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OVERSIGHT OF THE SECURITY SECTOR BY PARLIAMENTS AND CIVIL SOCIETY IN THE CAUCASUS: CASES OF ARMENIA, GEORGIA AND AZERBAIJAN

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Introduction

Oversight of the security sector is one of the most important issues which directly affects the prospect of democratic development of countries. The past and recent history of all three South Caucasus states involves the Soviet legacy and continuous internal conflicts and wars, political instabilities and violence. These circumstances has caused the securitization of the political environment and practically all areas of public life and favour the concentration of excessive powers in hands of the military and law enforcement bodies. In some cases the political order relies on institutions or key personalities in army or law enforcement structures. Obviously, the weakness of democracy calls into question the ability of institutions and the general public to oversee the actions of the security bodies.

Parliamentary and civil society oversight of the security sector are two important dimensions of good practice of civil military relations, along with a clear division of authority between the Head of State, Head of Government and the security sector ministers, as well as peacetime governmental (executive) direction through security ministries, in democratic societies.¹ Civil-military relations are being accepted as an element of democratic accountability under a parliamentary system, recognizing the primacy of politics over the military. Patterns of civilian control vary with changes in domestic ideology, domestic legal institutions, and external threat².

Although the military and security forces have played a vital role in establishing independent statehood, in the absence of democratic control they are being used as an instrument for internal politics and as a threat to the political system. Feaver characterized this civil-military problem as a simple paradox: because we fear others, we create an institution of violence to protect ourselves, but then we fear the very institution we created for our protection.³ Reform of security institutions is part of the democratization process and requires thorough, clearly defined legislative frameworks for each institution.

Every democratic government faces a difficult task to ensure democratic oversight of security sector institutions, and to gradually increase transparency and accountability of all security sector agencies, whether defence, law enforcement or intelligence services. For the purpose of achieving this task, the national legislative framework must ensure the security services are

¹ Willem F.van Eekelen, Philipp H.Fluri Institution Building a sourcebook in support of PAP-DIP DCAF 2006

² Samuel P Huntington, *The Soldier and the State: The Theory and Practice of Civil Military Relations*, Cambridge, Harvard University Press, 1957.

³ Peter Feaver. *The Civil-Military Problematique: Huntington, Janowitz, and the Question of Civilian Control*. *Armed Forces & Society* (0095327X); Winter96, Vol. 23 Issue 2.

capable of efficiently fulfilling their mandates and avoiding malpractices such as infringements of civil liberties and human rights. Fundamentally, the services should not be sources of instability or insecurity in a state.⁴

Public demand for peace, safety, a stable environment and increased economic opportunities represent priorities in the public demand in all three states of South Caucasus. So, the executive branch of the governments, having consolidated excessive powers in their hands, do not experience any strong pressure from the population for more transparency and accountability in the armed forces and law enforcement bodies. Development of the political culture, pluralism and democratic tradition is a prerequisite for establishing democratic control over security sector structures and vice versa – such control secures in many ways the survival and further strengthening of democracy. In a situation where political power is widely concentrated in the hands of the executive branch and when the parliamentary debates lack bargaining and compromising practices, intervention of international actors and civil society plays a crucial role in pushing legal changes to establish a basis for democratic control and accountability.

All three states of the South Caucasus are to some degree influenced by abovementioned trends. All three states carry out Security Sector Reform in line with the firm advice and demands of International Organizations, NATO, the EU and other normative powers striving for democratic developments in the region. Georgia, with a stronger link to Euro-Atlantic and European institutions, is more intensively scrutinized and monitored by NATO and the EU. Georgia's strong aspiration for membership in NATO implies almost unconditional implementation of its recommendations, including those related to civilian control over the security sector, as embodied in the Annual Action Plan, the implementation of which NATO closely monitors. The Association Agreement with the EU, which entered into force provisionally from September 2014 and fully from July 2016, also stipulates further strengthening of the democratic control and accountability of institutions belonging to the executive power, including security structures.

Armenia, Azerbaijan and Georgia have respective constitutional provisions and separate laws providing a legal basis for oversight, transparency and accountability of the security sector. Their parliaments have legal powers to adopt laws affecting the security sector. Again, here Georgia seems to be more advanced in terms of the depth and clarity, as well as the comprehensiveness, of the legal provisions in this field. In spite of this, effective

⁴ Teodora Fuior, (2011), *Parliamentary Powers in Security Sector Governance*, DCAF Parliamentary Programmes, p.28. available at: <http://www.dcaf.ch/Publications/Parliamentary-Powers-in-Security-Sector-Governance>

implementation is still lagging behind considerably elsewhere in the region and the security agencies remain in practice less accountable to the legislative body.

Deficiencies in the security sector of all three states relate to the transparency of government procurements; a lack of reporting on (especially in writing) and responsiveness to the demands coming from the members of parliament for clarification of issues the under competencies of the security structures; respect for human rights; and the rights of servicemen in security bodies. In some cases (Azerbaijan and Armenia) the legislator has no power to initiate legal action. This situation leads towards a vicious circle, preventing an increase in the size and quality of supervising powers in hands of the parliament.

Civil society in all three countries is trying actively to engage in security sector reform and influence in a positive way changes in the legal and institutional environment. Access for NGOs to public institutions is not equally granted in all three states. The Azerbaijani government is the most distanced from civil society, not leaving any space for dialogue with NGOs. The Armenian government has some formats for cooperation with NGOs and the media community, but more in terms of unilateral provision of information than an exchange of views. Georgia is more advanced in this sense than its neighbours. NGOs there participate in open discussions with the government on security sector reform and take part in the development of important state documents in the field of defence and security. Civil society organizations even have certain access to monitor the defence procurement procedures. But in the same time well known cases of abuse of power by the security structures show that there are insufficient powers in the hands of the parliament and of civil society to stop such violations.

The cases presented by the Armenian, Azeri and Georgian authors in this working paper are based on extensive desk research and in-depth interviews. The study was conducted by independent researchers with expertise and experience in defence and security-related matters. The authors interviewed members of parliament, government officials, high-ranking Ministry of Defence (MoD) officers and the heads of various governmental departments, experts and representatives of civil society. Two types of interviews were conducted – focus group meetings and extended individual conversations.

The following chapters examine the legislative aspects and current practices of Armenian, Azerbaijani and Georgian parliamentary control, including existing mechanisms of interaction and communication between parliament and the defence/security structures. The chapters also present recommendations to promote and strengthen the culture of integrity in the defence sector, as well as in the country in general. The study covers a wide range of issues reflecting the state of affairs and the causes of problems in the reform of the security sector in these countries. The study was conducted from autumn 2015 to September 2016 and reflects the most recent developments in the sector.

The case of Armenia

Almost 22 years after Armenia and Azerbaijan formally concluded the Nagorno-Karabakh War, a series of ceasefire breaches took place in the disputed region in what would later unofficially become known as the 'Four Day War' (April 2016). A number of lives were lost and, in the process, this narrowed the chances for a peaceful resolution to the conflict. Negotiations through Minsk Group mediation are ongoing to peacefully resolve the conflict.

Before discussing the civil-military situation in Armenia, there is a need to outline the broader context of developments in the Armenian Armed Forces. This includes an historical analysis which discusses the specific circumstances under which the Army was established, followed by an analysis of the extent to which there is democratic military control in Armenia, with a specific focus on the extent to which the Army can be controlled by democratic institutions. Only when the current situation has been analysed will the paper proceed to see to what extent there is the prospect for effective civilian military control in Armenia. An important factor herein is the recent adoption of a new Constitution which may or may not allow the country to become more democratic.

The Soviet legacy in the Armenian military and the role of volunteers in the creation of an Armenian army

Before looking at the current civil-military situation in Armenia, it is necessary to present some context. There are two factors which were important during the creation of the Armenian army. First of all, there is the politically unstable situation during which the Army was established, characterized mostly by the military conflict with Azerbaijan. Secondly, there is the Soviet heritage of the Army which has also influenced its structure ever since the collapse of the Soviet Union.

In Armenia, both the creation of a national army and state-building began in early 1988 in the context of the Karabakh conflict. Indeed, the army was formed during a period of escalating violence in the Nagorno-Karabakh region. During this conflict, a great number of Armenian volunteers fought in the conflict against Azerbaijan; most of the time, they acted without any

centralized coordination. Following the declaration of independence in Armenia, these units developed into Armenian national army units.⁵

The Armenian army was in a complex situation in 1992, as it was at the same time building institutions while fighting a war. Following the ceasefire agreement of 16 May 1994, Armenia entered a new stage in its army-building which allowed it to improve the structure and functioning of the army in a peacetime context.⁶ An important aspect that needed improvement was officer qualifications. Army discipline was very low during the early periods of the Armenian army as it was essentially a volunteer army. As has been stated above, many former volunteers were promoted to officers without proper military education following the first stages of the Karabakh conflict. A consequence of the lack of educated officers was a lack of discipline within the Army which is still visible today.⁷

As is the case with many of the USSR successor states, the Armenian military is also strongly influenced by its Soviet legacy. The end of the Soviet Union meant confronting a whole new security situation in countries that were not used to conducting their own foreign and security policy. Within the Soviet Union Armenians were part of an enormous military machine, whereas after their independence they were confronted with a new situation in terms of politics and security. The dissolution left the USSR successor states with an organizational, material and civil-military legacy of the Soviet military.

This legacy was comprised of an organizational model that was very much centralized and labour-intensive.⁸ The newly-born Armenian army had at its disposal officers with valuable experience from the Soviet army. Another part of the organizational legacy is that military doctrines in the post-Soviet states were often drafted by military officials with Soviet academic and professional backgrounds, who were thus heavily influenced by Cold War thinking.⁹ However, in the case of Armenia, the military doctrine¹⁰ that was adopted was not a Soviet one, even though certain cultural aspects of the Soviet army would live on in the Armenian military.

Following the dissolution of the Soviet Union, the Armenian military was greatly influenced by a number of former Soviet officers. For example, Anatoly Zinevich, Ukraine-born but for whom Armenia became a second homeland¹¹, had a successful career in the Soviet Army, serving for

⁵ Armenian Ministry of Defense, *Historical Overview*, <http://www.mil.am/en/68/71/288>, retrieved 4 July 2016.

⁶ *Ibidem*

⁷ Interview with Artak Kirakosyan.

⁸ Erica Marat, *Soviet Military Legacy and Regional Security Cooperation in Central Asia*, p. 86.

⁹ *Ibidem*, p. 89.

¹⁰ <http://www.mil.am/media/2015/07/825.pdf>

¹¹ "[Ministry of Defense of Armenia, Historical Overview.](#)" Ministry of Defense of Armenia. Retrieved January 17, 2008.

eight years as Operations Chief of Staff in the Afghanistan War. Following his time in Afghanistan, he was appointed Chief of Staff of the Operations Division of the 7th Army in the Armenian SSR in 1988. After the outbreak of the Nagorno-Karabakh War, he would remain active in the Armenian military which, to a certain extent, he helped shape. Zinevich joined the Nagorno-Karabakh Defence Army in 1994 as Chief of Staff.

Another important figure who helped shape the Armenian Army was Norat Ter-Grigoryants, a native Armenian who also served in Afghanistan, as Chief of Staff of the 40th Army. Following the outbreak of the Nagorno-Karabakh War, the Armenian government invited Ter-Grigoryants to assume command of the Armenian Army in 1992.¹² Soon after, his formal position was changed to First Deputy Minister of Defence; he was also a key figure in organizing the Armenian military into an effective force and developing the country's military doctrine. The point to be made here is that the former high-ranking Soviet officers played an important role in developing Armenia's own military capabilities following its independence. Hence, it is no surprise that there are still elements of Soviet military organization and tradition visible within the Armenian army.

Finally, another legacy in many successor states from the Soviet Union was the lack of democratic control over the military. Typically, military decision-making is monopolized by heads of state and highly-placed military officials. Parliamentary control is often absent. In addition to this lack of parliamentary control, the Army is confronted with human rights violations which need to be addressed more properly.¹³

Civil-Military Control in Armenia

In order to measure the extent to which Armenia inherited this Soviet characteristic of democratic deficiency, this section of the paper will begin with an analysis of the current political situation in Armenia. Attention will be paid to the most important institutions that exist in Armenia and the extent to which they are able to influence the Armenian army. It is also very important to identify the most important problems they are facing. Following this, ongoing efforts by the Armenian authorities to improve the democratic oversight over the military as well as the human rights situation will be identified.

¹² Mark Harutyunyan (29 October 1992). "Steps for Creation of Army Urged," in Zbigniew Brzezinski and Paige Sullivan (Eds.), [*Russia and the Commonwealth of Independent States: Documents, Data, and Analysis*](#), Washington, DC: Center for Strategic and International Studies, 1997, pp. 222-223.

¹³ Interview with Artak Kirakosyan.

The extent to which the Armenian National Assembly can control the Army

First of all, concerning control over the military in the Republic of Armenia, the Commander-in-Chief of the military is the President of Armenia. Starting from the 2018, the Prime Minister will become the Commander-in-Chief of the military during war, according to the new Constitution.¹⁴ The Ministry of Defence is in charge of political leadership while military command remains in the hands of the General Staff, headed by the Chief of Staff.¹⁵

The day-to-day control of the Armed Forces is in the hands of those named above. However, the question arises as to what powers the National Assembly of Armenia has in order to scrutinize the military leadership. To what extent is the National Assembly currently able to exercise democratic military control? Within the Armenian Parliament, defence issues are mainly discussed within the Standing Committee on Defence, National Security and Internal Affairs. The Standing Committee consists of 16 members.

The current situation on democratic military control shows some shortcomings. Although the Armenian parliament theoretically has some powers, these are rarely being effectively put to use. Broadly speaking, it can be said that democratic-military control is being hampered by three main shortcomings. First of all, there is a lack of resources available to members of the parliament in Armenia. Secondly, there is a clear lack of transparency, with government officials too often calling upon the right to secrecy, which makes it difficult for the Parliament to gain insight into incidents within the army. Finally, within the Armenian political arena there is a lack of political will to investigate and act upon shortcomings within the army.¹⁶

There are a number of competences which the parliament has concerning the Armenian armed forces. For instance, the Parliament should approve the budget for the military each year. Essentially, budget control is supposed to be the most important competence for the Parliament for controlling the military.¹⁷ However, in addition to what is mentioned above, members of the Armenian Parliament lack the resources to take advantage of this competence. There are two types of essential resources which are lacking: time and human resources. It is a

¹⁴ Constitution of Armenia, Article 155, Paragraph 4.

¹⁵ Ibidem, Paragraph 3.

¹⁶ Interview with Edmon Marukyan (MP).

¹⁷ Interview with Tevan Poghosyan (MP).

common problem that too little time is allocated to MPs to properly discuss and investigate important proposals such as the defence budget.¹⁸

In essence, budget approval seems a valuable tool for MPs in general.¹⁹ It can provide necessary leverage to force a government to reconsider certain acquisitions. In reality, however, the tool is currently not considered very useful.²⁰ However, another problem is that MPs can only vote for the defence budget as a whole. There is very little information directly available to members of the Defence Committee. In many cases, it is necessary to ask written questions which are not always answered.²¹ This means that MPs approve a budget without precisely knowing which part of the budget will be spent on which exact acquisition.²² Thus, effectively, the Parliament can exert very little control over how the Armenian defence budget is spent, simply because it does not know where money goes. The only option for exerting influence through these means would be to reject the military budget as a whole. However, given Armenia's security situation, this would be an unwise and unpopular decision.

The case described above reflects a lack of commitment from the ruling authorities to share information with Armenian MPs. This is part of a greater problem, which is a plain lack of transparency in the military. This is also illustrated through another power that the Armenian Parliament has; namely, the opportunity to submit written questions to government officials. Again, theoretically this seems to be a useful tool for MPs to bring about civilian military control, and could be used to acquire more information on the proceedings within the Armenian army, thereby increasing transparency. However, more often than not, written questions are responded to in an unsatisfactory way, with officials very often claiming that they are not able to respond due to reasons of secrecy.²³ However, it has also been said that documents were sometimes too easily deemed as classified.²⁴ This high degree of secrecy is also considered part of the Soviet legacy. The National Security Service is responsible for the procedures of classifying documents. Therefore, if we speak about reforms, it is rather the legal norms and procedures within the national security sphere that need to be modernized rather than the military.²⁵ Another part of the problem is that there is often only a small group of MPs who are trying actively to scrutinize the government.

¹⁸ Interview with Edmon Marukyan (MP).

¹⁹ Interview with Alik Avetisyan.

²⁰ Interview with Tevan Poghosyan (MP).

²¹ Ibidem

²² Ibidem

²³ Ibidem

²⁴ Interview with Alik Avetisyan.

²⁵ Ibidem

This factor was repeatedly mentioned in a number of interviews carried out as part of this study. Members of opposition parties in the Armenian Parliament are often trying to get important information from, for example, the Ministry of Defence. However, they are rarely supported by their colleagues from other political parties, which means that there is less of an incentive for the ruling authorities to give in to requests from opposition MPs. It is thought that the Standing Committee on Defence, National Security and Internal Affairs would have a better chance of getting the Ministry of Defence to share information if non-opposition MPs would be more insistent and demanding in requiring information. It is not the Ministry's fault that there are so few requests from the Standing Committee on Defence, National Security and Internal Affairs, as the Ministry is always ready to answer the enquiries.²⁶ According to a Ministry representative, often it is the Ministry that is active in being accountable to the public – it carries out training for civil society and media representatives to increase military literacy, raise issues of ethics, hold media conferences on hot topics and open their doors to collaboration with civil society. The Ministry is also considering having a permanent representative in the National Assembly of Armenia.²⁷

Thus, one thing that is missing within the Standing Committee on Defence, National Security and Internal Affairs is political on the part of many MPs. There is a will among some Members of Parliament to acquire more knowledge on the processes within the Army but they lack the resources, for example to start investigations on shortcomings.²⁸ This is simply due to a lack of human resources available to Armenian MPs, who need time and personnel to be able to scrutinize laws and other topics effectively. If both of these are not present, it becomes very difficult to be active on a broad number of topics and to be able to take positions on them. This is another reason which makes it difficult for MPs in Armenia to expose violations within the armed forces and to increase democratization within this specific field of policy.

MPs have agreed that the situation of the oversight of the military at the level of a standing committee is no different from other spheres of scrutiny of the Government. If we compare the work of the Standing Committee on defence with other committees, we can state that this committee is more effective. The issue is the overall approach of governmental political parties – they simply do not want to scrutinize ministers and check on their activities.²⁹

This lack of effective democratic control over the army does not only have negative consequences on the democratic situation in Armenia but also on the human rights situation. As human rights violations in the Armenian military often take place behind closed doors, there

²⁶ Ibidem

²⁷ Ibidem

²⁸ Interview with Edmon Marukyan (MP).

²⁹ Interview with Tevan Poghosyan.

are few means for controlling this from taking place. As a consequence, the provision of information on the military remains opaque.

As MPs have little or no access to information it is difficult for them to control the human rights situation within the Armenian army. The fact that the parliament cannot exert effective influence over the army makes it necessary to look for other means of fighting human rights violations. The media play an important role here as they have the power to bring violations to the attention of a broad audience.³⁰ In general, it can be said that the Armenian media are quite actively reporting on the Armenian army. Armenia is ranked 74th in the 'World Press Freedom Index' published by Reporters without Borders in 2016.³¹ Although not an excellent score, this still places Armenia ahead of EU member states such as Bulgaria, Greece and Italy.

However, this changed following the 'Four Day War' which took place at the beginning of April. These clashes exposed problems within the Armenian army. One of the reasons for this malfunctioning was corruption in the army, often in procurement processes.³² Although the Armenian public knew about these corruption problems, these events showed the necessity to actively combat corruption within the Armed Forces. There was an enormous civic consolidation to support the army during the 'Four Day War.' However, there was and is significant pressure from the public to institute checks on the military after the ceasefire³³, as the 'Four Day War' raised security concerns because security can be hampered by corruption, a lack of cadre professionalism and many other factors. The April events show that civilian military control is of high importance during peacetime but it was the war, in fact, that had triggered this demand for investigation. Therefore, democratic control may become secondary in wartime while security concerns because the public to be interested in how defence activities are being organized.

Finally, there is another important factor that needs to be taken into account when analyzing democratic control in Armenia, namely the lack of faith which Armenians have in their politicians. A report explicitly showing this phenomenon was published by the Armenian NGO, Peace Dialogue, in 2015.³⁴ A part of their research aimed to map out the extent to which Armenians trust different institutions. The work provides some interesting data; namely, it shows that only 15.4 percent of those interviewed claims to have faith in the President of the Republic of Armenia. In addition, 16.5 percent claims to trust the National Assembly of Armenia

³⁰ Interviews with Armen Mazmnyan and Artak Kirakosyan.

³¹ <https://rsf.org/en/ranking>

³² Eurasianet, 'After "Four-Day War" Exposes Weaknesses, Heads Begin to Roll In Yerevan,' <http://www.eurasianet.org/node/78576>, retrieved June 14, 2016.

³³ Interview with Alik Avetisyan.

³⁴ Peace Dialogue, *Between Peace and Security*, p.18.

whereas only 19 percent trusts the government. In contrast, 65.2 percent of those questioned stated that they have faith in Armenia's Armed Forces. This may explain the reason that the Ministry of Defence gives importance to being more accountable to the media and civil society and working directly with the population rather than being checked by the Parliament. However, this problem may be circular and this research is limited for testing such problems.

There are a number of ethical restrictions put on military personnel by the Law on Military Service, such as political neutrality and outside payments, among others. However, the mechanism for reporting and checking the implementation of these restrictions is not institutionalized. For example, it was the initiative of Centre of Human Rights and Integrity Building, a newly established centre which functions as a part of the Armenian Ministry of Defence, that generals have to provide income and property reports to the Commission on Ethics of High-ranking Officials.

To sum up, the Standing Committee on Defence, National Security and Internal Affairs lacks effectiveness. It became clear throughout most interviews that it lacks political will.³⁵ There is a small core of MPs from opposition parties who are asking for investigations into the Army's practices but they are a minority and cannot gather enough attention. Therefore, the Ministry of Defence is less likely to reveal more information if only a minority from within the Standing Committee is actively asking for it.³⁶ If only three of the 16 Committee members request information that is officially classified, the incentive for the Ministry is rather small. Besides a lack of political will, there are more shortcomings which also hamper the effectiveness of the Standing Committee in that it lacks both the human resources and the time to effectively make use of them.

Is there a prospect for civilian military control to improve in Armenia?

There is an ongoing effort from the government and the Ministry of Defence to improve civilian military control. An important player in this effort is the Centre of Human Rights and Integrity Building. As the name of the Centre suggests, it is mainly occupied with improving the human rights situation in the Army as well as building its integrity. To achieve these goals, the Centre set up and runs a number of projects. For example, Armenia is now a part of the Building Integrity (BI) programme run by NATO. The programme focuses on developing practical tools to help participants strengthen integrity, transparency and accountability and reduce the risk of corruption in the defence and security sector.³⁷ For example, there is an ongoing effort in

³⁵ Interviews with Artak Kirakosyan and Tevan Poghosyan (MP).

³⁶ Interview with Alik Avetisyan.

³⁷ http://www.nato.int/cps/en/natolive/topics_68368.htm, consulted on June 30, 2016.

Armenian military academies to better educate officers on the rights of and restraints of servicemen in order to reduce the chance of human rights violations from taking place in the future.³⁸

There are, however, a number of positive developments taking place in Armenia that could change this situation for the better. Most importantly, a new Constitution was adopted in Armenia on 6 December 2015 through a referendum. This Constitution's main implication was that Armenia will turn from a semi-presidential state into a parliamentary republic. On the surface, this seems like a positive development for democracy in Armenia as the new Constitution potentially implies more power for the parliament.³⁹ Another change that is to take place under the new Constitution is that generals within the Armenian Army will now be appointed in a different way. Under the new system, the Prime Minister will propose new generals whereas the President will formally endorse them.

The outcomes of the new Constitution are still unclear. Will it really increase the Parliament's role or will it just be a cover-up for the ruling party to enhance its grip on the Armenian political system? Opponents of the Constitution contend that its only purpose was to prolong Sargsyan's rule and they accused the government of having stolen the vote.⁴⁰ The previous Constitution limited the president to two five-year terms. That meant that Sargsyan, first elected in 2008, was only able to rule the country until 2018. The new Constitution, however, allows him to continue ruling with the only difference being that he will rule as Prime Minister instead of as President.

The constitutional revision shifts the power between the President and the Prime Minister. Under the old system, power was with the President whereas the Prime Minister had very little influence. Now, the opposite will be true. Many Armenians who felt that the Constitution was just a cover-up for Sargsyan to remain in power demonstrated against the vote. The voting is said to have taken place under fraudulent circumstances.⁴¹ There are many signs which show that these accusations of vote manipulation may be true. Election officials reported that in a number of precincts not even one vote was cast against the revision proposal.⁴²

It is clear that opinions differ greatly on whether the Constitution will have positive consequences for democratic military control in Armenia. This also became clear in our

³⁸ Interview with Tevan Poghosyan (MP).

³⁹ Interview with Armen Mazmanyan.

⁴⁰ European Platform for Democratic Elections, *Armenia: Referendum Assessed as Illegitimate by Citizens, Observers and EPDE*, <http://www.epde.org/en/newsreader/items/armenia-referendum-assessed-as-illegitimate-by-citizen-observers-and-epde-646.html>,

⁴¹ Ibidem

⁴² http://www.huffingtonpost.com/armine-sahakyan/how-constitutional-revisi_b_10423760.html.

interviews with various experts cited herein. On the one hand, there is a group of people who are rather pessimistic with regard to the new Constitution and the opportunities for parliamentary control it can offer.⁴³ On the other hand, there are those who view the Constitution as an opportunity for opposition forces to reinforce democracy in Armenia. Although, from the outside, the new Constitution may look like a democratic step ahead, it is often thought that it will imply little or no change in terms of democracy. As one interviewee stated: 'The new system will still be the old one in essence'.⁴⁴ However, these conclusions are drawn based on the assumption that the current ruling party, the Republican Party of Armenia, will retain its power. Indeed, it is thought that if the ruling party wins the 2017 Parliamentary elections, it will be enabled to reinforce its grip on power in Armenia.

However, a different scenario is also possible. If the ruling party loses power, this could provide an ideal window of opportunity for opposition parties to increase the parliament's power.⁴⁵ If opposition parties win the elections, they can push forward reforms which will be able to effectively enhance the parliament's possibilities. As has been clearly stated throughout this paper, there is a real need for several reforms within the parliament in order to make its organization more effective. Although not the most likely scenario, it can be said, nonetheless, that there is a short-term prospect for democratic military control.

The case of Azerbaijan

The overthrow of the democratically elected government in 1993 and subsequent military rebellion in 1995, as well as terror and military actions by armed Armenian groups inside Azerbaijan against the sovereignty and integrity of the country, are among the worst examples of post-Soviet civil-military relations. Currently, civilian control over military and security agencies is ensured but oversight over the establishment and security sector activities is not in line with the democratic standards required for democracies.

Azerbaijani parliamentary oversight over the security sector have their roots in the constitutional provisions adopted in the mid-1990s, immediately after independence and before joining European institutions and NATO's programme, which required acting in accordance with the basic principles and standards of European democracy. The constitutional framework has insufficient legal grounds for parliamentary oversight, with the government placing more emphasis on a presidential style of governing, giving limited responsibilities for

⁴³ Interview with Armen Mazmanyanyan.

⁴⁴ Ibidem

⁴⁵ Interview with Edmon Marukyan (MP).

parliamentary committees and parliament as a whole. Control over the security sector has been the cornerstone of influence and control over the country, dictated by the political circumstances of the early 1990s.

This paper explains the role of parliament and civil society in the oversight of security institutions as part of good governance, and tries to clarify the elements preventing oversight, ongoing changes in the security sector and the circumstances conducive to a more opaque environment in the field.

Security dominated culture as a form of control over society?

The Azerbaijani independence movement was accompanied by the territorial claims of Armenia, which consequently led to the armed invasion and occupation of vast territories of Azerbaijan and the ethnic cleansing of hundreds of thousands of civilians. In addition, the internal political struggle with the use of military elements and inexperienced foreign policy undermined the fragile foundations of the newly independent state, leading to political turmoil, instability and insecurity. Consequently, the continuing Armenian occupation and accumulation of an enormous amount of Armenian military hardware in occupied areas has put the country's security and existence in jeopardy and this factor has played a primary role in determining the foreign and security policy of Azerbaijan for the past 24 years.

Further, the notion of stability has always been used by the ruling elite for internal political purposes in order to maintain and strengthen the authority of the ruling regime. This has been the case since late 1993 to date. 'Public-political stability is important for successful state building. Stability is important for social-economic reforms. Stability is necessary for building a market economy'⁴⁶. 'What is important is that we have stabilized the country, removed all internal complications, dismantled and isolated many illegal armed bandit formations and established political stability and public safety'.⁴⁷ The government has established regime-controlled stability, which prevails at the expense of democratization.

Highlighting the government's achievements in creating domestic stability, security and economic improvement, the government emphasizes a stability-based society with 'security precautions against democratic opposition', making comparisons with the unstable period which the country experienced during the early years of independence. Consequently, the lack of competitive, free elections has led to corruption and non-transparency which have become a heavy burden for the government itself, as expressed by President I. Aliyev on several

⁴⁶ Speech of President Aliyev on the occasion of the 80th anniversary of the Prosecutor's Office. 28 November 1998.

⁴⁷ Speech of H. Aliyev during the ceremony at the Moscow Law Academy. 29 March, 1997

occasions.⁴⁸ It has become yet another great challenge to state security in parallel to the Armenian occupation.

The energy policy has become the basis of the country's security and independence, providing economic independence and influence in the region and the world. Energy resources as a source of security have also been a source of insecurity, however, as the recent fall in oil prices showed a heavy reliance on oil money and lack of development of the non-oil sector, triggering an enormous decline in the economy of the country.

The energy policy and global energy security demands have made Azerbaijan attractive and one of the players which require flexible foreign and security policy in a fragile neighbourhood bordering Iran and Russia.

Russia still retains significant influence over the region sometimes is part of the problem. It is important to note that the major determining element of Azerbaijani relations with Russia has been to obtain Russia's support to eliminate the results of Armenian occupation and in return to meet Russia's dominating military security concerns in Azerbaijan and the Caspian Basin. This policy has not yielded any results so far but has served to balance relations with Russia. The major problem in Azerbaijani–Russian relations focused on Russia's continued military support of Armenia, which has maintained occupation for the past 22 years⁴⁹. Azerbaijan, being a CIS member, is represented at security structures within the CIS but is not a member of the Collective Security Treaty Organization, which has allied obligations.

The Azerbaijani intention for enhanced relations with the United States and specifically with NATO is opposed by Russia and Armenia as a threat to their legitimate interests.⁵⁰ In view of these alarms and pressures, it is likely the Azerbaijani government will adopt a non-aligned position in an effort to dispel the neighbouring nations' suspicions about its intentions⁵¹. However, it has been continuing bilateral cooperation with NATO within the Individual Partnership Action Plans (IPAP) programme and participating in international peacekeeping activities with NATO-led forces in Kosovo, Iraq and Afghanistan, contributing to Afghan military personnel training within NATO. In the war against terror, it allowed its air space and land routes to be used by American planes and military heading to Afghanistan.⁵²

Azerbaijan–Iran relations, despite their ups and downs, have deep historical roots and cultural heritage and have focused more on economic cooperation with an eye on the religious

⁴⁸ President Ilham Aliyev: Corruption is a disease and must be cured, 24 June,2014

⁴⁹ 21 February 2006. RFE/RL. Analysis: Putin Seeks To Draw Azerbaijan Back Into Russian Orbit

⁵⁰ US 'buildup' in Caspian alarms Russia -DAWN - International; March 15, 2006 DAWN Group of Newspapers.

⁵¹ http://www.rferl.org/content/azerbaijan_join_nonaligned_movement/24200776.html

⁵² Miaz info <http://www.milaz.info/news.php?id=22207> 10/02/2012

influence emanating from Iran. Bilateral Azerbaijan-Georgia relations have been developing dynamically, covering energy, security and human-to-human relations. Within a regional context, trilateral cooperation among Georgia, Azerbaijan and Turkey can be a good platform for enhancing both the nation's security and its independence.

Systemic and social reforms and heavy dependence on oil money remain a substantial challenge for Azerbaijan's economic development. The stated goals of establishing a market economy and privatization⁵³ were implemented only partially, impeding transformation from a transition economy to a market one. Both the World Bank's and Transparency International's Corruption indexes ranked Azerbaijan only above the three non-reforming CIS countries.⁵⁴ The judiciary is corrupt and inefficient and is subservient to the ruling party and the executive. Parliamentary power is also restricted.

Despite significant corruption, the country has become economically less dependent on other countries. Within 10 years, Azerbaijan had become the leading country in the CIS for investment per capita and \$174 billion has been invested in the economy, half of this by foreign companies⁵⁵. From 2003-2013 the Azerbaijani economy tripled.⁵⁶ But the government used these resources to deepen authoritarianism and to seek ways for long term survival. Its growing confidence encouraged the political leadership to speak out and conduct itself more defiantly to international organizations and western powers on issues of human rights and fundamental freedoms, basing its claims on the economic independence of the country and the growing economic standards of its people, as well as western dependence on Azerbaijani energy resources.

Thus, the political system is operating via the security agencies it controls. Society is prevented from expressing its differences and grievances in an open vote and consequently is deprived of a peaceful change of power. By closing the doors on open society, the government has silenced the democratic forces and civil society groups critical of the government with repressive methods, reducing government in the country to one-man rule and restricting the nation's ability to produce new ideas, hold debates and generate initiatives for democratic development, which has consequently led at times to international isolation.

Parliamentary oversight

⁵³ Interview of Heydar Aliyev, President of Azerbaijan with correspondents of the Wall Street Journal July 28,1997

⁵⁴ The World Bank, World Development Indicators. (2013). *Inflation, consumer prices (annual %) for Armenia, Azerbaijan, etc.* <http://data.worldbank.org/indicator/FP.CPI.TOTL.ZG/countries/AZ?display=graph>

⁵⁵ Jafarova Aynur, Azerbaijan leading country in CIS for investment per capita Azernews. Oct10, 2014.

⁵⁶ http://www.economy.gov.az/index.php?option=com_content&view=article&id=478:h-aliyev-muasir-azerbaycan-qurucusu&catid=10&Itemid=263&showall=1&limitstart=&lang=az

As Hans Born notes, three generic parliamentary functions apply to the security sector: adopting a comprehensive legal framework for the security sector; approving, rejecting or amending the budgets of the security sector; and overseeing and scrutinizing the security sector.⁵⁷ Each function has its own leverages of influence and oversight which are intended to make the security institutions more transparent and accountable.

There is also the issue of the dividing line⁵⁸ between the parliament and the government and the extent of parliamentary involvement in governmental activities. The aim of oversight is to protect the rights and liberties of citizens by detecting and preventing abuses within government, to ensure the government acts in a transparent manner and to hold the government accountable for spending tax revenues.⁵⁹

The Azerbaijani parliament's relationship to the security sector derives from the 1995 Constitution, which stipulated no significant oversight responsibilities. Some observers believe that the Constitution reflects the dynamics of internal politics dominant in the mid-1990s, as control of security ministries was the sole and inviolable power of the president and, consequently, parliament's authority was determined due to these considerations; subsequent laws on the security sector were based on this Constitution.

The Azerbaijan parliament could extend its oversight functions over security sector institutions referring to Part III of Article 95 of the Constitution which declares that 'the Azerbaijani parliament can adopt decisions on other issues within its authority and on issues which are necessary for parliament to express its attitude'. MPs and many experts believe that this Article could be applied to oversight of the security sector, but part IV of Article 93 of the Constitution excludes applying this article, declaring that 'specific tasks to the executive bodies and judiciary cannot be envisaged in laws and decrees of parliament'.⁶⁰ An opening for parliamentary oversight could be found through the newly adopted Constitutional Law on Normative Legislative Acts of 2010, but article 45.3 again blocks any such opportunity, confusing and complicating potential oversight. 45.3 declare that 'any normative legislative act should be prepared with the participation of the appropriate state bodies' (executive) law department'⁶¹ and, as the interviewed MPs⁶² and lawyers⁶³ interpreted, such an approach excludes any

⁵⁷ Oversight and Guidance: Parliament and Security Sector Governance. Editors Eden Cole, Philipp Fluri & Simon Lunn. Published by DCAF Geneva 2015.

⁵⁸ Oversight and Guidance: Parliaments and Security Sector Governance. Editors Eden Cole, Philipp Fluri & Simon Lunn. Published by DCAF Geneva 2015

⁵⁹ See: The Role of Parliaments, Hans Born. Oversight and Guidance: Parliaments and Security Sector Governance, Editors Eden Cole, Philipp Fluri & Simon Lunn. Published by DCAF Geneva 2015.

⁶⁰ http://azerbaijan.az/portal/General/Constitution/constitution_01_e.html

⁶¹ <http://www.president.az/articles/1616>

⁶² Interview with a member of parliament

independent oversight without agreement from the executive office. On the other hand, which issues they will agree on still needs to be decided. On security sector issues the executive office will most likely apply additional precautions, citing various secrecy issues and internal rules.

There are two Committees in the Azerbaijan parliament which are constitutionally involved in developing and approving legislative acts on the security sector. The Security and Anti-Corruption Committee develops draft laws and gives its opinion on draft laws submitted on emergency and court martial regimes; on military service and conscription; on the status of military personnel and other issues regarding the foundations of state security, styles and means of security revision; and on the state border service.⁶⁴ The Committee gives its view on the involvement of the military in issues unrelated to its assignments, and expresses its opinion on draft laws on war and peace issues presented by the president. The Legislation and State Building Committee is also entitled to draft laws on police, and security issues and gives its opinion on legislative acts submitted by executive agencies.

Although the parliamentary security and law and state building committees do have such limited authorities, they are ineffective in terms of initiating or amending any law. The draft laws are prepared by the presidential administration and submitted to parliament for adoption as a procedure. This was the case with such fundamental laws as the National Security Concept⁶⁵ and Military Doctrine⁶⁶ adopted in 2007 and in 2010, respectively. In both cases, no oversight functions were included in the parliament's authority. The parliament also adopted the Law on Police in 1999 and on National Security in 2004⁶⁷ and in all cases the draft laws submitted for parliamentary debate did not include any clause for future parliamentary oversight and, consequently, all control mechanisms remained within the authority of the executive bodies. Article 12 of the Law on Police speaks about monitoring of police activities and it says:

- Internal (in-department) and external (out-of-department) monitoring is carried out of the execution of the provisions of this Law.
- Internal monitoring of police activities is conducted by the relevant executive body (Ministry of Interior of the Republic of Azerbaijan), while the external one is conducted by the relevant executive power (President of the Republic of Azerbaijan) within the authorities defined by the legislation of the Republic of Azerbaijan. Execution of laws in

⁶³ Interview with a Constitutional lawyer

⁶⁴ <http://www.meclis.gov.az/?/az/content/197/>

⁶⁵ <http://www.defesa.gov.br/projetosweb/livrobranco/arquivos/pdf/Azerbaijan%202007.pdf>

⁶⁶ http://www.rferl.org/content/Azerbaijan_Adopts_Military_Doctrine_At_Long_Last/2066758.html

⁶⁷ "Azerbaijan" newspaper, August 6, 2004 N181

the police authorities is monitored by courts or prosecutor offices within the authorities defined by the legislation of the Republic of Azerbaijan.⁶⁸

The Azerbaijan Law on Armed Forces adopted in 1991⁶⁹ immediately after declaring independence, with its complementary laws and decrees such as 'The law on the status of military servicemen'⁷⁰, 'The law on veterans'⁷¹, 'The law on the armed forces discipline charter'⁷² and 'The law on military duties and military service,'⁷³ excluded any opening for oversight except for the budget, but since the issue is political, parliament prevented the auditor general and his office from practically disclosing the findings it obtains from the security ministries without permission from the political leadership.⁷⁴ Similarly, 'The law on the status of internal forces,'⁷⁵ adopted by parliament in 1994, also has no oversight functions for parliament. The law on participation of the Azerbaijan Republic in peacekeeping operations adopted in 2010⁷⁶ laid down the foundations for Azerbaijani peacekeeping forces, their status, forms and rules, but there is no mention of further oversight over its implementation. The Law on State Secrets, adopted by parliament in 2004⁷⁷, put more emphasis on military security issues and created an additional obstacle for any oversight initiative.

The security committee chairman is first deputy chairman of the Azerbaijan parliament and it seems that he has enough authority to initiate legislative acts overseeing the security sector but the legal framework, and the ruling party ensures that the Committee is favourable to the presidential drafts in parliament. Analysis of the draft laws submitted to Security Committee within the past eight years demonstrate that the Committee considered important draft laws but the Constitution did not specify any provision for parliament to monitor or oversee those laws adopted. The Azerbaijan parliament's international cooperation and participation at NATO and OSCE or PACE meetings has contributed to the emergence of experienced parliamentarians who believe in parliamentary oversight but neither parliamentary internal procedures nor

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http://www.google.az/url?url=http://www.cecl2.gr/prj/Azerbaijan/documentation/Law_%2520of_%2520the_%2520Azerbaijan_%2520Republic_%2520on_%2520Police_No_727_1Q.doc&rct=j&frm=1&q=&esrc=s&sa=U&ved=0ahUKEwjLkc6Xg5b0AhUBVhQKHZtSAHYQFggBAMAM&usg=AFQjCNHUYncjKpSGhVyDaldULZ4SVd_3Ag

⁶⁹ http://www.mod.gov.az/qanun/qanunvericilik/SQ_haqqinda.pdf

⁷⁰ http://dq.mia.gov.az/files/document/H%C9%99rbi_qulluq%C3%A7ular%C4%B1n_statusu_haqq%C4%B1nda.pdf

⁷¹ http://e-qanun.az/alpdata/framework/data/8/f_8964.htm

⁷² <http://www.fhn.gov.az/uploads/legislation/aze/rmerkez/nizamnameler1994.pdf>

⁷³ <http://cis-legislation.com/document.fwx?rgn=50247>

⁷⁴ Interview with a MP

⁷⁵ <http://www.mia.gov.az/index.php?/az/content/195/>

⁷⁶ https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/implementingLaws.xsp?documentId=DA4AAC3A134DB443C1257E5F00545648&action=openDocument&xp_countrySelected=AZ&xp_topicSelected=GVAL-992BUB&from=state&SessionID=DN2HKXTO4Q

⁷⁷ <http://www.mfa.gov.az/files/file/27.pdf>

Constitutional provisions have provided enough authority for oversight functions for the Committee or parliament.

The Committee's role in one of the major issues related to procurement and purchase of weapons has not been stipulated in the laws, and consequently the billion-worth weapons purchase and other procurement issues remain out of parliamentary oversight. The Committee members' inquiries to the intelligence and ministries on sensitive issues is doomed to failure as those issues are considered state secrets and the vetting of parliamentary members for such purpose is not conducted. Further, there are no specialized committees or Trusted People⁷⁸ who can access sensitive information about the issues concerned. Parliament made more advances on the oversight of the Interior Ministry for the activities of legitimate journalists in emergency situations and during public protests and demonstrations. The debates in parliament and invitation of a representative of the Interior Ministry to parliament following the brutalities committed against demonstrators and journalists in the late 1990s and early 2000s have been to a great extent resolved by the bilateral efforts of parliament and the Interior Ministry.

The Committee still has some openings for contact with the MoD and other force structures, but with regard to the Ministry of Intelligence, the Committee's authority to make enquiries or invite officers to hearings or Committee meetings, or to visit the Intelligence Ministry's facilities, is impossible. Parliamentary confirmation for the appointment of high ranking officials is also not required, in line with the strong presidential system of ruling without appropriate parliamentary, judicial, independent or civil society oversight.

The role of parliament and its weakness has been demonstrated by a recent scandal at the Intelligence Ministry in which a number of top generals and dozens of employees were arrested and removed, including the Minister, charged with abuse of power, arbitrary and illegal inspection of businesses, extortion, bribery, and entering into business by means of blackmail.⁷⁹

Consequently, the Ministry has been reshuffled and divided into two parts and stories about criminal actions of the National Security Ministry are still front page news. Yet parliament took no initiative to create a commission to investigate the subject, nor did it conduct a discussion or assessment on the years of criminal activities inside the Ministry. This demonstrates the very limited role of parliament in dealing with the Intelligence Ministry and security sector as a whole. The situation with the Intelligence Ministry was the direct result of the absence of

⁷⁸ Interviews with MPs

⁷⁹ Azerbaijan conducts sweeping arrests in National Security Ministry. Silk Road Reporters. Aydin Mammadov. 6 November 2015, <http://www.silkroadreporters.com/2015/11/06/azerbaijan-conducts-sweeping-arrests-in-ministry-of-national-security/>

internal and external oversight and of any due control over the Ministry. The change of officials has not resolved the problem and there is no guarantee against future illegal actions since no public oversight through parliament has been established.

Other factors also affect the limitation of appropriate oversight bodies of the security sector, including and armed forces. Effective oversight requires experienced parliamentarians with a security sector background and parliamentary staff members of appropriate expertise. This is a problem in Azerbaijan, where the whole Committee has no more than two experts and each parliamentarian has one assistant. Another decisive factor is the political will of parliamentarians to go after the government and hold them accountable, which also requires a legal framework and competencies for the Committee they represent.

In addition, if two thirds of the parliament is composed of members of the ruling party and the remainder are their supporters and loyal to them, oversight of the security sector, bypassing the executive, becomes impossible and equal to direct confrontation with the executive, resulting in the removal of that parliamentarian from parliament. This course of action is expected.

Another factor is that in a state of war, when many people are desperate to help the military return occupied territories and when any parliamentarian involved in the investigation of military-related issues, such as military procurement or state of soldiers inside the army, could be picked up by the official propaganda which dominates the TV and Radio, this could be seen as a disclosure of state secrets and consequently makes the parliamentarians cautious and they distance themselves from military security issues.

This cautious approach results from the fact that parliamentarians do not have enough internal access to the security ministries and agencies⁸⁰ and any information obtained should be proved or confirmed by the security ministries themselves, which is unlikely, and if the political leadership is not interested in the public disclosure then the life of such information will be very short and soon removed from the agenda. As a result, they are overwhelmingly dependent on the executive and security sector people to obtain the necessary information in order to exercise at least some form of oversight. Considering that the country is in a state of war, obtaining information not in the interest of the security ministries is practically impossible due to the secrecy argument, which excludes the possibility of scandals and whistle-blowing. Any response to MPs' enquiries is, too, official and polished.⁸¹ If we add to this the reluctance of the ruling party members to be involved in destabilizing their government's efforts, the parliamentary role is focused only on approving and enacting laws, and consequently oversight

⁸⁰ Interviews with former and current MPs

⁸¹ Interviews with former and current MPs

is purely the business of the executives. The role of MPs, judging from what is going on inside parliament, is not to initiate debates on more control by parliament but to strengthen the policy of the top executive, otherwise it could be seen as intervention in the role of the executive and as sabotaging and weakening the security of the country.

As to the mechanisms of oversight of the security sector by parliament, it is vital to have independent institutions like a parliamentary-elected Ombudsman and an Auditor General. Interaction and interrelations with civil society organizations, regular hearings, NGO conferences organized by human rights organizations and investigations by independent journalists could be the best platform for the appropriate parliamentary committee to get input and submit reports to the plenary of parliament.

In Azerbaijan, the Auditor General is accountable to parliament, but Azerbaijan society has never seen any report from the Auditor General on the activities of the security sector. The analysis of available reports from 2007 to 2015 placed online show that no audits of the security sector were carried out within this period.⁸² Although the auditing office is not happy with its statutory status to exert enough influence, in any case the existing laws allow it to look into the security sector and present a solid report. As former and current MPs interviewed as part of this study noted, this can only be carried out under the instruction of the political leadership, and any findings they get cannot be disclosed without permission from the executive. As to the institution of Ombudsman, it may become involved in individual complaints coming from security institutions. Such arguments lead us to realize that effective oversight is tightly connected with constitutional provisions and a democratic culture existing within society.

Civil society's oversight of the security sector

There is no doubt that civil society is one of the basic pillars of civil-military relations. Its role is to generate ideas and demand more transparency, accountability and responsibility from the government. The involvement of civil society groups in civil-military relations is a new phenomenon in Azerbaijan and several NGOs have emerged specifically focusing on civil military relations, many of which are composed of retired officers of the army and security agencies. The range of their activities is also varied: some are involved in protecting the rights of former soldiers and officers and in resolving their social problems; some follow the soldiers' human rights in the army; and some are trying to contribute to deepening ties with NATO and developing military strategies. Specifically, the following organizations were active for the

⁸² <http://sai.gov.az/1/hesabatlar/>

period of 1998-2014, until the NGO suppression policy in the country reached intolerable levels: Helsinki Citizen's Assembly, [the](#) Union of Public and Retired Officers, the Centre for Military Studies, 'Doktrina', the Military–Analytical Centre of Journalists of Azerbaijan (now acting as the Caspian Studies Institute – CDSI), Veterans of the Armed Forces of Azerbaijan, Public Union of Military Journalists, and the Azerbaijan Atlantic Cooperation Association. These organizations included independent experts and analysts and enjoyed a lengthy period of limited interaction and cooperation with the MoD and national parliament.

To effectively perform their role, these groups must have access to information about relevant policies and practices, but the culture of secrecy within the security sector and the state of war are significant obstacles to getting information at all, let alone information about procurement and the purchase of expensive military hardware.

In addition, Azerbaijani security sector NGOs have faced the same fortune as other civil society groups in the context of the anti-NGO policy of the government, resulting in arrests, imprisonment, travel bans, blocking of bank account numbers and total paralysis of any activities.⁸³ These steps have led to the suspension of activities and emigration of some leaders from the country. In the light of such a repressive environment against NGOs, the activities of security sector NGOs have become especially impossible due to their focus on military and security agencies; they now fear to be labelled as agents of the enemies of Azerbaijan. The activities conducted prior to 2014 in an environment of conflict with the MoD and other security agencies in courts, and with verbal clashes in the media, led to a serious minimizing of their activities, with the exception of newspaper, TV and radio interviews which are also significant.

The translation and distribution of DCAF books to security sector institutions, universities and experts on issues like Building Integrity in the Armed Forces, on police integrity, on democratic control over the security sector and the role of parliaments and civil society in it, on intelligence oversight and ombudsmen institutions by civil society activists, also serve as an additional dimension of influence on the security sector through education.

On the other hand, civil society groups set up to monitor or oversee the security sector should have greater experience and expertise, perhaps even more than the security establishment personnel themselves. The issue in Azerbaijan is that the knowledge of security sector-related NGOs is no greater or more distinct than those who are in active service. Furthermore, in Azerbaijan, both the security sector and security sector-linked civil society groups lack sufficient

⁸³ Joint letter to UNHCR to address the rapidly deteriorating environment for civil society in Azerbaijan. <https://www.article19.org/resources.php/resource/37864/en/joint-letter-to-unhrc:-address-the-rapidly-deteriorating-environment-for-civil-society-in-azerbaijan>

democratic experience or tradition, and as such any oversight of civil society groups is seen as an irritation. The general atmosphere of non-transparency in society is not conducive to any oversight, least of all of the security sector. If funding of such NGOs is offered in full by foreign organizations, their activities trigger suspicion among the establishment and their oversight attempts and even cooperation become questionable. A number of steady demands for reform have been opposed by the leadership and security agencies, labelled as a risk of weakening of the army.⁸⁴ Furthermore, there are no constitutional guarantees or any laws guaranteeing civil society's oversight and involvement. The role for civil societies was stipulated in a bilateral international programme and documents signed between Azerbaijan and NATO called IPAP and OSCE Code of Conduct, European Convention on Human Rights. This highlights the connection between civil society's efficient work in the security sector and the government's will for carrying out a real security reform; if the political leadership is not interested or if the government is not the initiator of the reform, then the role of civil society is limited and in some cases is considered as a provocation.

In terms of civil society's oversight over the sector, if we applied Todor Tagarev's five main paths to oversight⁸⁵, the picture is as follows:

Public education and awareness-raising

Public awareness on corruption, on personnel policy, overall environment in the army via the press and TV in an effort to increase transparency and accountability in the security agencies has been one of the key debates between Azerbaijani security sector reform-oriented NGOs and security ministries, sometimes leading to threats against and intimidation of those NGOs involved.⁸⁶ Here, the government and the law enforcement agencies are hesitant to interfere since the environment for the rule of law is not conducive to law enforcement agencies instigating investigations at the request of civil society groups. In this respect, the Caspian Studies report on the absence of information regarding the details of budget allocations for military and weapons procurement, social needs and training, and the inability of civil society groups, media and even parliamentarians to access information, raised suspicion and speculation about the lack of good governance inside the security sector⁸⁷ and triggered legitimate questions about the transparency and accountability of these agencies.

⁸⁴ Hasan Aqacan "Please, clap Mistery." Express 11 December 2007. <http://www.milaz.infor/news.php?id=657>

⁸⁵ Todor Tagarev (ed.), Building Integrity and Reducing Corruption in *A Compendium of best practices*, DCAF, Geneva 2010.

⁸⁶ Hasan Aqacan "Please, clap Mistery." Express 11 December 2007. <http://www.milaz.infor/news.php?id=657>

⁸⁷ Cəsur Sümərini: Parlament qarşısında hesabatsızlıq nəyə səbəb olur? 21-11-2015 cumhuriyyet.org

During the active phase of military conflict with Armenia, the Helsinki Citizen Assembly activists back in 1992 began educating soldiers on Geneva Convention Articles defending the rights of people with special ideologies who refused to serve, and raised the issue of alternative service.

Acting as a catalyst, and intermediaries

As leaders of security sector organizations have made clear, even though their organizations were not recognized by the MoD and Intelligence Ministry, they have served as catalysts in society, initiating and organizing meetings and seminars on the topics which required resolution. Reflection of these issues in the press has also attracted attention and has been the focus of media in their interaction with the security ministries. In some cases, seminars or workshops have brought both sides together and enabled them to exchange views on social problems rather than solely on strategic issues or military policy formulations. Live interviews with Radio Free Europe/Radio Liberty (RFE/RL), where both sides are engaged in dialogue or dispute, aim to shed some light on the ongoing problems.

Civil society groups were not invited to participate in developing or discussing the National Security Concept or Military Doctrine debated and adopted by parliament. During the discussion of the Military Doctrine, the Union organized a large conference which saw the attendance of many military attachés of foreign embassies as well as representatives of the MoD offering their own vision concerning the doctrine and presenting their suggestions to the MOD and parliament.

An important direction of the Union of Public and Retired Officers has been the advocacy efforts of the lawyers of the Union who have taken a role of advocacy on behalf of retired or reserved officers and defended their rights in courthouses, winning many cases. They have defended the cause of killed soldiers whose families were to receive some compensation and, with their efforts, dozens of families received compensation and many of them are awaiting settlement.

The Helsinki Citizen Assembly's Azerbaijan branch has also been involved in the rights of OMON (special police forces) members, initiating a draft law for compensation for missing soldiers, and has won several court cases.⁸⁸ But, again, cooperation with security ministries and parliament was very limited.

Providing a pool of expertise and knowledge

The analyses and expertise of neighbouring countries, and developed nations' good governance practice published by civil society groups and analysts, have provided a pool of expertise.

⁸⁸ Interview with Arzu Abdullayeva. Head of Azerbaijan's Helsinki Citizen Assembly

However, in the USSR successor states expertise and knowledge require intensive international training in the field, learning expertise and exchange of experiences. One such initiative has been carried out by the present author in cooperation with the Norwegian Atlantic Council from 2009 -2012, and GMF. First, we organized a security sector reform workshop for Azerbaijan pro-security sector reform NGOs with a trainer from the US Army War College, offering them basic understanding and further steps to be taken in the field. Then we moved to the international level and organized a workshop designed for all Caucasus SSR-related NGOs and experts in Istanbul, in 2010, and followed it up in 2012 by bringing together NGOs, experts, scholars and governmental representatives connected with SSR from the Caucasus, former Warsaw Pact countries, NATO countries, Russia and Ukraine. Two American trainers from the US Army War College, Dr Alan Stolberg and one of the leading theoreticians on civil-military relations Professor Peter Feaver, conducted the workshops, enabling participants to delve deep into the subject of democratic control of the security sector. Mutual contacts and exchange of expertise also served to strengthen ties, which in turn led to their empowerment with international experience, skills and innovative approaches.

Provision of primary research and development of policy

Analytical and policy oriented suggestions and proposals have been frequent in the press but is in no case are they discussed with the MoD or other force structures, which cite the secrecy of operational command activities. Do civil society groups have a voice in policy development? There is no clear answer. But it is argued that the officials of the governmental and security sector agencies benefit greatly from civil society debate in the press and the TV which allows them to adjust and re-evaluate the provisions of the drafted document inside their agencies.

Monitoring practice

Monitoring practice is being carried out of the treatment of soldiers, and of accidents and deaths, by the Caspian Studies Institute, and are widely publicized in the press. The MoD was not happy to hear of cases when accidents result from the actions of fellow soldiers and officers against their own co-servicemen rather than of those by the Armenian side. The activities of the Caspian Institute are particularly dynamic and cohesive and this dedicated-to-the-cause NGO has made enormous effort for the disclosure of mismanagement, mistreatment, human rights abuses of soldiers and officers and veterans, and in developing policy recommendations.⁸⁹ The importance of public oversight of security agencies is part of their recommendations made public. As the head of the Union of Retired and Public Officers said⁹⁰ in the interview for this paper, they have had good contacts with the Interior Ministry, which responded to many of

⁸⁹ Cəsur Sümərinli: Parlament qarşısında hesabatsızlıq nəyə səbəb olur? 21-11-2015 cumhuriyyet.org

⁹⁰ Interview with Yasar Ceferli, Head of the Union of Retired and Public Officers.

their enquiries, as did border troops and internal forces commanders, while the Intelligence Ministry responded to only one out of a hundred enquiries, they claimed. The military was also reluctant to respond to questions.

However, the Union's members recognize that, despite the military's reluctance to consider formal cooperation, it has changed enormously due to their catalyst activities. Before their activities the army was a completely closed society, but the debates and discussions about this organization have attracted media attention, and the attention of other NGOs, regarding military issues, specifically human rights violations of soldiers and social injustice committed towards officers. Consequently, the military officials had a sense that they were under close scrutiny by civil society and media.⁹¹ As Sumerenly notes, 'in 1998-2005 the media managed to become a real mediator between the army and civil society. Subsequently, this offered a chance to monitor the reforms being carried out in the army. During this period, the military officers began to communicate with security sector civil society groups and mechanisms of cooperation were initiated'.⁹²

Day by day, the MoD has been increasingly responsive to some, but not all, enquiries, especially those with regard to soldiers' and officers' human rights and social conditions. The MoD itself took measures to improve the sensitive issues, especially those connected with violence and abuses against soldiers. The MoD has freed soldiers from non-military activities and social conditions have been drastically improved. The ideas and proposals on budget issues, especially about embezzlement and corruption in the army, weapons purchase and military procurement issues have not been duly responded to, as some of the issues related to state secrecy. Public debates by the Union, and calls for intelligence service reform, have never received due recognition. The analyses have indicated that the cooperation of such organizations with the MoD and force structures mostly depends on the political climate in the country and the level of democracy. Force structures have traditionally been reluctant to provide information and work with NGOs since the army still has trust and interaction problems with non-governmental structures.

The state of war and state and military secrecy issues prevail, and the absence of democratic governance makes it customary for officials to be accountable only to the bureaucracy of executive authorities.

Increased threats and declining oversight. The need to break the cycle

⁹¹ Interview with Yasar Ceferli

⁹² Jasur Sumerenli, Civil-military relations in Azerbaijan: The challenges of war time conditions. Quarterly Journal 2010 .

While in most transition societies, political democratic reforms preceded security sector reform, in the USSR successor states, including in the Caucasus, new constitutions preceded security sector reform which has, as we mentioned above, produced limited and in some cases absolutely no oversight of legislative bodies over the security sector. As happened in the former Warsaw Pact countries, in view of such development they have amended or changed the Constitution and appropriate statutory laws so that they could fit with democratic principles in their bid for NATO and EU membership.

With Azerbaijan, although bilateral Azerbaijan-NATO cooperation within the IPAP programme continues and includes democratic control principles, in practice there are no legal grounds for their practical implementation. On the one hand, in such systems, security agencies are a reflection of the regime, and the political leadership is not interested in disclosing the large scale irregularities as it immediately reflects on the image of the ruling regime. On the other hand, such regimes are interested in the effectiveness of the security agencies. The experience of transition and authoritarian societies has proved that the scale of oversight diminishes depending on the effectiveness of the security agency. In transition societies, where political disturbances are frequent and where the security agencies strive for the survival of the regime, oversight mechanisms over such agencies decline, as any outside intervention is considered as an action against the political leadership. The cases of military triumphs or any military successes in conflict areas also trigger more budget flow into the MoD and related agencies, excluding any external oversight, leading to the deepening of non-transparency.

This is also the case in the war on terror or alleged terror networks, where the actions of the force structures become disproportionate and the methods used go beyond the rule of law and, similarly, non-democratic governments fail to react to any allegations of irregularities demanded by pro-democracy parties, civil society groups or advocacy groups.

In Azerbaijan, due to the absence of traditions and of a democratic environment, there are widespread instances, typical in transition societies, of corrupted intelligence officers with regard to unaccounted-for expenses, clandestine operations, refusal to allow access to persons, facilities or records, non-cooperation with oversight bodies for ex-ante or ex-post oversight, and absence of internal and external oversight entities. It also emanates from the sense of trust between security agencies and oversight bodies and it requires a non-partisan approach, as, in some cases, the intelligence and security community has a trust issue not only with parliamentarians but with parliamentary leaders and high executive officials due to the alleged secrecy of the information they possess.

The recent terror waves of ISIS and Al-Qaida in European capitals and Turkey have led to a diminution in the activities of the oversight bodies and isolated them in the context of security threats and precautions taken by the executive. It has also emboldened non-transparent

countries, giving them an international cover for restricting human rights and fundamental freedoms and in some cases settling internal scores. International concerns over declining oversight are also related to multinational peacekeeping forces deployed in war-torn countries, where national authorities are to a greater extent deprived of any oversight, putting forward many caveats for the sake of saving the situation which in turn makes operations ineffective.

The case of Georgia

Over the last decade, important reforms have been planned and implemented in the defence and security sectors of the Georgian government⁹³ aimed at strengthening efficiency, accountability and transparency, and rooting out corruption risks in the security sector institutions. Democratic oversight of the Ministry of Defence (MoD) and other security institutions can play an essential role in supporting the reforms. An effective democratic oversight of the defence and security sectors can also become an important norm in Georgia, now viewed as a vital precondition for fostering democratic governance and reducing corruption risks.

The Georgian experience shows that the government, political elite and legislators of Georgia openly adhere to the main principles of democratic oversight over the defence and security sectors and consider it an essential tool to improve the performance of state institutions, including those in the above sectors. Georgian civil society groups, academics and international organizations involved in the democratic reform of defence and security sectors can also contribute to, albeit in a somewhat limited way, in the democratic oversight process.

The powers of the executive as laid out in the Constitution and laws of Georgia

Georgia faces a variety of potential external and internal security threats. The State needs to have in place plans and resources in order to adequately respond to such threats. The efficient function of institutions, effective early warning systems and defence capabilities, and effective oversight by a responsible, accountable, democratically elected parliament, can significantly improve Georgia's capacity to respond to threats.

⁹³ For the purposes of this study, the Georgian security sector is limited to the following governmental institutions: Ministry of Defence (MoD), Ministry of Internal Affairs (MIA), State Security Service and Intelligence Service.

Georgia's declared national interest to integrate into the European Union and Euro-Atlantic structures reinforces the defence reform process. For more than fifteen years, special attention has been paid to the transformation of the defence sector, in particular to:

- Establishment of the principle of supremacy of democratic civilian authority over the military in a format consistent with democratic principles;
- Modernization of Georgia's defensive capabilities with the support of existing bilateral and multilateral co-operation mechanisms;
- Completion of the transformation of the Georgian Armed Forces to a fully professional service in order to be better prepared to deter possible military aggression;
- Meeting commitments in international missions and peace operations as well as preparation of Georgia's army for participation in the NATO Response Force (NRF).⁹⁴

In the immediate future, NATO-Georgia cooperation represents the main tool for Georgia to support its defence sector reform. During the past few years, mechanisms have been established for this purpose, in particular the NATO-Georgia Commissions - with the responsibility for developing an Annual National Programme - and the NATO Liaison Office in Georgia. Cooperation in this area was given a significant boost at the 2014 NATO Summit in Wales and the 2016 NATO Summit in Warsaw at which NATO leaders endorsed and reinforced a substantial package for Georgia. The package represents a set of measures and initiatives aimed at strengthening Georgia's defence capabilities and developing closer security co-operation and interoperability with NATO members. In particular, key projects of the substantial cooperation package in progress are the establishment of the NATO-Georgia Joint Training and Evaluation Centre (JTEC), the Defence Institution Building School (DIB School), as well as the introduction of the Logistics Facility and an increase in the strategic communication capabilities of the MoD and the army.

At present, the MoD is actively engaged in NATO's Building Integrity programme.⁹⁵ Since 2015 the Ministry has been implementing a number of significant integrity-building and anti-corruption projects. The MoD has adopted several conceptual documents to improve its human resources management (HRM) and reduce corruption risks in this area. In light of the recent reforms and international cooperation framework, the issue of democratic control of the

⁹⁴ T. Pataria, *Georgian Security: The Enemy at the Gates and the Enemy Within* (2016), policy paper, Jeff Lovit (ed), CIPDD 2016, Available at: https://drive.google.com/file/d/0B_Z0iuU9aFQgc0JUV3FIQU1za3M/view?pref=2&pli=1

⁹⁵ *Building Integrity and Reducing Corruption Risks: Compendium of Best Practices*, (2010) P. Filluri et. Al. (ed). NATO-DCAF, Geneva.

security sectors has remained among the top priorities of the political agenda of the government.

The Introduction of democratic governance principles in the security sectors was emphasized as one of the first objectives in a number of UN, OSCE, Council of Europe and NATO-EAPC documents. These documents call for the development of effective and transparent arrangements for the substantive democratic control of activities, and setting out clear responsibilities of key state institutions in legislative and executive branches of government.⁹⁶ At the same time, the guiding documents highlight those international efforts to make government measures lawful and legitimate can only succeed if international organizations pay an increasing role in defining policies and harmonizing rules, as well as supporting democratic supervision of the security sector by parliament.⁹⁷ The engagement of civil society in a relationship with the government and state agencies represents another important indicator of the maturity of the democratic structure. Accordingly, in past years democratic governance of the security sector has become an established international norm⁹⁸ which encompasses the active involvement of elected officials and civil society in overseeing security and sector institutions.

The democratic oversight powers of the Georgian Parliament are defined in the Constitution and respective laws.⁹⁹ Today, Georgia has a semi-presidential system with executive power concentrated in the government, which is itself accountable to parliament. Compared to pure parliamentary models, in semi-presidential countries such as Georgia, parliamentary powers are often curtailed, and presidential powers remain limited.¹⁰⁰

We will now review the competencies of the president, the government and the parliament in the security sphere in Georgia. The practice in Georgia on parliamentary oversight over the executive is determined mainly by the political system, which itself is defined by the Constitution.

⁹⁶ UNGA Resolution 55.96 (2000) 'Promoting and Consolidating Democracy', OSCE Code of Conduct on Politico-Military Aspects of Security (1994), Council of Europe Parliamentary Assembly Recommendation 1713 (2005) on Democratic Control, UNDP Human Development Report 2002: Deepening Democracy in a Fragmented World, Partnership Action Plan on Defence Institution Building (PAP-DIB), etc

⁹⁷ Council of Europe Parliamentary Assembly Recommendation 1713 (2005) on Democratic Control,

⁹⁸ M. Caparini and E. Cole (2008) Public Oversight of the Security Sector, A Handbook for Civil Society Organizations, Eden Cole et al (eds), United Nations Development Programme, 2008, available at: <http://europeanfcis.undp.org/home/list/publications>; <http://www.dcaf.ch/publications/kms/index.cfm>

⁹⁹ Constitution of Georgia, Law on National Security Council, Law on Defense, Law on the Rules of Planning and Coordination of National Security Policy, the Rules of Procedures of the Parliament of Georgia, Law on the state Budget etc.

¹⁰⁰ Teodora Fuior, (2011), *Parliamentary Powers in Security Sector Governance*, DCAF Parliamentary Programmes, p.10. available at: <http://www.dcaf.ch/Publications/Parliamentary-Powers-in-Security-Sector-Governance>

In 2013 Georgia entered a new period in terms of political development. On 27 October, 2013, Georgian citizens elected a new president and, following the inauguration ceremony, Georgia's political system made a transition from an over-centralized presidential rule to a mixed system of governance wherein the real executive power is vested in the executive government, with the prime minister acting as head.¹⁰¹ These changes have had a significant impact on the already established regulations and procedures in the security and management system.

The Constitutional amendments, in sum, significantly changed the presidential responsibilities with regard to fundamental human rights, judicial system and checks and balances in the government.¹⁰² The president remains the country's supreme commander in chief, with the authority to declare war, martial law or a state of emergency, though parliament retains the obligation to approve or dismiss these declarations within 48 hours.¹⁰³ Further, the president is still to be elected through popular vote but no longer has the power to conduct domestic and foreign policies independently, to dismiss the government or initiate new laws. The president's role in everyday governance became limited. While the president retains veto power against decisions made in parliament, a parliamentary majority became sufficient to override the veto (as opposed to the 60 percent of the parliament required by the previous Constitution).

Additionally, the president's power to issue legal acts is severely constrained by the newly introduced mechanism of 'countersignature' to be made by the prime minister in various areas of state governance, including in the security field. For example, according to the Law on the State of Emergency, the presidential decrees to restrict constitutional rights and freedoms need also to be countersigned by the prime minister and approved by parliament before they are enforced, including presidential decrees to extend the state of emergency or martial law. As in other democracies, during a state of emergency or martial law, the president is authorized to impose certain restrictions on constitutional rights and liberties, including privacy and private property rights, freedom of movement, rights related to information and mass media, the right of assembly, labour rights, and also the right to expand the power of authorities to arrest and detain individuals. In response, the Constitution of Georgia establishes additional mechanisms to balance and control the rights of the president during such a crisis.

The Constitution designates the prime minister to become the chief officer of the executive branch, the Head of the Government, with the right to determine day-to-day government policies, define the main directions of the government's policy, as well as coordinate and control activities of the government. Thus, the Constitutional power of the president of

¹⁰¹ Evaluation of Parliamentary Powers Related to Oversight of the Defense Sector in Georgia, (2014). T. Pataraiia (ed.), The Geneva Center for the Democratic Control of Armed Forces, Geneva-Tbilisi.

¹⁰² Georgia's Security Sector Review Project, Final Report (2014) Atlantic Council of Georgia, Tbilisi.

¹⁰³ Constitution of Georgia, Article 2.

Georgia, together with the authority of the prime minister, ensures that the Armed Forces in Georgia are subordinate to the authority of a democratically legitimized civilian government and do not exert undue influence on political decisions. The existing constitutional framework creates a foundation for exercising civilian control of the military and the necessary condition for the consolidation of democracy in Georgia.

The legislative framework of parliamentary oversight of the security sector

Plenary Sessions

The Georgian Parliament is empowered to oversee the defence and security sectors and strengthen civilian control mechanisms by reference to the Constitution and respective laws. Parliamentary powers provide leverage to ensure high standards of integrity in institutions, including the power to:

- draft and adopt laws;
- determine national-level strategy and policy priorities;
- approve budgets of security agencies;
- ratify, denounce, or cancel international agreements and contracts;
- approve the military oath, national -building strategy and the size of the Armed Forces;
- Approve presidential decrees to station or transit foreign troops on Georgian territory, to declare a state of emergency or martial law and to use the Armed Forces during emergencies and martial law, etc.

While parliament can influence the process of government formation - for instance, by a vote of no confidence against the government - it has no mandate to vet individual ministerial nominees. Accordingly, the procedures for nomination of high ranking officials in the government limits the power of Georgian legislators to exercise efficient democratic oversight over the defence and security establishment, although there are some other mechanisms to influence decisions made by the government.

Any candidate for the position of minister, nominated as a cabinet member by the prime minister, is accepted only conditional on the president's approval. Further, the prime minister nominates deputy ministers from the candidates presented by the minister, again with the president's approval. The power to appoint the Chief of General Staff and his deputies belongs to the president.

The Ministry of Interior as well as the State Security Service are subject to parliamentary oversight, which is exercised through the enactment of respective laws, the policy-making and budgetary processes, and the appointment and confidence vote of the leadership of these agencies.

For example, the head of the State Security Service in Georgia is appointed by the prime minister for a six year term only with the consent of parliament, according to the Law on State Security Service in Georgia (adopted in 2015).¹⁰⁴ The appointment of the head of the State Security Service requires special procedures, in particular the existence of consensus among all political forces, which strengthens the level of independence and political impartiality of the appointed head of the agency. It is noteworthy that parliament maintains the right to legally dismiss the head of the agency without the consent of the head of the government. All leaders of the security and agencies are obliged to make an annual report at the plenary session of parliament.

The adoption of the State Budget Law represents important leverage in the hands of MPs to exercise parliamentary oversight responsibilities. The State Budget Law is passed annually, but the members of parliament have no power to make changes in the draft law on budget expenditure during the debate. After the government submits an annual state budget bill to parliament, parliament can only reject or approve the document as a whole. MPs can neither change the budgetary figures nor request more detailed information on budgetary spending. As a rule, MPs do not take part in other stages of the resources management process, especially during the drafting and review phase which is carried out by the government.

According to the Constitution of Georgia, the government is obliged to submit a budget bill to parliament together with the audit report on the implementation of the annual budget no later than three months before the end of the fiscal year. If parliament fails to approve the state budget within two months from the beginning of the fiscal year, this can be considered as a no-confidence vote against the government. If parliament is unable to pass a no-confidence vote within the constitutionally defined timeframe, the president has to dissolve the parliament three days before the deadline expires and announce snap parliamentary elections.

It is noteworthy that under the current legislation and regulations, the budget submitted to parliament is too general, providing no breakdown of spending. As a result, MPs have no access to full information about the MoD budget. However, just like in other similar political systems, the Georgian Parliament can control the government's expenditure on the basis of the reports of the State Audit Office.

¹⁰⁴ M. Vashakmadze (2014), The Legal Framework of Security Sector Governance in Georgia, The Geneva Center for the Democratic Control of Armed Forces, Geneva. Tbilisi 2014

Parliament can scrutinize government spending only following the end of the fiscal year. Financial control of state agencies is the responsibility of the State Audit Office (SAO). The chairman of the SAO is nominated and approved in office by parliament. One of the SAO's main functions is to prepare and submit annual audit reports on the government's budgetary spending. Under the current legislation, parliament can demand the SAO provide an assessment of the budget implementation by law enforcement and security institutions. Moreover, the chairman of the SAO can submit his/her personal audit report on government spending to parliament and an annual report on SAO activities. After reviewing the annual report, parliament issues a special statement.

When preparing its action plans, the SAO should take into account proposals and recommendations of MPs, parliamentary committees and ad hoc commissions to select target institutions for occasional unscheduled audit inspections. The SAO must submit all audit materials and findings to the respective parliamentary committees or ad hoc commissions upon request. Although parliament has no legislative power to inspect the SAO itself, it can set up an ad hoc commission for such inspection.

Another important function of the Georgian Parliament is to examine and debate strategic national security documents, such as the National Security Concept, the Strategic Review or the White Book on,¹⁰⁵ all of which are submitted by the government and provide long term development plans. These strategic documents are based on a classified paper, the Threat Assessment Report. Before the 2013 constitutional amendments, the Threat Assessment Report used to be prepared by the National Security Council, and then had to be signed by the president. After the Constitution was amended, the responsibility to assess security threats facing the country was shifted onto the government in the form of the State Security and Crisis Management Council, an advisory body to the prime minister.

Georgian legislation also addresses the issue of transparency and accountability of legislative process as parliamentary debates are broadcast live by Georgian Public Broadcaster TV Channel 2 and live coverage is available on the internet. Since 2010, Channel 2 has been obliged to give full coverage of political processes in the country without editorial intervention. Channel 2 reports have significantly improved public access to information on parliament, ensured a high level of transparency and increased public awareness as well as interest in politics. It started broadcasting in a renewed format on 1 March 2010, transmitting parliamentary news up to 15 hours a day. Its news-making policy is regulated by the Law on Broadcasting, in Article 16, paragraphs a) b) v) k) and m).

Responsibilities of Committees

Parliamentary committees represent major 'power holders' in overseeing the security agencies while the Law on Rules of Procedures of the Parliament of Georgia defines the responsibilities and activities of parliamentary committees. Under this law, a parliamentary committee is responsible for ensuring the transparency and accountability of governmental institutions. The Georgian Parliament has four committees which deal with security and issues: the Budgetary and Finance Committee; the Defence and Security Committee the Legal Issues Committee and the Committee on Human Rights and Civil Integration.

Each holds significant levers to exercise efficient democratic oversight. According to the Rules of Procedures of the Parliament of Georgia, a parliamentary committee must include no fewer than 10 MPs. A committee is responsible for scheduling committee meetings, while ensuring appropriate time intervals between them. At the same time, the law states that a committee meeting should be held not less than twice a month. Decisions are to be made by a majority of those present through an open vote. If votes are equally divided, a committee chair has the decisive voice. The law also regulates how information about committee meetings should be disseminated. Planned committee meetings should be announced on parliament's website one day before a meeting is to be held. Committee meetings should be open to the general public, except in special cases where a committee decides that there are legitimate reasons to convene behind closed doors.

Initiating and drafting relevant legislation are among the most important instruments in the hands of committees. These enable a committee to contribute to the development of parliamentary oversight over the security sector, create a legislative basis for the organizational arrangements of security institutions and define the specifics of their activities. Furthermore, a committee is responsible for investigating and inspecting activities of an executive body on the basis of either a regular, pre-planned inspection schedule, or urgent complaints and petitions. A committee can request all documents and materials related to the case and report its findings to parliament. Authorities and government members who are accountable to the parliament by law are obliged to submit all documentary evidence to the committee in a timely manner (classified documents should be submitted to the Group of Confidence, which consists of MPs; for information about the Group of Confidence, see below).

Another important parliamentary control tool is regulation that requires a government member or a senior executive, approved by parliament, to attend committee meetings, answer questions posed by committee members and report activities of the respective executive structure to the committee. For their part, senior executives have the right to request a committee hearing and the committee is obliged to satisfy the request.

The budgetary and financial control of security and structures

The budgetary and financial control of security and defence structures represents one of the most efficient tools of parliamentary oversight. According to the Law on Parliamentary Regulations on Procedures¹⁰⁶, the Committee on Defence and Security has the authority to create a Group of Confidence which is authorized, under the Law on the Group of Confidence, to examine and control the special programmes and secret activities of the MoD, the MIA, the State Security Service and the Intelligence Service.

The Group of Confidence consists of five MPs (the committee chairman, one MP from the parliamentary majority, two MPs from the minority or the faction that is not part of the majority, and one majoritarian MP elected from a single-mandate constituency through first-past-the-post voting). Executive structures are obliged to report their implemented projects and ongoing activities to the Group of Confidence at least once a year and provide it with any information or document it requests.

If the Group of Confidence concludes that a certain executive agency has violated the law, it can request parliament to set up an investigative commission and send a written request to the prime minister to declassify the information which the commission needs to access. These functions allow the Group of Confidence to exercise efficient control over security structures.

On 12 June, 2013, the Law on the Group of Confidence was amended. The amendments were initiated by the MoD and related to the responsibility of the MoD to open up classified state procurement programmes to Group of Confidence members. Group members should be informed about such procurement programmes beforehand if the total volume of the procured goods and services exceeds 2 million GEL, and if construction programmes exceed 4 million GEL. These amendments are designed to increase the level of transparency and accountability of the MoD before parliament and respective committees.

In January 2014, the Committee on Defence and Security initiated additional amendments in the Law on the Group of Confidence which aimed at easing the procedures for the establishment of the Group and making the Group of Confidence more functional throughout the whole parliamentary cycle. In particular, it will no longer be required that parliament adopts members of the Group of Confidence. According to the amendments, the responsible sides will select members and parliament will be informed about the decision.

The functions of the Legal Issues Committee overlap with the oversight responsibilities of the Committee on Security in certain areas. The Legal Issues Committee is one of the most powerful and influential parliamentary committees, initiating and drafting laws in the areas of constitutional law, administrative and criminal law, procedural codes and international law. It actively participates in the development of the legislative framework regulating activities of the

Constitutional Court, common courts, the Prosecutor's Office, bar associations, and law enforcement institutions. It is involved in debates on draft budget laws and prepares respective resolutions. With the above-mentioned responsibilities, the Legal Issues Committee plays a key role in the lawmaking activities that regulate security and law enforcement institutions, including and intelligence agencies.

It is also important that the Legal Issues Committee submits proposals to parliament about ratification, denunciation and annulment of international treaties and agreements. This means that Legal Issues Committee members should have full access to multilateral and bilateral – regional and international – agreements signed by the government, including cooperation agreements with NATO and the EU. It is also responsible for the harmonization of Georgian legislation with international norms and standards, which is very important for the establishment of democratic governance principles in the Georgian security sector. In particular, the Legal Issues Committee is involved in the development of defence and security related legislation, safety regulations, martial law and laws on reserve forces, military service and alternative military service, the import/export of arms and dual-purpose materials and their approximation with democratic norms. It is also responsible for investigating and inspecting the performance of executive structures upon request and, if necessary, presenting its findings to parliament.

The activities of the Human Rights and Civil Integration Committee (HRCIC) are very significant for the efficient control and oversight of the security and defence sector institutions. The HRCIC has the responsibility to respond in a timely manner to concerns expressed by individuals regarding political or social rights of the military reserve force members or war veterans, as well as concerns related to public safety and security issues. For example, the HRCIC has to react to excessive use of force by police, or police violence during police operations used to control protest demonstrations and rallies. According to the regulations, the HRCIC should meet all interested individuals, and review and respond to written questions and statements on relevant issues. In order to conduct its oversight functions, the HRCIC can summon and question top government officials and organize committee hearings, discuss the performance of the agency in question and review its annual report. If the HRCIC finds out that the agency violated human rights and universal freedoms during the reporting period, it can prepare respective recommendations for the government and cooperate with foreign and domestic civil society, including international non-governmental organizations

Democratic control of the Armed Forces in Georgia is also part of the mandate of a broader civilian oversight mechanism – the Public Defender's Office (PDO). The HRCIC has every right and responsibility to cooperate closely with the PDO and MoD and to share information with them. The Georgian Parliament has the power to elect the public defender of Georgia for a five-

year term. The Ombudsman is accountable to parliament. As Georgia does not have a military ombudsman, violations of human rights in the Armed Forces are dealt with by a special department of the Ombudsman's Office. In order to effectively investigate and collect evidence of alleged human rights abuses, authorized representatives of the Ombudsman have full and unrestricted access to all military sites in Georgia. The Ombudsman prepares recommendations for changes in laws or regulations and presents them to parliament and the government. If necessary, the Ombudsman can directly address the president or parliament regarding human rights violations, although it does not have an independent investigative power.

The public defender can contribute to the transparency of the security sector and public debate over national security problems by presenting annual reports to parliament and/or informing the public through mass media about the results of his/her activities.¹⁰⁷ However, in Georgia, the public defender's decisions are not legally binding, the institution does not have power to conduct independent investigation and, as experience shows, their requests can simply be ignored by parliament.

In conclusion to this chapter, it could be noted that the existing legal framework provides sufficient instruments and tools for the efficient democratic control of the defence and security sectors in Georgia, which will also meet main internationally recognized norms and standards.

The oversight practice of parliament and its committees

One of the main responsibilities of parliament is the right to approve national level policy documents and influence the development of state security and defence policy formation and strategic planning processes. In particular, parliament is empowered to debate and vote on the National Security Concept, which is prepared and submitted by the government. The development of this document, together with the Risk Assessment Review and National Military Strategy - are coordinated by the National Security Council (NSC) and the State Security and Crisis Management Council (SSCMC). The Georgian experience shows that the timeline for the elaboration of strategic security documents is not regulated by the law.

The current version of the National Security Concept was approved by parliament on 23 December 2011, amid intense public discussion and heated parliamentary debates. However, the security environment has substantially changed since then; new security risks have emerged in the region – including threats from the hybrid war and international terrorism – that have rendered the National Security Concept less relevant. A new version of the Threat Assessment Review document 2015-2018 has been updated (not open to the public), based on

¹⁰⁷ B. Buckland and W. McDermott, (2012) Ombuds Institutions for the Armed Forces: a Handbook, Geneva Center for the Democratic Control of the Armed Forces. Geneva.

which the National Military Strategy, National Foreign Policy Strategy, National Strategy of Civil Integration and Equality and a number of other policy documents were adopted in 2015.¹⁰⁸ In order to strengthen the legitimacy of national-level conceptual documents, the government needs to periodically revise its political priorities and review national level strategic documents.¹⁰⁹ Parliament can play a vital role in this and support the engagement of public discourse on national strategic policy issues through assuming the leadership role when the need arises. However, the current Georgian Parliament has not addressed the issue of reviewing the National Security Concept yet.

Another sphere of parliamentary oversight is related to the role of parliament and its committees in security and defence sector budget management. The Georgian Parliament has no access to a detailed breakdown of defence expenditure as the defence budget bill that it is mandated to debate in parliament does not provide a full breakdown of defence and security related costs.¹¹⁰ Only a few paragraphs of the current defence budget provide a breakdown of expenditure: wages, official missions, other services, spending, subsidies and transfers, social welfare, and other expenditure. This prevents parliament from scrutinizing defence spending, a factor which weakens parliamentary oversight and civil sector monitoring. Thus, the specialized bodies responsible for the oversight of budgetary spending, namely the Defence and Security Committee and the Group of Confidence, can hardly fulfil their functions efficiently, because they have limited power to thoroughly examine and evaluate the budgeting process.

It is worth highlighting that the defence budget bill only contains general data and is therefore near impossible to assess. For instance, it does not show what percentage of defence funds are allocated to military personnel, operating costs and investments - this is why, for example, parliament is unaware how much is spent on the participation of the Georgian army in foreign

¹⁰⁸ Documents available on official sites of relevant Georgian government agencies: www.gov.ge

¹⁰⁹ The Risk Assessment Review (RAR) is the second most important document in the hierarchy of national security policy documents. In the last two years Georgia did not have a RAR. The previous one, which covered the 2011-2013 period, was developed by the NSC. At the end of 2014, a standing intergovernmental coordination commission of the SSCMC for the development of national conceptual security documents began preparing a new RAR. All relevant governmental agencies were involved in the process. By November 2015, the new document was ready and endorsed by the government. The non-classified part of the RAR has not yet been published.

¹¹⁰ The Defence budget bill only includes basic expenditure categories: military personnel, operations and support, procurement, military building and construction. Defence funds are appropriated for different programmes: a) combat readiness of the Armed Forces; b) development programme – development of military capabilities, military training, implementation of international obligations, infrastructure upgrade and development, health care and social protection, military education and cyber security. The defence budget bill also includes the budgets of the MoD's agencies that have the status of public law entities:

- George Abramishvili Military Hospital;
- Cadets Military Lyceum;
- David Agmashenebeli National Defense Academy;
- Cybersecurity Bureau;

missions (Georgian servicemen are assigned to foreign military contingents and their status is determined by the Status of Force Agreement). Furthermore, most of the data regarding state procurement is classified in Georgia. Even the recent changes made to the Law on the Group of Confidence on the responsibility of the MoD to open up classified state procurement programmes for Group members have not significantly changed the existing practice, nor do they allow parliamentarians to be engaged actively in controlling procurement deals. Also, with classified procurement deals remaining exempted from the state procurement law, parliament is unable to effectively address procurement-related issues when debating the defence budget bill.

Although in the last decade there have been high expectations that the government will reform the old practice and start preparing a programme-based defence budget, nothing has thus far changed. It is hoped that Georgia's first programme-based defence budget will be developed and presented to parliament by 2017. The same procedures take place while parliament debates budget expenditures of the Ministry of Interior and State Security Service. Committees responsible for reviewing the budgets are reluctant to make the review process public and do not discuss specific budgetary issues publicly.

Many observers agree that, in terms of accountability to parliament and its committees, the Georgian defence ministry is the most open and transparent government institution.¹¹¹ Under the existing parliamentary procedure, the defence minister presents a report to parliament annually. Furthermore, the minister and his deputies attend the Committee on Defence and Security hearings and submit their reports. For its part, the Committee on Defence and Security is actively involved in the law-making process, drawing up proposals and recommendations for amending laws.

The Committee on Defence and Security currently consists of 17 members, including the chair (from the parliamentary majority) and three deputy chairs (from the parliamentary majority; minority and an independent MP). Although most of the members of the committee have qualifications, skills and experience in defence and security matters, in the view of many, the activities of the committee have not been effective in recent years. Most notably, this can be accounted for by an unfavourable political conjuncture.

In particular, today, the majority-controlled committee appears to be less intrusive, opting for less rigorous control of the MoD so as to avoid political confrontation between the legislative and executive branches of power. For its part, given the sensitivity of defence-related matters, the opposition, too, has been reluctant to criticize and scrutinize defence structures. Although

¹¹¹ Georgian Centre for Security and Development, Report: Monitoring of the Defence and Security Parliamentary Committee June 2015-March 2016.

Georgian laws provide sufficient oversight tools, their practical application is negatively affected by the current political context.

A second factor is the persistent tension between parliamentary factions and political parties. The majority and opposition members of the committee on defence and security have thus far failed to agree on the respective rules of the game in the current political cycle and are unable to fulfil their duties. This is perhaps most notable in the lack of constructive dialogue between them. Furthermore, the attitudes of both political forces are largely shaped by political and partisan priorities - quite often, neither the governing party nor the opposition view defence and security issues as priorities. For the same reason, since the 2012 parliamentary elections, if committee hearings are held in the former parliamentary building in Tbilisi, the opposition regularly boycotted them (with some exceptions).¹¹² Similar cases also occurred before 2012, when the opposition chose not to attend the committee hearings in Kutaisi (the Georgian Constitution defines Kutaisi as the permanent home city for the National Parliament). A further reason explaining the low efficiency of the Committee on Defence and Security is that its decisions do not seem to have much weight as parliamentary sessions have the power to disregard them. Bills and other issues are often referred to parliamentary debate even if the committee advises against it. The committee's involvement in the parliamentary process is hampered by current procedural regulations.

Moreover, at times, government ministers do not respond to parliamentary committees' official questions and letter requests. In such instances, a committee usually re-sends the letter. However, Georgia does not have sufficient legal mechanisms to force executive officials to respond to parliament's questions.

To strengthen parliament's oversight capacity, it is necessary to develop inclusive mechanisms which would legally oblige the MoD to respond to MPs' or parliamentary committees' requests and questions in a timely manner. It is essential to address the culture of informal communication and ensure that questions for the MoD posed by parliament, especially by the opposition, are not left unanswered.

Although the MoD's top officials, including the minister and his or her deputies, regularly attend Committee on Defence and Security hearings and parliamentary question-answer sessions, they only make oral representations and do not submit written reports that can be distributed among committee members for prior examination. Moreover, MPs rarely know in

¹¹² Following the 2012 parliamentary elections, the new ruling party demanded the relocation of parliament from Kutaisi to Tbilisi, where it was based prior to 2012. The opposition fiercely resisted the relocation, arguing that it was important for the country to have the parliament in Kutaisi. That is why opposition MPs often boycott parliamentary sessions in Tbilisi.

advance what issues a government official is going to raise at a committee hearing. As a result, they are only able to cross-check the presented facts after the hearing. As the Committee on Defence and Security members – both from the majority and the opposition – have no opportunity to prepare for a hearing in advance, their ability to contribute to discussions is limited. They cannot make substantive comments or proposals, which means that constructive dialogue and communication is lacking.

This procedural regulation - the requirement for a minister to make an oral presentation at parliament only once a year without submitting a written report – can also be seen as an obstacle to improving the political culture in Georgia. It is vitally important to establish written and formalized communication and interaction between parliament and the MoD. This could take the form of written reports, submitted to parliamentary committees before being formally discussed in parliament, which would serve to increase the government’s accountability.

The afore-mentioned examples show that Georgia holds enough potential to improve the efficiency of its parliamentary control over the defence sector. At the same time, however, parliament is responsible for overseeing the entire security sector, not only the MoD. It has been suggested that the creation of a security sector monitoring group, or a sub-committee, within the Committee on Defence and Security, with the responsibility of overseeing other security sector institutions, is needed. For instance, the law on the newly created State Security Service (SSS), which was previously within the interior ministry’s department, contains clauses regarding oversight mechanisms. The first clarifies that the SSS is accountable to parliament; that the SSS chairman make an oral presentation in parliament once a year and is able to be summoned by parliament to attend parliamentary sessions and committee hearings, answer questions and report on SSS activities.¹¹³ In 2016, the deputy chairman of the SSS was invited by parliament to witness a Committee on Defence and Security hearing. However, although the chairman attended, the parliamentary plenary session failed due to the absence of quorum.

Additionally, civil society is worried that the Group of Confidence has no actual authority to inspect and monitor activities of the Ministry of Internal Affairs. It was recently revealed that in 2004-2012, the MIA abused its power on numerous occasions. It was revealed, for instance, that MIA services, as well as the Military Policy Department of the MoD, regularly used illegal eavesdropping, surveillance and unauthorized secret filming of suspects.¹¹⁴ At committee hearings, Group of Confidence members never questioned MoD representatives and

¹¹³ Law on the National Security Service of Georgia, Chapter 9.

¹¹⁴ Civil control of illegal eavesdropping and surveillance, (2013) RFE/RL, published 04.29.2013; Available at : <http://www.radiotavisupleba.ge/a/faruli-chanacerebi/24971533.html>. Civil Fight Continues against illegal eavesdropping and surveillance, (2014) RFE/RL, published 01.12.2014; Available at: <http://www.radiotavisupleba.ge/a/faruli-mosmenebi/26718993.html>.

government officials about the legality of eavesdropping, wiretapping, videotaping and video monitoring. The Georgian public shares the opinion that this might have been caused by the lack of tradition, political culture and political will among the political elite to establish strict parliamentary control over the MIA. At the same time, experts admit that relevant procedures and regulations are in place to enable parliament to increase the accountability of the MIA. In their words, there are no formal limitations for such. For example, one such procedure is related to the committee's right to initiate legislation and review it scrupulously at committee hearings and parliamentary sessions in general. However, in practice this right was rarely used.

While the current practice of parliamentary oversight of security institutions in Georgia continues to face such difficulties, human rights abuses and the politicization of security institutions are likely. Therefore, parliament and its committees must share responsibility for security sector oversight, aiming to eliminate the deficiencies in parliamentary oversight aforementioned.

Overall, it can be concluded that the political elite in Georgia, as well as civil society, media and the wider public, are well aware that it is essential to establish democratic oversight over the security institutions in order to ensure the efficient functioning of the defence sector, avoid human rights abuses and curb the excessive use of force by law enforcement bodies. The current Constitution of Georgia and existing legislation meet the main internationally recognized norms and practices of democratic oversight, and the MoD remains one of the most open and transparent government institutions in terms of accountability to parliament and its committees.

However, the recent experience of parliament at plenary and committee levels, as well as the individual activities of the members of parliament, show that oversight practices have not been effective enough. In particular, continuous confrontation and tension between the parliamentary factions and political parties make it impossible to keep their dialogue constructive and ensure that their duties are fulfilled efficiently. Quite often neither the governing party nor the opposition view defence and security issues as a priority, and remain reluctant to criticize and scrutinize defence structures. There is also a need to formalize communication channels between the parliamentary Committee on Defence and Security, the MoD, and other government agencies, and to establish a mandatory requirement for the officials from the MoD (including the minister, deputy minister and other senior staff) to present their annual reports and speeches in written form and distribute them in advance among parliamentarians.

In addition, confidentiality tends to limit the flow of essential information for members of parliament and even the Committee on Defence and Security. However, a distinction has to be made between confidentiality and the lack of public scrutiny in Georgian legislation in order to

clearly define procedures for sharing classified information with specialized parliamentary committees. One more reason for the committee's low efficiency is that its decisions do not seem to have much weight, as parliament can ignore recommendations or findings made by the defence and security committee. Bills and other issues are often referred to parliamentary debate even if the committee advises that they should not be considered.

Many observers agree that, in order to increase the efficiency of Georgian Parliament to exercise democratic oversight of the defence and security sector in general, there is a need to create a new committee with the power to control all security-related issues as a measure to improve the accountability of security actors. For instance, the division of the Committee on Defence and Security into several independent sub-committees might strengthen the oversight of all security services and the government institutions responsible for them (including the Ministry of the Interior and the State Security Service) in addition to the MoD. Another option would be to increase the number of committee members and increase its staff to improve the efficiency of financial-budgetary control and monitoring of security institutions.

Civil Society to Oversee the Defence and Security Sector

Civil Society plays a fundamental role in promoting, supporting and taking action for the democratization of the security and defence sector in Georgia. Civil society has the potential to challenge the State's over-centralized power and provide a space where citizens are invited to debate and facilitate the creation of an environment that offers opportunities for self-expression and influencing of political decisions through public opinion. Cooperation between civil society and parliament in Georgia plays an outstanding role in improving the quality of the oversight practice of parliament of the defence and security sector.

At the same time, as experience shows, reforms in security and defence institutions remain open and become sustainable for civil society only with the active support and cooperation of parliament, as well as with the help of international contributors and stakeholders supporting democratic transformation of the Georgian state management system. In turn, this process enables civil society to be engaged in policy-making, overseeing and monitoring reforms, and contributing to the introduction of best practices on good governance, transparency and accountability of the security and defence institutions.

The reform environment also contributes to the empowerment of civil society members by increasing their expertise, skills and inner consolidation, and improves public trust towards them. Thus, the strengthening of civil society in Georgia is closely linked with the existence of western assistance through international programmes (EU, NATO) and the engagement of individual countries of Europe and the US.

In recent years, the main achievements of Georgia's intensified reforms targeting state institutions have resulted in a significant improvement of state institutional capacities, reduced corruption, and economic development. Civil society plays a significant role in supporting the democratization of state institutions in Georgia through various instruments, including advocacy and policy dialogue. During the past years civil society organizations have actively supported reforms, demanded more transparency from the government and run successful campaigns for free and fair elections. There have been increased public consultations on a range of policy reforms; however, there have also been cases where the government rushed into making decisions and limited the level of engagement of civil society in the decision-making process.

The following civil society actors have been involved in overseeing the security and defence sector in Georgia: non-governmental organizations (NGOs), think tanks, and watchdog organizations working on human rights issues. Cooperation between the NGOs and government structures has intensified in recent years once regular communication channels were established between them. In particular, the Civil Council on Defence and Security, an umbrella informal institution aiming at ensuring dialogue between civil society and representatives of relevant government structures, invited the Ministry of Defence and other line agencies to attend regular meetings with various representatives of civil society. Very soon the platform for dialogue became a useful tool for implementing specific actions towards establishing democratic control over the security sector. In 2005, civil society, with the support of the government, established Georgia's Defence Conference,¹¹⁵ an annual international high level event which has served as a space for international dialogue and discussions on strategic issues for the last 10 years. The conference became one of the outcomes of cooperation between the Ministry of Defence and the Civil Council on Defence and Security.

Since 2005, a number of civil society organizations implemented various projects related to the democratization and transformation of the security sector, including the: Civil Council on Defence and Security, the Atlantic Council of Georgia, the Georgian Foundation for Strategy and International Studies, the International Centre for Geopolitical Studies, the Economic Policy Research Centre, the Centre for Development and Security, the Caucasus Institute on Peace, Democracy and Development, and the Association of Military Journalists. All of them continue to be involved in various platforms and policy dialogues with the government and parliament. Others, like the Georgian Young Lawyers Association, Human Rights Information Centre, Human Rights Monitoring Centre, Transparency International Georgia and Information Development and Freedom Institute, are implementing projects which target directly or indirectly security

¹¹⁵ Available at : <http://gdsc.mod.gov.ge/?lang=en>

sector problems and challenges focusing on human rights, corruption in the defence and security sector, good governance, transparency and accountability in the sector.

Defence and security field experts remain actively involved individually in public debates and discussions in the media related to the ongoing international and national security policy issue, security sector reforms and its implications. The media's interest in engaging independent civil society experts in public discussions has become a comparatively new phenomenon very recently and has contributed to raising the level of trust in civil society. Furthermore, the active participation of independent experts in media discussions questions the competence of the government and widens the knowledge of the public about the roles of the government in the security and defence field in democracies.

The following policy related issues are under the lens of Georgian civil society organizations: elaboration of the National Security Concept of Georgia (2005, 2011),¹¹⁶ the Georgian National Military Strategy (2005, 2009),¹¹⁷ the Minister's Vision Document of the MoD,¹¹⁸ some chapters of the Strategic Defence Review¹¹⁹ and the Threat Assessment Document (2010-2013, the latest version is not publicly available)¹²⁰. In 2004-2016, civil society representatives prepared a number of independent reports and policy papers evaluating democratic control over the defence and security sector, soldiers' rights, and an overview of legislation in the defence and security field. Some NGOs also took part in monitoring human rights in the Armed Forces; experts participated in regular inspections of the pre-trial detention cells at the military units and studied the procedures implemented with the detainees. The recent amendments made in Georgian legislation on procurement allowed NGO representatives to be involved in tender commissions at the Ministry of Defence.¹²¹ The purpose of these amendments was to ensure the transparency of the procurement processes.

It should also be noted that civil society has been involved in the promoting of a nuclear non-proliferation policy in Georgia. In this regard, dialogue with the respective state institutions has been developed and strengthened during recent years.¹²² The role of international donors is crucial in this field as they contribute to the strengthening of NGO expertise through capacity-building of the expert community as well as providing support to the development of a Nuclear Nonproliferation Strategic Community. With civil society contribution and initiative,

¹¹⁶ Available on the official website of the National Security Council of Georgia: www.nsc.ge

¹¹⁷ Available on the official website of the Ministry of Defense : www.mod.gov.ge

¹¹⁸ Available on the official website of the Ministry of Defense : www.mod.gov.ge

¹¹⁹ Available on the official website of the Ministry of Defense: www.mod.gov.ge

¹²⁰ Available on the official website of the Ministry of Defense : www.mod.gov.ge

¹²¹ Georgian Law on State Procurement. Available at: www.matsne.ge

¹²² Georgia's Nuclear Odyssey: The Path from Soviet Atomic Legacy to a Global Non-proliferation Regime (2014), Civil Council on Defense and Security. Available at: www.civilcouncil.org

parliament's attention has been drawn to the export control issues of dual use materials. According to Georgian law, there is no regulation which directly involves parliament in the control and oversight of government agencies responsible for managing an export control system in Georgia.

Conclusions and Recommendations

Armenia

There is a high degree of army autonomy and professionalism in Armenia. The 'Four Day War' became a trigger for highlighting issues in the army such as corruption and the quality of military equipment and ammunition. The public demand to institute checks on the military became apparent after the war and the Ministry of Defence felt the need to respond accordingly. However, this public demand did not transform into formal democratic civilian military control where the National Assembly could play an essential role. The Ministry of Defence internalizes some of the democratic control tasks and directly responds to public demand through civil society and media players. The need and urge to be accountable to the National Assembly is limited to the minimum formal bureaucratic routine related to such issues as approval of the budget. The activity of only a few Members of Parliament sitting on the Standing Committee on Defence, National Security and Internal Affairs is not enough to control the military.

- *The circular nature of the lack of political will and/or the lack of public trust towards political parties to operationalize the Parliament's scrutiny function for checking the military needs further research.*

However, the new Constitution provides for more of a scrutiny function and

- *the Standing Committee on Defence, National Security and Internal Affairs needs more capacity and resources to be able to operationalize such a function if the political will or public demand to do so arises. Current capacities are not enough to effectively implement this function.*

Finally, our research revealed that the democratic control of the military is more dependent on the overall level of democracy and the capacity of the National Assembly to check the executive branch. The effectiveness of the Standing Committee was assessed as higher in comparison with other committees but very low in terms of what the opposition Members of Parliament would like to see. The only difference mentioned was the secrecy of information.

- *Work with classified information and its democratic control needs further investigation and research.*

Our work determined that the current concept of secrecy was inherited from the Soviet Union and is not modernized to current standards of democratic control.

Georgia

Democratic oversight of the MoD and other security institutions can play an essential role in supporting reforms. The Georgian experience shows that the existing constitutional arrangements meet the main international recognized norms and practices of democratic oversight of the security services and the Armed Forces. However, parliament is not able to fully exercise its power and implement its responsibilities in an efficient way. The level of polarization and confrontation in the political environment harms the ability of parliament to function as an efficient watchdog. Due to the sensitivity of issues, both the ruling party and the opposition refrain from voicing strong criticism or exercising open oversight of the sector. Further, the persistent tension between majority and opposition member's results in their failure to agree on the 'rules of the game' related to oversight and as such they are unable to engage in constructive dialogue with each other.

Civil society, together with the media, can be regarded as one of the stakeholders that could significantly contribute to democratization and reform processes in Georgia.¹²³ The role of civil society and independent institutions in overseeing the security sectors has increased during the recent years. NATO, the EU and other organizations play a crucial role in promoting cooperation among security sector institutions, civil society and media and partner state governments, a process that entails the potential to develop the capacity of and enable the government to prevent and better manage the security sector in full compliance with the rule of law and international regulations, including the human rights law.

The results of this study demonstrate that the following steps are needed to strengthen and security institutions and improve their democratic oversight:

- *Reach an agreement on a parliamentary code of conduct, as a result of which sides will refrain from using hate-speech against political opponents as continuous confrontation between sides undermines effective democratic parliamentary oversight;*

¹²³ Policy papers prepared by the Georgia Foundation for Strategic and International Studies are available at: www.gfsis.org Papers prepared by the Economic Policy Research Center are available at: www.eprc.ge

- *Establish a mandatory requirement for the minister and other senior staff in the MoD to present their annual reports (and other relevant reports) to parliament in advance and in written form;*
- *Introduce and support programming and budget-planning and make it mandatory to hold Committee on Security hearings on budget programmes and sub-programmes;*
- *Establish a mandatory requirement for the Committee on Security to prepare and present comprehensive and content-oriented annual reports;*
- *Revise the current procedural regulations which hamper the committee's involvement in the parliamentary process, in particular review the regulation according to which a committee's decisions do not seem to have much weight because parliament often chooses to ignore their opinion;*
- *Create a new committee with the power to control all security-related issues as a measure to improve the accountability of security actors. For instance, divide the Committee on Defence and Security into several independent sub-committees to control all security services (the interior ministry, State Security Service, etc.) along with the MoD;*
- *Increase the number and improve the capacity of members of the Committee on Defence and Security in order to improve the efficiency of financial-budgetary control and the monitoring of military capabilities.*

Azerbaijan

Thorough analysis of the parliamentary authorities and the laws adopted by parliament have indicated that there is no solid basis for parliamentary oversight of the security sector in Azerbaijan, as the Constitution adopted in 1995 has no clear-cut provisions for such. The Constitution adopted in 1995 drew on the Soviet experience and control system and, as in the Soviet period, authorized parliament to enact laws submitted for its approval. Some observers believe that, even if Azerbaijan had completely free elections, the existing Constitution would not provide adequate authority for parliamentarians to exert appropriate influence over the security sector or to establish working oversight since it would be not in line with the Constitution.

There are some elements of oversight or control that could be carried out by any effective Committee, for example the Budget Committee or more importantly the Auditing Office, able to hold the governmental agencies, including the security sector, accountable. In case of such development, the Committee will have a greater opportunity within the agencies to disclose

more information regarding corruption and embezzlement which would further open the channel for deeper oversight. For this development to happen, opposition MP groups need to challenge the ruling party by using the resources and authorities of parliamentary committees and the professionalism of MPs, aiming for deeper democratic control.

- *The existing environment requires amendment or change to the Constitution, with new provisions added which might allow the oversight bodies to have greater authority to look more closely at agencies.*

The Constitution and its provisions regarding parliament do not meet the requirement of security sector reform and do not provide any internal or external oversight activities. The provisions of the current Constitution are not adequate to meet the international requirements for oversight of civil society groups. There is no effective and efficient security sector without viable civil society groups which are capable of interaction with security institutions. There is no single specific model that can be applied to any one country.

- *The experiences of developed nations and the countries that recently joined NATO could be good examples to apply to our countries. For that to happen there needs to be constitutionally base principles of functioning.*

The extent of oversight and scrutiny is dependent upon the democratic culture of the society and level of separation of power in the state, correlation of political forces in the parliament, the parliamentary authorities, parliamentary members' will and time to deal with all of these issues, and the level of democracy - something which is still uncertain in Azerbaijan. The state system in Azerbaijan is concentrated heavily on presidential power and the division of the power principle reflected in the Constitution does not give enough authority for parliament to realize a genuine division of power.