

## Arms Acquisition Accountability Processes

Ravinder Pal Singh\*

*Most of the advanced democracies agree that confidentiality is needed in terms of technical performance parameters; the numbers to be procured and methods of deployment, which may provide unique advantages to the user. Instead of the military or the civil servants treating these aspects exclusively as military capability issue, legislative intervention is needed for professionalizing and institutionalizing public accountability of security sector. Parliamentary processes have constitutional legitimacy and duty to examine security sector accountability. It however, lacks resources, capacities and political will to do so.*

Public policy-making standards of a country are indicated by a balance between professional accountability of arms acquisition processes and justifiable requirements of military security. Sensitivity of this balance is maintained through democratic governance of defence sector.

### Effects of Weak Democratic Oversight and Unverified Secrecy of Arms Procurement Processes

In conditions where security sectors enjoy high political autonomy, the executive branches are likely to have low public sector accountability. In such conditions, the national legislatures must validate confidentiality requirements of military's decision-making processes, as a failure in this regard could lead to the following situations:<sup>1</sup>

1. It allows corruption, fraud and abuse to creep into the system, which encourages corporate interests to enhance secrecy even further, leading to a vicious cycle.

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2. Lack of professional accountability of arms acquisition decision-making can lead to unverified threat assessments. A consequence of which is weak scientific scrutiny of arms procurement demands.
3. The above limitations would undermine inter-service coordination for developing

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coherent military potential in the long term, impair cost efficiencies in maintaining stockpile and logistic systems management, and lead to ad hoc-ism in decision-making and inefficient defence sector decision-making.

Instead of imitating models of arms acquisition processes in advanced democracies, it will be useful to understand principles of security sector governance that define arms acquisitions accountability. This paper aims to discuss barriers and limitations in democratic oversight of arms procurement processes, organising principles for democratic governance of security sectors, ways of resolving tensions between confidentiality and public accountability in arms procurement processes, and executive and legislative initiatives that could be taken in India to develop scientific arms procurement processes.

### **Barriers, Limitations in Democratic Oversight to Scrutinize Defence Sector Expenditure**

The armed forces are repository of unique knowledge required for national defence. They also have the final responsibility for ensuring that a nation's territorial security is not violated. It requires maintaining of very high levels of confidentiality of military's plans and programmes, as surprise is an essential principle of war. On the other hand, insularity of the military's decision-making methods, even on mundane matters, impairs public accountability of the armed forces, which in the long term, effects its professional efficiency. Some of the arguments advanced by the armed forces to maintain confidentiality of routine decisions from oversight bodies are discussed below:<sup>2</sup>

**I**nformation is routinely over-classified for administrative convenience and for avoiding accountability.

#### **Lack of a Clear Information Policy and a Weak Information Dissemination Process**

In many cases, information collection and its dissemination, even between government departments, are underdeveloped. Procedures for handling classified information for executive and legislative oversight are often ambiguous, and procedures for de-classifying information lack clarity. Information is routinely over-classified for administrative convenience and for avoiding accountability.

#### **Lack of a Legal Obligation to Disclose Information**

In cases where laws forbid disclosure of any information related to military security, these laws are often cited by civil and military bureaucracies to deny information of a trivial nature, even to elected representatives. Adequate legal provisions are not framed that can be used by the legislators to demand, gain

access and handle classified information. Legislative initiatives are needed to enact access to information provisions to address constraints that permit unverified secrecy to be practiced.

**P**olitical elite tends to avoid transparency in order to consolidate their hold on levers of power.

### **Ambiguity in Law**

The civil and military bureaucracies find career comfort from narrow interpretation of confidentiality. Officials hesitate to make official policies public to avoid decision-making processes from being publicly criticized, or it may cause embarrassment to the government for it could reveal shortcomings in professional methods.

Political elite tends to avoid transparency in order to consolidate their hold on levers of power.

### **A High Degree of Autonomy of the Military**

Where the military enjoys high degree of political influence and autonomy, it is reluctant to admit that any serious contribution can be made to national security assessment by external expertise as it distrusts civilians. As a result, military rarely participates in public debate on security matters. Public indifference on defence issues is also encouraged by advancing a belief that military professionals have the best and final judgment on security questions. This negates opportunities for independent professional review.

### **Lack of a Tradition of Transparency**

In some cases, procedures for public access to information are underdeveloped because the military has a tradition of low transparency. The public is seen as not being competent enough to understand military's decisions. Weak democratic foundations are unable to produce a civil society that is informed and assertive enough in expressing its legislators' right to democratic oversight of the military.

### **Commercial Interests and Lobbying**

Processes that are opaque or at best ambiguous can be manipulated by industrial lobbies. Commercial confidentiality is promoted as a feature of lobbying by interest groups because it creates lucrative opportunities for corruption.

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## **Bureaucratic Behaviour**

Bureaucracies are often characterized by a culture of caution, secrecy and privileged access to information. This attitude is habit-forming and leads to work methods that accept inertia and discourage information exchange with elected

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representatives or the public. Under-resourced public offices are often overwhelmed by the workload required to declassify information, which can become a barrier in itself. Other characteristics are an assumption that bureaucratic control is best exercised through a perception of competence, and therefore public criticism must be avoided by protecting information, and absolute discretion is required by the executive to handle the secret affairs of the state. To avoid accountability, such discretionary powers are often used by bureaucrats to bend official rules by over-classifying documents

and discourage public access even to low-level information.

## **Weak Democratic Norms**

Legislators have constitutional obligation to monitor defence sector decision making processes. However, some politicians may be more concerned with their own careers, and prefer not to be seen as overly critical of the military, particularly if a heightened sense of national security is embedded in the country's culture and history. There may even be a strong resistance or a lack of capacities in the parliaments to advance public accountability.

## **Organising Principles and Criteria for Democratic Governance of Security Sectors**

The organising principles and criteria for democratic governance of security sectors are as given in succeeding paras:

### **Consistency between Democratic Control of Security Sector with Good Governance Practices**

Sovereignty of a country is reposed in its elected representatives in national assemblies or parliaments. All security sector organizations, including the armed forces, the intelligence services are accountable to people through their elected representatives in the executive and legislative

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branches. Any decision which has major security ramifications requires endorsement of elected representatives in the parliament such as: arms acquisition policies, appropriations for defence budgets, commitment of armed force outside the national borders, and so on.

### **Public Interest Defines Best Value for Public Purse**

**T**ransparency of defence sector processes is required for public understanding of how the military's threat perspective is arrived at and that its demands are not driven by special interest groups.

There is a need to prevent corruption, waste and abuse in defence sector, which is a natural product of high confidentiality and low accountability. Transparency of defence sector processes is required for public understanding of how the military's threat perspective is arrived at and that its demands are not driven by special interest groups. On the other hand, if allocations of resources to security sector are not validated by elected representatives of the society, it may undermine national capabilities in the long term.

#### **Avoid Political Expediency**

Although all decisions are of political nature, there is a need to avoid political expediency and undue political interference in security sector decision-making. Scientific and professional norms are required to be built by political and military leadership for designing security sector oversight by the elected representatives. Processes are needed that balance public information requirements for accountability of the military with justifiable needs for confidentiality. It may require changes in official secrets legislation. Additionally, it would require creation of select parliamentary committees and expert professional staff in the parliaments that keeps the members fully informed on the key security issues with related data.

### **Rule of Law and not Law of Rulers**

Security sector organizations need to operate in accordance with constitutional and international law. Civil-military relations must be maintained on clearly defined channels of authority on the basis of constitutional legitimacy of military command. Even intelligence organizations must not abuse the public right to accountability by unverified recourse to confidentiality requirements. The political control and higher direction of armed services in democracies should define channels of political command flowing from a collective decision of the

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cabinet through the minister for defence to the heads of the armed services or from the interior minister in case of the police and para-military organizations. The service heads in turn exercise command over their subordinate formations. Political Control is a staff function carried out by civil bureaucracies to facilitate oversight by the political executive in policy and management matters, such as: financial, procurement, logistic and personnel functions, etc. In India, the original confusion was sown when the chief of staff functions were combined with command functions of the Heads of services in the 1950s.

### **Checks and Balances through Democratic Oversight**

Availability of proper constitutional provisions with clearly defined responsibilities for the executive and legislative branches is an essential. A system of legislated

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checks and balances are required for the security sector to be applied in accordance with the principle of natural justice: which means, an organization should not sit in judgment of its own recommendations. Proposals that are made by security sector are required to be validated by a professionally competent scrutiny in the executive branch, and this process should be overseen by the legislative system. Verification of security sector decision-making requires scientific methods for monitoring and review of military recommendations. Capacities must be built for technical assessments for arms procurement programme by experts that are politically and professionally, as well as technically proficient and adequately resourced.

### **Transparency of Decision Making Methods for Accountability (Political, Professional, Ethical, Technical and Financial)**

Security-sector organizations are accountable both to elected civil authorities and to civil society. For which statutory audit structures need to have multi-disciplinary skills. Neglect of public resources by the military, more often than not, remain unknown to public due to reasons of military confidentiality.

### **Clarity and Consistency in Security Policy Definition for Coherence in Planning, Programming and Project Coordination**

Elected public leaders and civilian officials in the executive branches have to be adequately trained to exercise professional scrutiny of the security-forces. Legislative oversight requires members of parliament to be responsible for holding the executive and military authority accountable. It could be organized

in specialised sub-committees to examine different functions of security sectors in a detailed manner. Defence policy definition and consistency between defence,

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internal security and other public sector agencies is essential for coordination between different agencies responsible for security. These processes should be clearly identified in the shape of executive white papers to facilitate a professional parliamentary oversight.

### **Harmonize Information in Public Domain for Reviewing Professional Efficiencies**

Information on security-sector policies, processes and budgeting should be reviewed after specified periods on a rational base of confidentiality. It should be made available to the executive, the legislature and to the public on the basis of a balance with confidentiality. Freedom of information legislation should selectively provide public and parliamentary access to information relating to security sector processes. Parliament should legislate procedures that harmonize handling of classified military information by the select parliamentary committees needed for good governance of security sector.

### **Enabling Environment and Knowledge Creation for Normative Civil-Military Relations**

The civil society should have capacities for making a constructive contribution to public debate and democratic oversight processes. It would need development of cadre of security policy experts in public domain from the media and the academia, specialised in a range of disciplines relating to national security. The executive and the military should foster knowledge creation for co-ordination between foreign and security policy-making, budgeting, arms procurement, defence R&D and defence industrial production processes.

### **Framework for Advancing Accountability of Arms Procurement Processes**

The framework to resolve tension in arms procurement accountability and military confidentiality is explained in the enclosed Annexure.

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## Initiatives to Advance Executive and Legislative Oversight of Arms Procurement Processes

1. Define Defence Policy documents and Policy making processes;
2. Defence Budget processes should be disaggregated. It should identify linkages between defence policy and financial resource allocations specific for equipment modernisation;
3. Define Arms Acquisition Process, Defence Technology Policy and Defence Industrial Production processes.
4. Identify processes that enable executive and legislative oversight of the above three functions in the shape of a defence white paper that clarifies methods for the following functions:
  - Validation of policy
  - Verification of financial resources and other inputs for implementation of policy;
  - Processes for monitoring milestones for defence policy and arms acquisition policy;
  - Scrutiny of outputs by independent authority;
  - Review of arms acquisition processes to comply with define policy milestones.

### Conclusion

A credible resource is required to be developed that enables scientific verification of arms procurement decision-making by a professionally qualified authority to independently verify whether performance and maintenance standards, Life Cycle Costs are consistent with initial offers of the system. Given the nature of security and commercial sensitivity of arms transaction, national capacities are required to scrutinize arms acquisition projects and capacities till the end of its life cycle, including logistic support experiences and offsets. Most of the advanced democracies agree that confidentiality is needed in terms of technical performance

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Instead of the military or the civil servants treating these aspects exclusively as military capability issue, legislative intervention is needed for professionalizing and institutionalizing public accountability of security sector. Parliamentary processes have constitutional legitimacy and duty to examine security sector accountability. It however, lacks resources, capacities and political will to do so. These are precisely the elements which are also needed in the executive system, if military were to maintain its high standards for external security of the society.

The logo for the International Defence Security Association (idsa) is located at the end of the paragraph. It consists of the lowercase letters 'idsa' in a stylized, lowercase font, enclosed within a circular border.

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Notes:

- 1 Ravinder Pal Singh, "Oversight of arms procurement processes: limitations and opportunities" Paper presented at Conference organized by Transparency International (UK) "Preventing Corruption in the Official Arms Trade" Arundel, U.K. June 8 - 10, 2004
- 2 The section is based on Ravinder Pal Singh, Arms Procurement Decision Making Vol. 1 and 2, Stockholm International Peace Research Institute, Oxford University Press, 1998 and 2000, and the authors draft for Handbook for Parliamentarians 'Parliamentary Oversight of Security Sector, IPU-DCAF, Geneva, 2002.

# A FRAMEWORK TO ADVANCE ACCOUNTABILITY OF ARMS PROCUREMENT PROCESSES

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Examples: Themes for Investigation	Organisations & Constellations of Actors						CONSTITUTIONAL & LEGISLATIVE QUESTIONS	CAPACITY BUILDING QUESTIONS	OPERATIONAL & ORGANISATIONAL QUESTIONS	CULTURAL, POLITICAL, COMMERCIAL FACTORS
	1	2	3	4	5	6				
National Security Policy, Defence Planning & Determination of Requirements		Executive Branch: Ministries for Defence, Foreign Affairs, Finance	Armed Forces & User Service	Parliament / Statutory Commissions, Ombudsman, Justice systems	Statutory Audit & Vigilance Commissions	International Agencies, Banking and Financial Institutions, Media, Academia				
Defence Budgeting, Financial Planning & Expenditure Accountability and Offsets planning										
Arms Procurement: Tendering, Evaluation, Negotiation, Contract Management & Delivery										
Defence Industrial R&D Participation, Technology Assessment processes										
Freedom of Information Legislation: processes for declassifying Information										
Counter-corruption processes in secondary & Offset contracts										
Financial credits, loans and Banking processes										
Legislation for countering corruption										
Independent assessment of all stages of procurement										
Processes for Special arms procurement projects, Exceptions & Emergencies										
Suppliers' participation in international anti-bribery agreements										
Extra-constitutional pressures & influences: Domestic and Foreign suppliers										