice system is difficult for the poor and preference is often placed on the traditional system. Some people prefer traditional or customary justice systems because there is a higher degree of familiarity with processes, which are conducted in a familiar environment and are thus less intimidating. Conversely, the formal justice system is regarded as insensitive to the needs and interests of the accused and aggrieved families feel that the formal courts are prone to corruption and other abuses. The customary criminal justice system is part of the traditional dispute resolution system with justices being viewed as the custodians of customary law. The traditional system is often seen as more elaborate, efficient and effective because it takes less time to administer justice and there are fewer adjournments.

Dr Chikwanha noted further reasons for the continued relevance and prevalence of traditional and customary justice systems. These included:

- Flexiblity and relevance: it evolves as communities evolve and therefore remains relevant to their changing circumstances. Customary law can thus be more modern than the written law, particularly if one considers that there are obsolete and archaic laws on the statute books
- Sense of ownership: it provides the community with a sense of ownership because of its participatory nature. The families of both the accused and the victim participate in the proceedings. They know what to expect and how to conduct themselves. The rules and procedures are known
- Simplicity and familiarity: vernacular languages are used as opposed to dominant national languages – for example English or Portuguese
- The system is based on mediation and favours decisions that are restorative. This is appropriate to the needs of the poor and tends to rebuild community relations, in contrast to the formal system, which has a punitive bias
- Usually cases are only finalised if all parties are satisfied. Thereafter people can forgive each other and live in harmony again
- The system is accessible, inexpensive and speedy. There is no backlog of cases and cases are quickly and expeditiously disposed of

- Geographical proximity: involved parties do not have to travel great distances to access the system

After detailing the strengths of traditional and customary justice systems, Dr Chikwanha noted some of the challenges involved with the administration of justice by these means. Such challenges included:

- Extensive variation in customs within and across countries. For example, in Zambia there are 42 different ethnic groups, each with unique systems
- Collating and reconciling the different customs would be a mammoth task beyond the capacity, logistical resources and time constraints of most systems
- The need for in-depth study to find common ground among the customs of the different groups
- The informality of the criminal justice system
- Ill-defined legal status: administrators of justice can influence and exploit the system, as there are no protective instruments or actions as provided for in the formal system
- Non-codification of the customary courts' proceedings
- Lack of records: proceedings and decisions are not recorded, thereby making it impossible to standardise the quality of justice dispensed as well as monitor the substance of decisions made, or observe inconsistencies
- Gender-based discrimination: the system is based on traditional practices and norms that do not favour women, especially where a crime is committed by a male
- The indigenous concept of human rights under customary law, which is broader than the legal or universal concept
- International human rights law focuses on individual rights whereas customary law focuses on the group rights of the extended family. Although customary law does recognise some human rights, it does not recognise international treaties, protocols and conventions. Customary law promotes group as opposed to individual rights

In conclusion, Dr Chikwanha highlighted some macroproblems across the criminal justice systems in Southern Africa. These included:

- Lack of ratification and domestication of key legislation that deals with reforming of the criminal justice sector
- Inadequate funds and resources (national and subregional)
- Inadequate technical expertise (especially when dealing with organised crime)

- Lack of independent institutions (judiciary)
- Insufficient awareness about the legislation and policies at the national level
- Lack of political will
- The different legal systems in the region make it difficult to harmonise the laws or to ensure effective cooperation and free movement of legal expertise within the region
- Variation in definitions of crimes and imposition of penalties
- Population growth and movement is an element that needs to be factored into the process of improving the justice system
- There are clearly more challenges in bringing justice institutions closer to the rural citizens

PRISON SYSTEMS IN BOTSWANA, MOZAMBIQUE, SOUTH AFRICA AND ZIMBABWE

Lukas Muntingh
Coordinator: Civil Society Prison Reform Initiative, Community Law Centre, University of the Western Cape

Mr Muntingh began by noting that although the prison system was inherently inwardly focused, it was an important actor in the state's ability to use force. Prison systems may develop their own dynamics, though perhaps not to the extent where they become high profile political actors – for example, in contrast to actors such as the military who can stage coups – but nevertheless they may either (1) strengthen the legitimacy of the criminal justice system or (2) more commonly, add to the legitimacy deficit of the criminal justice system.

Mr Muntingh provided the following brief on the status of prison occupation in selected Southern African states:

He noted that good prison governance was to a large extent determined by the existence of an enabling policy framework, necessary resources and the extent to which prison management had the ability to implement these policies on a day-to-day basis in a transparent, accountable and ethical manner. The notion of governance is understood to encompass not only issues of administrative efficiency and probity, but also the extent to which the basic human/constitutional rights of prisoners are recognised and respected. This relates to both the manner in which prisoners are treated in the prison system and the opportunities they are afforded when reorienting their lives towards a more constructive future in society.

Mr Muntingh then noted some general trends and observations regarding the prison systems in the selected case studies. From the above statistics, it is evident that South Africa is very different in scale to Botswana, Mozambique and Zimbabwe. However, there are still some similarities. In terms of institutional arrangements, he detailed the structures for managing and administering the prison system in each country as:

- RSA: national ministry and national department; sentenced and unsentenced
  - Only country in SADC with private sector involvement in the prison system
  - Strong organised labour; extremely destabilising from 1994 to 2001
- Mozambique: prison sector under the Ministry of Interior (Criminal Investigation Police) and sentenced under Ministry of Justice. New structure under the Ministry of Justice ['*Serviço Nacional das Prisões*'

Table 1 Prison statistics in selected Southern African states

CATEGORY	BOTSWANA	MOZAMBIQUE	RSA	ZIMBABWE
Total prison pop.	5 216	c 15 000	161 320	12 971
Sentenced	83%	70%	69,80%	76,60%
Unsentenced	17%	30%	31,20%	23,40%
Nr of prisons	23	211	237	46
Capacity	3 967	c 10 400	115 297	17 000
Occupation	131,50%	144%	139%	76,30%
Rate/100 000 of pop.	267	c 73	325	114
Children	5,60%	30% (>19yrs)	0,80%	1,90%
Females	4,10%	6,30%	2,20%	4,20%
Foreigners	22,60%	?	5,10%	0,80%

Source L Muntingh

(SNAPRI) (National Prison Service)] to harmonise mandates, but remains uncertain

- Botswana: Department of Prisons and Rehabilitation. This was under the Ministry of Labour and Home Affairs but in August 2009 was reportedly transferred to the authority of the Defence Council in the Office of the President. Sentenced and unsentenced
- Zimbabwe: Zimbabwe Prison Service under the Ministry of Justice, Legal and Parliamentary Affairs; sentenced and unsentenced

A central question when analysing prison systems relates to theoretical challenges in relation to punishment. Mr Muntingh raised critical questions about the role and purpose of imprisonment in the sentencing regime. Where does it fit in and what is its purpose? In most of the cases being studied, there is too little available information to assess how effective interaction is between the different arms of the criminal justice system. According to the speaker, lessons from the South African case indicate poor coordination, poor policy and legislation. He identified some common challenges, including:

- Marginalisation of prisons within government priorities
- Lack of transparency and accountability
- Limited research and monitoring
- Record-keeping often problematic
- Officials with limited training
- Uncertain implementation of new institutional arrangements in Botswana and Mozambique
- Human rights violations

In general there is also limited civil society engagement on prison issues. Specifically, in South Africa and Zimbabwe, civil society has tended to be stronger whereas in Botswana and Mozambique it has been weaker. Botswana, Mozambique and South Africa have a civilian prison service whereas it is militarised in Zimbabwe. Mr Muntingh also questioned the level of access to legal representation afforded to those held in state custody.

Mr Muntingh highlighted that pre-trial detainees were generally vulnerable and among the high-risk groups facing sexual victimisation, extortion and exploitation. Long periods spent awaiting trial normally indicates poor performance and poor coordination and can be viewed as a preliminary punishment. Prison systems are generally poorly developed but there have been and continue to be domestic and regional reform initiatives, such as:

- Botswana: National Development Plan No. 9 – legal aid, specialised courts and so on

- Mozambique: Action Plan for Poverty Reduction – includes criminal justice system reform
- South Africa: White Paper on Corrections and the potential criminal justice system review
- SADC: Heads of Corrections Plan of Action to be incorporated into the new SIPO

Mr Muntingh then drew attention to the promotion and protection of human rights within the prison system in the countries under review. He noted that procedural safeguards for detention were not well developed and that meeting the minimum standards of humane detention remained a problem in prison systems across the world. These are particularly difficult in Zimbabwe and Mozambique where there is a structural deprivation of rights – the deprivation of the food, water, clothing, healthcare, space, hygiene, privacy and security necessary for a humane and dignified existence. It is the combined deprivation or non-fulfilment of these rights that amounts to a systemic practice of inhumane or degrading treatment. Mr Muntingh highlighted the central need to discuss how international instruments are operationalised in Africa – specifically, what are the indicators and what is accepted as evidence for compliance?

In terms of international standards, South Africa, Botswana and Mozambique have all ratified the UN Convention against Torture (UNCAT). Zimbabwe has not ratified it. The implications of ratifying UNCAT include: the criminalisation of torture; the inadmissibility of evidence obtained under torture; the monitoring of prison conditions; investigation into allegations; and redress. Progress on implementation at national level has, however, been limited. Only South Africa has signed the Optional Protocol to UNCAT, which calls for the establishment of national mechanisms and has great potential to enable effective monitoring and to prevent torture and ill-treatment. There is also, through the UN, the potential of creating a convention on minimum standards for detainees.

At a continental level, Mr Muntingh reflected on the role of the African Commission on Human and People's Rights (ACHPR). Although the rights of prisoners were poorly articulated in the Banjul Charter, the ACHPR established a Special Representative on Prison Conditions (SRPC) in 1996. The SRPC has visited Zimbabwe (1997), Mozambique (1997 and 2001) and South Africa (2004). Other normative frameworks for the protection of the rights of prisoners in Africa include the Robben Island Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (2002). The African Court also has the potential for emerging jurisprudence on the rights of prisoners.

Mr Muntingh then raised serious questions about the capacity of the prison services in the region to deliver on mandatory human rights issues and to fulfil a mandate associated with the rehabilitation of offenders. He noted severe resource constraints, especially in Mozambique and Zimbabwe where there were staff and funding shortages. In South Africa there has been experimentation with privatisation of prisons as a risk-management strategy, but it seems to have been counter-productive, with allegations of corruption, legitimacy deficits and a negative public image.

In conclusion, Mr Muntingh highlighted some key issues to be addressed in relation to prison governance and reform in Southern Africa. These included:

- The need for broader debate on the role of prisons in African criminal justice systems. The imported prison model is not affordable nor sustainable and does not create safer societies
- Human rights standards should be operationalised in the African setting and there is the need to consider the progressive realisation of human rights for prisoners through standard setting and monitoring
- There needs to be enhanced accountability and transparency specifically to include more research, information and monitoring and improved accountability at parliamentary and executive levels, as well as within management and at the individual level
- Law reform is needed to address awaiting trial detainees, sentencing and standard setting
- Staff training is needed to address issues such as compliance with laws and problem-solving
- Development of infrastructure and context–appropriate technology is needed
- Improved protection of vulnerable groups within the prison population must be addressed
- HIV/Aids in prisons and healthcare in general must be addressed

DISCUSSION

During the discussion participants engaged with various components of the criminal justice system as presented by the panelists. It was noted that regional protocols were useful tools for the harmonisation of justice systems, especially in terms of standard and norm setting. Participants further emphasised the importance of the criminal justice system as the most direct link between citizens and the state security apparatus. There is a need to focus on the systemic reform of the criminal justice system as opposed to single-area focus projects. This is in recognition of the interdependence that exists between the elements of policing, judiciary and prisons. Furthermore, the importance

of political leadership was emphasised and the potential positive impact that transition to democratic governance regimes could have on the criminal justice sector in terms of both non-partisanship and equal access.

In relation to prisons, participants engaged with the issue of how to improve prison conditions. One good practice that was highlighted was the use of organised visits and monitoring; visits to prisons provide one of the best international tools to improve basic conditions. An example was illustrated by Zambia, where the national Human Rights Commission conducts reviews and inspections of prison conditions and then reports on such to parliament. Normative frameworks such as UNCAT can also be used. From a governance perspective, the point was made that improving prison conditions relies on bringing more transparency into the prison system. The role of the media and civil society advocacy campaigns can give prominence to the plight of prisoners.

A key discussion about prisons centred on how to make prisons more appropriate tools within the criminal justice system. The need to develop procedural safeguards in law to prevent people from being unnecessarily detained was underscored. The onus should be on the state to justify detention and extensions in detention.

There were also considerations of the possibilities for the differentiation of prisoners according to age and gender. The implementation of separate facilities for women and juvenile offenders is problematic in resource-constrained environments. A potential way in which to address overcrowding and the lack of differentiation was posed in terms of differentiating prisoners according to the type of crime committed and to investigate alternative mechanisms for punitive measures such as community service and plea bargaining. Classification problems can be avoided by sifting out those who need not be detained.

In terms of oversight and creating prison services that protect human rights, the role of operational management was highlighted. Performance needs to be monitored at the operational level and managers within the relevant departments need to be held accountable for the conditions within prisons. The role of parliamentary oversight was also discussed and participants reflected on the importance of a clear mandate for parliamentary committees in order to ensure efficacy. The lack of priority in budget allocations is a perpetual problem with regard to improving prison conditions.

Questions were raised about militarised versus civilian prison services and how professional, disciplined and appropriate prison services could be created without necessarily militarising them. A proposal was that management style should be determined by function. It is not a question of civilian versus military but rather of what kind of management is required for an effective correctional service.

Policing Southern Africa

Chairperson: Mr Gareth Newham
Head, Crime and Justice Programme, Institute for Security Studies

REGIONAL POLICING: TRENDS AND CHALLENGES

Mr Charles Goredema
Head: Organised Crime and Money Laundering
Programme, Institute for Security Studies

Mr Goredema's presentation began with an outline of the dimensions of policing that set the parameters for a discussion on regional policing. He noted that the role of policing was to give complementary support to crime prevention, investigation and prosecution. This includes anticipating and preventing crime, investigating crime, prosecuting crime and recovering the proceeds of crime. These policing responsibilities are shared by public and private sector institutions and, occasionally, international organisations.

In order to be able to fulfil the functions and responsibilities of policing, certain capacities are required. Mr Goredema detailed these prerequisites for effective policing institutions as including:

- Information on the commission of crime
- Cognitive and investigative competence
- Resources
- Institutional support which includes a supportive infrastructure of laws
- Effective courts

Furthermore, when considering the efficacy of policing institutions, Mr Goredema proposed the use of benchmarks against which performance could be measured. These benchmarks highlighted the importance of democratic governance of policing, emphasising, for example, the centrality of having legitimate police services with well-defined accountability systems. In addition, he underscored the significance of having professional and visible police services. Finally, in order to fulfil the mandate of law enforcement, the police require adequate resources.

The next section of the presentation outlined a profile of crime trends in the region. The most prominent, recurrent and highest value-generating predicate activities in the region are:

- Financial crime
- Evasion of import taxes and duties
- Trafficking of narcotics
- Corruption
- Trafficking of minerals
- Trafficking of counterfeit commodities
- Robbery
- Theft and sale of stolen goods
- Theft of and trafficking in motor vehicles
- Money laundering

In combating these and other security threats in the region, there are considerable challenges to effective policing. Mr Goredema noted that structures of accountability tend to be vague wth the result that agencies are answerable to themselves or to elite power centers. There is inadequate coordination and exchange of intelligence between police and other relevant departments, due partly to legislative prohibitions on data sharing and partly to differences in cultural and policy objectives. Cross-border cooperation is also challenged by political dynamics and is to a large degree determined by the prevailing state of political relations between different countries. Mr Goredema noted that the regional criminal environment was dynamic and police were challenged to keep up with rapidly changing developments.

Referring to international cooperation, Mr Goredema pointed out that the region generally suffered from a lack of information from foreign sources, which has a negative impact on the potential for law enforcement. There are also prejudiced perceptions about the credibility of foreign criminal justice regimes. In the main, policing capacity in the region suffers from an inadequacy of training and resources. Tracking regional criminal trends and combating cross-border crime is further complicated by differences in legal systems and in how crimes are documented. He also observed the non-implementation of applicable regional and international legal instruments.

In terms of cooperation within Southern Africa, in 1995 the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) was established. The membership currently comprises Angola, Botswana, DRC, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. The speaker also outlined the key objectives of SARPCCO as follows:

- To promote, strengthen and perpetuate cooperation and foster joint strategies for the management of all forms of cross-border and related crimes with regional implications
- To prepare and disseminate relevant information on criminal activities as may be necessary

Mr Goredema then provided some insight on the state of regional policing, noting that cooperation was driven by the SARPCCO strategic plan, which in turn revolved around the identification of priority crimes (as identified earlier in the presentation). There are also regional initiatives to de-politicise public policing through decentralisation and joint operations. SARPCCO has also instilled the practice and facilitation of the regular exchange of criminal intelligence, both formal and informal. Two examples were provided as evidence of this: (1) the Cooperation and Mutual Assistance in the Field of Crime Combating agreement of 1997 and (2) numerous joint operations which have targeted, for example, motor vehicle theft, drug cultivation and trafficking, firearms trafficking, fugitives from justice, diamond smuggling, illegal migration and counterfeit commodities.

In 2006/7, SARPCCO was integrated into SADC. This new organisational structure offers both challenges and opportunities for the regional police body but the impact thereof remains to be seen. One area in which cooperation has been complicated is in the management of borders, which tends to be uncoordinated and perceived to be haphazard. Customs cooperation and related policing tends to be weakest for certain market-driven crimes such as the illegal trade in minerals, wildlife and counterfeit commodities, and tax evasion.

POLICING CAPACITIES AND CONSTRAINTS: SOME GENERAL OBSERVATIONS

Mr Sean Tait
Coordinator, African Police Civilian Oversight Forum

Mr Tait began his presentation by noting that growth and development in the region were offset by the impact of climate change; urbanisation and the crisis in the management of urban spaces; militancy in the security sector; democratic crises and the return of the power of the military in the political domain. There is a complex relationship between development, governance and security. Mr Tait observed that growth and development challenges dictated that contact and social crimes were going to remain a safety and security challenge to the region. Relationships, dialogue and trust between the police and communities are critical for successful policing to contact and social crimes. He pointed out that trust in policing was influenced by the strength of the systems of oversight and accountability.

Mr Tait's input addressed three areas in policing discourse in the Southern African context: community policing, police oversight and labour relations. He posited accountability as the central tenet of the three areas and highlighted that, as a key pillar of democratic policing, accountability meant that the police force:

- Is accountable to the law and is not a law unto itself
- Is accountable to civilian authority and the community
- Is transparent in its activities
- Gives operational priority to protecting the safety and rights of individuals and private groups
- Protects human rights
- Adheres to high standards of professional conduct
- Is representative of the community it serves
- Has the same rights as enjoyed by other citizens

According to Mr Tait, community policing continued to be exported as a prime mechanism to reorient policing from a repressive regime to a community service. Yet community policing itself experiences significant challenges in its application. In particular, he noted that community policing was often criticized as failing to bring crime under control and thus made the argument for the use of harsher measures. However, he observed that the effectiveness of the police was related to the level of support that they enjoyed and public support for policing efforts was situated as a force multiplier. In

order to achieve the benefits of public support, police must be deployed, located and representative of the community they serve; the police must use minimum force and they must act in accordance with accredited standards of professionalism and human rights. To achieve this, police need a dramatic shift in training, away from the current tactical and legal focus and towards service and client focus, including working with communities.

Mr Tait noted that because of the complexity of the environment in which police reform and community policing initiatives were undertaken, there might be scope to explore alternative approaches to improve the delivery of security services by the police. Such alternative approaches could adopt a targeted approach to address specifics such as poor police management and policy, corruption, abuse of power, torture, and so on, to be implemented as and when required, through the principles of community policing. Mr Tait also recognised that information communication technology could be a means to explore new avenues for communication and the sharing of experiences.

He then turned attention to the issue of oversight and the related challenges. The following key principles for oversight and accountability were presented:

- They should be built on human rights standards and an agreed philosophy of policing
- They involve an agreed set of systems, mechanisms, processes and procedures through which police performance is measured, evaluated and regulated, covering not only issues of behaviour, misconduct and legality but also of equity, adequacy and performance
- Internal and external processes should be combined. Effective oversight is dependent on resources, capabilities and political will within and outside the police, including the legislature, executive, judiciary and civil society
- The objective should be to enhance and maintain police effectiveness

In general, police oversight in Southern Africa is weak. In Mozambique, for example, there is no government-funded independent external mechanism established by law to investigate complaints against the police, and this is urgently needed. In the DRC, the development of external accountability mechanisms is a core part of police reform. In South Africa, extensive investment is being made in building and re-capacitating civilian oversight, which has suffered a benign neglect for the past decade. In Lesotho, urgent investment is needed to strengthen the Lesotho Police Complaints Authority. In Zimbabwe, the development of oversight capacity at civil society and

parliamentary level offers one of the few entry points into police reform at present.

Mr Tait highlighted some further challenges and avenues for addressing these, which included:

- The SARPCCO Code and the Common Security Sector code mooted in the SIPO require far more focused attention on application and guidelines to application
- Improve cooperation. Cooperation between oversight agencies is weak. This cooperation is not limited to state but also to non-state actors. The role of structures such as the parliamentary forum is not well used. Regional approaches can also be used to build domestic capacity
- We need to build African knowledge on oversight. In 2004, the South African Independent Complaints Directorate brought together oversight agencies from across Africa and a similar process can be repeated for the region
- Governance of private security: the governance of private security and their interaction with the state police is a common feature across the six countries. If the oversight of the state security is weak, the oversight of private security industry is virtually nonexistent

Mr Tait's final issue related to labour relations and the importance of recognising the rights of police officers as citizens as an indicator for democratic policing. The impact of collective bargaining and functional unions and staff associations on the governance of policing and in promoting discipline and upholding the ethical conduct of members is an area that could benefit from additional research.

GENDER AND LAW ENFORCEMENT IN SOUTHERN AFRICA

MS SANDRA ODER
Senior Researcher, Peace Missions Programme,
Institute for Security Studies

Ms Oder's presentation focused on the role of the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO), which is an international, independent police organisation comprising 13 member countries of SADC. One of its key objectives is to make relevant recommendations on matters affecting effective policing in the Southern African region. It is within this framework that Ms Oder then addressed gender equality within the policing sector.

She identified three broad trends that had laid the foundation for governance, human rights and gender equity and gender equality at international level. The

first was the formal articulation of the norm of non-discrimination on the grounds of sex, which was included among the purposes of the United Nations Charter and in the International Bill of Rights. Commitment to the advancement of women was backed institutionally by the creation in 1946 of the Commission on the Status of Women within the United Nations and was furthered by the adoption by the General Assembly of the Convention on the Elimination of Discrimination Against Women (the Women's Convention) in 1979. Articles 7 and 8 of the Women's Convention emphasise the location of women within the public sphere. Article 7 considers the position of women in national public life. States undertake to take appropriate measures to eliminate discrimination against women in the political and public life of the country, in particular with respect to the right to vote, to participate in policy making, to hold public office, and to participate in non-governmental organisations.

Ms Oder further noted the second trend as the inclusion of women within the discourse and, to some extent, the practice of development. The third trend emerged at the end of the century with the shift from perceiving issues of women's economic and social disempowerment pertaining to development policy to the affirmation of women's legal entitlements through the recognition of women's rights as human rights. This assertion was historically made at the World Conference on Human Rights in Vienna in 1993 and was reiterated in the Beijing Platform for Action agreed at the Fourth World Conference on Women in 1995. She emphasised that the assertion of women's rights as human rights removed matters of concern to women away from the discourse of needs to that of entitlement, as humans, to the full panoply of human rights.

Following this broad introduction, Ms Oder commented on the increased attention being paid to democratic governance of the security sector, especially as part of the security sector reform discourse and in relation to state or peace building. Ms Oder then turned to gender mainstreaming and the integration of women into policing organisations in Southern Africa. She opined that women police officers used less physical force, were better at defusing and de-escalating potentially violent confrontations with citizens, were less likely to become involved in problems with the use of excessive force, possessed better communication and persuasive skills and were better able to facilitate the cooperation and trust required to implement a community police model.

Ms Oder further emphasised the importance of recruiting more women into the police in terms of improving law enforcement's response to violence against women and to implement community and intelligence-led

policing. These new models of policing require skills and values from officers that have traditionally been defined as feminine, for example, alliance building, adaptability, flexibility and conciliation. She noted, however, that the work environment of the police should be redesigned to adapt to this steadily increasingly influx in police organisations. Women in policing should not feel compelled to attain macho characteristics in order to be accepted and succeed in the organisation.

She observed that while it was the responsibility of national governments to adopt strategies while building national institutions that promoted gender equality, a regional approach to gender concerns was gaining prominence. This is in line with the growing awareness that gender inequality works in concert with different development challenges in the region. Ms Oder highlighted that a regional approach could be beneficial to:

- Support national ownership of plans to achieve gender equality within the police organisations
- Build and sustain strategic and coordinated partnerships that take into account the vulnerabilities, needs and obstacles faced by women personnel, and women in general
- Garner untapped experience and skills
- Promote strategies, policies and programmes that integrate gender perspectives throughout the legal framework
- Ensure that women's capacities are fully utilised in the transformation of gender relations within the policing environment in Southern Africa

Ms Oder further deliberated on the nature of the police as an institution and organisation and emphasised some of the operational challenges confronting the delivery of a rights-respecting security service in this sector. These challenges included *inter alia*:

- The under-qualification of police
- The politicisation of higher ranks: police are utilised as personal security for power elites
- The 'normalising' of extortion and corruption in the police
- Insufficient funding
- The limited effectiveness of oversight mechanisms

Ms Oder thus deduced that in order for gender mainstreaming to occur within the policing sector, there were four key sites where change needed to occur in any gender-sensitive institutional reform, namely:

- Mandate: What is an institution set up to do and for whom? Does this mandate exclude women? If it

includes women, which women does it include and is that inclusion equitable and equal?

- Operations: the practices, incentive systems and performance measures, informal cultures – Who does it and how, and who reviews performance? Are these differentiated to the point of their effect being negatively discriminatory against women and, if so, which women?
- Staff composition: the division of labour and power between different social groups – who does the work, who makes decisions, and who is held accountable?
- Accountability systems: how do internal and external mechanisms monitor and correct mistakes?

Within the context of SARPCCO, Ms Oder explained that there were two key institutional mechanisms for gender mainstreaming: (1) SARPCCO Women's Network Subcommittee and (2) SARPCCO Gender Task Team. A resolution of August 2007 (AGM/07/RES/13) made it necessary for the establishment of SARPCCO Women's Network Subcommittee and made it obligatory for member countries to establish the Women's Network in their respective countries and implement activities drawn from its policy framework and strategic plan which they adopted as guiding tools for operationalisation. The SARPCCO Gender Task Team is to formulate SARPCCO's Gender Policy (considered in SARPCCO Organs' Meeting, Johannesburg, 24–26 March 2010). The Task Team processes will provide leadership for the implementation of the Gender Policy, define broad operational policies, indicators of effectiveness and timeframes for implementation, and, with the support of relevant subcommittees of SARPCCO, support and monitor its performance.

These two structures represent the SARPCCO Gender Mainstreaming Mechanisms. Ms Oder explained that these mechanisms had the following beneficial impacts:

- Organisation policies and programmes (regional and national) that take into account the realities of, and draw upon the skills of, both women and men
- A fair and equitable distribution of power, resources and decision-making between women and men
- A police organisation that is able to respond to the needs of both women and men in their respective sectors
- Police staff who are trained and experienced in addressing crimes from a gender perspective

In conclusion, Ms Oder provided some good practices for the mainstreaming of gender into policing in Southern Africa from both a regional and national perspective. These included:

- National gender-equality policy has an enabling effect in creating gender-equality efforts within the police sector. Furthermore, ensuring general gender-equality employment legislation that binds all government departments has a positive effect for generating within the police sector, recruitment and promotion policies that are gender sensitive
- Linking different actors (government officials and women parliamentarians) makes for effective championing of the cause and achieving national legislation
- Skills in the 'how to of gender mainstreaming' as well as mentoring are necessary for implementation to take place generally and for the SARPCCO Women's Network Subcommittee to take root within the police
- The women's network works when it pays attention to the practical needs of women (for example, their welfare) while also focusing on strategic changes in the power relations and dynamics of decision-making that need to take place in the workplace
- Information and communication is crucial, especially in correcting myths and incorrect ideas
- Follow-up and feedback is crucial to sustaining momentum and building the network

Ms Oder underlined that gender in policing covered the totality of law and relations, including those relating to good governance, democracy and human rights. In order to reformulate gender relations in ways that will enhance gender mainstreaming within and outside the police, there is the need for conceptual rethinking, political will, leadership, a re-allocation of resources and the commitment not just to the rhetoric of equity and empowerment but to the social restructuring that would lead to genuine achievement. She noted that the key challenges were twofold: (1) to reconceptualise concepts around equity within the police organisation and (2) to encourage states to uphold undertakings with which they are under a legal obligation to comply.

DISCUSSION

During discussion, participants stressed the influence of political factors on policing. It was observed that police were pressured by political factors and this sometimes resulted in non-professional policing. In order to maintain effective policing, the importance of oversight was emphasised. Part of professionalism has to include management style and the policies that govern the system. The impact of internal dynamics on morale and performance should not be overlooked. The previously mentioned point about oversight systems was echoed. Effective oversight needs to be approached in a systematic manner and should include internal mechanisms, formal civilian mechanisms such as

inspector-generals and complaints directorates, judicial and parliamentary oversight as well as civil society and the media. The key to success was posed as the achievement of specific mandates that would enable the various oversight bodies to operate as a holistic system able to hold the police to account.

Instruments and mechanisms to combat cross-border crime were questioned, with particular reference to legal instruments. Combating cross-border crime has two key elements: (1) making the crime illegal and creating a sufficient legal framework, including regulations and harmonisation on extradition and jurisdiction, and (2) being able to take action against it. These measures are complementary and both aspects need to be invested in to effectively combat cross-border crime. The centrality of information to combat cross-border crime was highlighted. The issue of human trafficking was also raised and it was noted that human trafficking was not currently on SARPCCO's list of priority crimes in the region. However, it was acknowledged that illegal migration was a problem within the region.

Some other key issues about policing were raised, particularly in relation to community policing forums and the efficacy of this approach to policing. It was noted that there was a need to frame the issue of community policing forums within the broader policing system as a means to complement security service delivery. Lastly, participants reflected on the impact of inter-state policing cooperation, especially within the context of providing support to police reform in post-conflict contexts. Given the capacity constraints and questions about professionalism, reservations were expressed about the quality of policing that states such as South Africa were exporting when providing support to police reform programmes in post-conflict environments such as the DRC.

The increased participation of women in policing was seen as a positive step towards creating more effective measures to combat gender-motivated crimes. It was recommended that more strategic partnerships should be forged between SARPCCO and women's organisations so that issues of gender and law enforcement could be more adequately addressed.

Programme

THE STATE OF THE REGION
SECURITY SECTOR GOVERNANCE IN SOUTHERN AFRICA

17-19 March 2010, Kievits Kroon Pretoria, South Africa

DAY 1	Wednesday, 17 March 2010
12h00 – 14h00	Registration and Lunch
14h00 – 14h30	**Welcoming** Col (Rtd) Stephen van Neel, Programme Head (Acting), Security Sector Governance Programme, Institute for Security Studies
	Keynote Address **Drivers of Insecurity in Southern Africa and Implications for Security Sector Governance** Dr Jakkie Cilliers, Executive Director, Institute for Security Studies
Session I	The State of the Region
Chair	Dr Cheryl Hendricks, Senior Research Fellow, Security Sector Governance Programme
14h30 – 15h30	**Regional security challenges and responses** Mr Richard Cornwell, Cornwell & Associates
	Civil society perspectives on Southern Africa security challenges and responses Mr Boichoko Abie Ditlhake, Executive Director, SADC Council of NGOs
	Institutional responses to regional security challenges Prof Anthoni van Nieuwkerk, Research Director & Professor of Management, University of the Witwatersrand
16h00 – 16h45	DISCUSSION
16h45 – 17h00	Close of Day 1 and Group Photo
19h00	Dinner Function
DAY 2	Thursday, 18 March 2010
Session II	Perspectives on security
Chair	Prof Maxi Schoeman, Head: Department of Political Sciences, Faculty of Humanities, University of Pretoria
08h30 – 09h30	**Balancing internal security and regional demands: The case of South Africa** Col Laetitia Olivier, South African National Defence Force
	Gender perspectives on security in Southern Africa Dr Cheryl Hendricks, Senior Research Fellow, Security Sector Governance Programme
09h30 – 10h00	DISCUSSION
10h00 – 10h30	Coffee Break
Session III	Creating security in insecure environments: the case of the Democratic Republic of Congo
Chair	Col Prosper Nzekani Zena, DDR National Structure, Ministry of Defence, Democratic Republic of Congo
10h30 – 11h30	**Security sector reform in the DRC** Mr Phillipe Asanzi, Independent Consultant
	The challenges of DDR and SSR in an insecure environment Col Lester Gardiner, South African National Defence Force
11h30 – 12h00	DISCUSSION

DAY 2	Thursday, 18 March 2010
Session III	Creating security in insecure environments: the case of the Democratic Republic of Congo
12h00 – 13h00	Lunch
Session IV	In search of security and justice for all: The case of Zimbabwe
Chair	Mr Takawira Musavengana, Senior Researcher, Security Sector Governance Programme
13h00 – 14h00	**Priorities and options for creating democratic governance of the security sector in Zimbabwe** Dr Martin Rupiya, Principal Director, International Relations, Office of the Prime Minister, Zimbabwe **Supporting participatory governance: A civil society perspective on security sector governance** Mr McDonald Lewanika, Director, Crisis in Zimbabwe Coalition
14h00 – 14h30	DISCUSSION
14h30 – 15h00	Coffee Break
Session V	Democratic governance of the security sector: selected case studies
Chair	Prof Andre du Pisani, Professor of Politics, University of Namibia
15h00 – 16h00	**Governance and capacity of security and justice institutions: The case of Lesotho** Mr Themba Masuku, Community Agency for Social Enquiry **Democratic governance of the defence and intelligence sectors in Botswana** Prof Mpho Molomo, Professor of Politics, University of Botswana **The need for democratic governance of the private security sector** Mr Sabelo Gumedze, Senior Researcher, Security Sector Governance Programme
16h00 – 16h30	DISCUSSION
16h30	Close of Day 2
17h00	Cocktail Function & Braai
DAY 3	Friday, 19 March 2010
Session VI	Criminal justice in Southern Africa
Chair	Ms Cheryl Frank, Office Director, Pretoria, Institute for Security Studies
08h30 – 09h30	**Criminal justice in Southern Africa** Dr Annie Chikwanha, Head, African Human Security Initiative Project, Institute for Security Studies **Prison systems in Botswana, Mozambique, South Africa and Zimbabwe** Mr Lukas Muntingh, Co-ordinator: Civil Society Prison Reform Initiative, Community Law Centre, University of the Western Cape
09h30 – 10h00	DISCUSSION
10h00 – 10h30	Coffee Break
Session VII	Policing Southern Africa
Chair	Mr Gareth Newham, Programme Head, Crime and Justice Programme
10h30 – 11h30	**Regional policing: trends and challenges** Mr Charles Goredema, Head, Organised Crime and Money Laundering Programme **Policing capacities and constraints: some general observations** Mr Sean Tait, African Police Civilian Oversight Forum **Gender and law enforcement in Southern Africa** Ms Sandra Oder, Senior Researcher, Peace Missions Programme
11h30 – 12h00	DISCUSSION
12h00 – 13h00	**Conclusions and Closing** Dr Cheryl Hendricks Col (Rtd) Stephen van Neel
13h00 – 14h00	Lunch and Departures

List of participants

Name	Organisation
Prof Andre du Pisani	University of Namibia
Ms Angela Ndinga-Muvumba	African Centre for the Constructive Resolution of Disputes (ACCORD)
Dr Annie Barbara Chikwanha	African Human Security Initiative
Prof Anthoni van Nieuwkerk	University of the Witwatersrand
Mr Bakengeshi Twendele	Forum of Congolese Associations in South Africa (FOCAS)
Mr Boichoko Abie Ditlhake	SADC-CNGO
Mr Booi Mohapi	Catholic Commission for Justice and Peace
Mr Botsalo Ntuane	National Assembly of the Republic of Botswana
Mr Bruno Dindelo	Southern African Trust
Mr Charles Goredema	Institute for Security Studies
Ms Cheryl Frank	Institute for Security Studies
Dr Cheryl Hendricks	Institute for Security Studies
Hon Damian Mumvuri	Parliament of the Republic of Zimbabwe
Mr Daniel Setsile	South African National Treasury
Mrs Emilia Muchawa	Zimbabwe Women Lawyers Association
Dr Emmanuel Kisiangani	Institute for Global Dialogue
Mrs Fatima Mufamadi	South African National Defence Force
Hon Francisa Domingos Tomàs	Parliament of the Republic of Mozambique
Mr François Butendi	Forum of Congolese Associations in South Africa (FOCAS)
Mr Gabriel Malebang	University of Botswana
Mr Gadhi Mudzingwa	Office of the Prime Minister, Zimbabwe
Mr Gareth Newham	Institute for Security Studies
Prof Hamilton Simelane	University of KwaZulu-Natal
Dr Jakkie Cilliers	Institute for Security Studies
Mr Joao Carlos Colaco	Eduardo Mondlane University, Mozambique
Mr Jorge Cardoso	Centre for Strategic Studies of Angola
Mr Jose Uthui Joao	National Forum for Mozambican Non-Governmental Organisations
Col Laeticia Olivier	South African National Defence Force
Ms Lauren Hutton	Institute for Security Studies
Hon Lesedi Keekae	National Assembly of the Republic of Botswana
Col Lester Gardiner	South African National Defence Force
Mr Lukas Muntingh	University of the Western Cape
Ms Margaret Gichanga	Institute for Security Studies

Name	Organisation
Dr Martin Rupiya	Office of the Prime Minister, Zimbabwe
Prof Maxi Schoeman	University of Pretoria
Mr McDonald Lewanika	Crisis in Zimbabwe Coalition
Mr Misabiko Baholelwa	Forum of Congolese Associations in South Africa (FOCAS)
Ms Mmakwena Rabele	Institute for Security Studies
Prof Mpho Molomo	University of Botswana
Ms Natèrcia Estévão	St Thomas University of Mozambique
Mr Niklas Ivarsson	Embassy of the Kingdom of Sweden, Pretoria
Hon Paul Madzore	Parliament of the Republic of Zimbabwe
Mr Phillipe Asanzi	Independent Consultant
Col Prosper Nzekani Zena	Ministry of Defence, Democratic Republic of Congo
Mr Puso Setloboko	Embassy of the Republic of Botswana, Pretoria
Mr Raymond Nshimba	Embassy of the Republic of the Democratic republic of Congo, Pretoria
Mr Richard Cornwell	Cornwell & Associates
Mr Sabelo Gumedze	Institute for Security Studies
Ms Sandra Oder	Institute for Security Studies
Mr Sean Tait	African Policing Civilian Oversight Forum
Col (rtd) Stephen van Neel	Institute for Security Studies
Mr Takawira Musavengana	Institute for Security Studies
Mr Themba Masuku	Independent Consultant
Mr Timothy Banda	Human Rights Commission of Zambia
Ms Ulrika Lindblad	Folke Bernadotte Academy