# CIVIL-MILITARY RELATIONS IN NIGERIA: THE CASE OF PARLIAMENTARY OVERSIGHT OF THE DEFENCE SECTOR-1999 TO 2004

**By**

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**Ph D/SOC-SCIE/39186/2004-05**

**This Thesis is presented to the Department of Political Science, Ahmadu Bello University Zaria, in partial fulfilment of the requirements for the award of a Doctor of Philosophy degree in Political Science.**

# DECLARATION

I hereby declare that the research work leading to the production of this thesis was conducted solely by me, under the able supervision of Professor Paul Pindar Izah of the Department of Political Science, Ahmadu Bello University Zaria, Nigeria. I wish to state that I have neither copied someone's work, nor has anyone done the work for me. All writers whose works have been referred to in this research have been duly acknowledged.

| _____ | _____ |
|---|---|
| Student's Name | Signature |

# ATTESTATION

This thesis entitled "Civil- Military Relations in Nigeria: A study of the Parliamentary Oversight of the Defence Sector, 1999 to 2004", by Mohammed Kabeer Garba (Ph D/SOC-SCIE/39186/2004-05) meets the regulations governing the award of the degree of Doctor of Philosophy (PhD) in Political Science of the Ahmadu Bello University, Zaria and has been accepted for its contribution to knowledge and literary presentation.

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Chairman, Supervisory Committee Date

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Member, Supervisory Committee Date

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Head of Department Date

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External Examiner Date

## DEDICATION

This Research Work is dedicated to the memory of my late parents, members of my family and my good friends out there who have too much confidence in my abilities.

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# ABSTRACT

In this study, we examined Civil-Military Relations in Nigeria within the context of the phenomenon of Parliamentary Oversight of the Defence Sector within the first trench of the forth Republic. The study establishes the importance of democracy as a theory that empowers the ruled to determine the nature of operation of their government and participate directly or indirectly in the running of the government. It also stresses the importance of the concepts of Separation of Powers and Checks and Balances to explain the relevance of Parliamentary Oversight.

In addressing the main problem leading to the study, we are concerned with the existence of a powerful military, which in the immediate past, had total control over the machinery of government, now subjecting itself to near total Parliamentary control. We are also concerned about the workability of getting the Parliament to effectively oversee the defence sector in terms of its Authority and Ability as well as the right Attitude by individual members of Parliament.

In view of the nature of the topic, our main methodology is the conduct of elite interviews. Here we set up questions that were responded to by our target persons, mostly Members of Parliament (especially Committee Chairmen), staff of Parliament, staff of the Ministry of Defence as well as

any other person deemed to be involved in the area under focus. The Author however also used secondary data to complement the Interviews conducted.

**Findings**

In terms of reforms in the defence sector, this research has revealed that present reforms are based on Re-positioning and Re-professionalising the armed forces. Re-Positioning is meant to ensure the modernisation of the forces and also lead to the acquisition of skills through training. Re-professionalisation on the other hand is aimed at addressing role orientation by impressing on the military the need to concentrate on its constitutional role as the defender of the territorial integrity of the country. It is however important to point out that the desire for the military to attain a compact force has remained a mirage considering that it is yet to demobilise since the commencement of the reform process.

The study used as a tool of analysis Authority, Ability and Attitude, to examine the issues associated with the topic. By Authority we refer to the legal and constitutional provisions for oversight. By Ability we refer to the technical, human and financial resources available to Members of Parliament to conduct oversight. By Attitude we refer to the political will and motivation that enables Members of Parliament conduct oversight.

We found out that the Constitution of the Federal Republic of Nigeria, 1999 has made significant provisions empowering Parliament to conduct oversight. These provisions are however not exhaustive. We also found out that Members of Parliament and their staff, particularly those servicing the committees, donot have adequate facilities to work. The staff are mostly civil servants who have not received any special training to assist the various Defence Committees. In addition, the committees donot have befitting secretariats with adequate facilities, while from 2003, Standing Committees ceased to have independent budgets. Furthermore, we found out that Members of Parliament lack the right attitude to conduct oversight and are in most cases influenced by their selfish desires towards getting material benefits.

Thus there are several challenges facing Parliamentary Oversight of the Defence Sector in Nigeria, which therefore led to this Author drawing the conclusion that there is no effective Parliamentary Oversight of the Defence Sector in Nigeria. For although there is significant authority, there is poor ability and the attitude of Members of Parliament remains negative.

The study therefore recommends the amendment of the constitution to provide more authority to Members of Parliament to effectively oversight

the sector. It also recommends the provisions of all human, material and technical resources to enable parliament and Parliamentary Committees work more effectively. The study also recommends significant increase in the remuneration for Members of Parliament to enable them meet their material needs and hence improve their attitude towards effective oversight.

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# LIST OF ACRONYMS

| | |
|---|---|
| ACGF | Accountant General of the Federation |
| AD | Assistant Director |
| AD | Alliance for Democracy |
| AGF | Auditor General of the Federation |
| AFN | Army Finance |
| AFRC | Armed Forces Ruling Council |
| ANPP | All Nigeria Peoples Party |
| ATD | Accidental Transit Depot |
| AG | Action Group |
| BPE | Bureau for Public Enterprises |
| CDS | Chief of Defence Staff |
| COR | Calabar, Ogoja and Rivers |
| CMR | Civil Military Relations |
| C of C | Code of Conduct |
| CPP | Convention Peoples Party |
| DCAF | Geneva Centre for the Democratic Control of Armed Forces |
| DDI | Director Defence Information |
| DFID | Department for International Cooperation |
| DHQ | Defence Headquarters |
| DIC | Defence Industries Corporation |

| | |
|---|---|
| DOPRI | Director of Public Relations Information |
| ECOWAS | Economic Community of West African States |
| EFCC | Economic and Financial Crimes Commission |
| FERMA | Federal Roads Maintenance Agency |
| GOC | General Officer Commanding |
| GDP | Gross Domestic Product |
| HMOD | Honourable Minister of Defence |
| HRVIC | Human Rights Violation Investigation Commission |
| ICPC | Independent Corrupt Practices Commission |
| ICJ | International Court of Justice |
| IT | Information Technology |
| IPU | Inter Parliamentary Union |
| IMF | International Monetary Fund |
| LDC | Less Developed Countries |
| MILEX | Military Expenditure |
| MOD | Ministry of Defence |
| MOF | Ministry of Finance |
| MOU | Memorandum of Understanding |
| MPs | Members of Parliament |
| MPRI | Military Professional Resource Incorporated |
| NA | Nigeria Army |
| NAF | Nigeria Air Force |

| | |
|---|---|
| NATO | North Atlantic Treaty Organisation |
| NCNC | National Convention for Nigerian Citizens |
| NCO | Non Commissioned Officer |
| NDC | National Defence Council |
| NLC | Nigeria Labour Congress |
| NN | Nigeria Navy |
| NNN | New Nigeria Newspapers |
| NPC | Northern Peoples Congress |
| NPF | Nigeria Police Force |
| NSA | National Security Adviser |
| OACGF | Office of the Accountant General of the Federation |
| OAGF | Office of the Auditor General of the Federation |
| OECD | Organisation for Economic Cooperation and Development |
| OPC | Oudua Peoples Congress |
| PARP | Policy Analysis and Research Project |
| PAC | Public Accounts Committee |
| RWAFF | Royal West African Frontier Force |
| ROE | Rules Of Engagement |
| SSR | Security Sector Reforms |
| SILSEP | Sierra Leone Security Sector Reform Programme |
| TANU | Tanzania African National Union |
| TPDF | Tanzania Peoples Defence Force |

| | |
|---|---|
| UN | United Nations |
| UNDC | United Nations Disarmament Convention |
| UNMIL | United Nations Mission in Liberia |
| USA | United States of America |
| WACSOF | West African Civil Society Forum |
| WAFF | West Africa Frontier Force |

# CHAPTER ONE

## INTRODUCTION

### *1.1 Background to the Study*

The emergence of democracy the world over and the internationalisation of the concept as the standard of conducting the act of governance imply that Africa and indeed Nigeria cannot be exceptions. Since Independence, most African States have not had stable governments. The experience of military incursions and authoritarian one party regimes, sustained by the mere strength of the barrel of the gun, have made the military forces of most African states less professional and more political. This therefore contributed towards the emergence of poor security sector governance and deteriorating civil-military relations. As a follow up to the recent establishment of democratic governments around Africa, the need for an improvement in civil-military relations and proper security sector governance have become even more imperative for the proper sustenance of democracy. It is within this standpoint that this study becomes relevant and timely.

The term security sector reform is referred to as a total reorientation away from the cold war structures of the armed forces and defence establishments through reorganisation, restructuring and downsizing in

order to meet the demands of the new security environment (Eekelen, 2003). In Africa however, as a result of differences in past experience, security sector reform may mean the restructuring, reorientation and reorganisation of the armed and security forces for the purpose of meeting the challenges of the new and prevailing democratic environment. Prior to the advent of democracy, most African States had to contend with over bloated military forces, which absorbed a large percentage of their scarce resources. There was also the absence of an environment conducive for setting proper and realistic limits to the activities of the military in its relations with the civil populace, hence the existence of poor civil-military relations. Furthermore, there was the absence of civilians, familiar with the sector to work together with the military. The military remained unused and unresponsive to political influence and supervision, whether by civil servants or parliamentarians (Eekelen, 2003). Security Sector Reform therefore entails the re –professionalisation of the armed and security forces and creating a role for them within a democratic setting. Of significant importance also is the need to make them accountable to the electorates for all their actions through civil control. Consequently, the democratic control of the defence sector falls within the overall ambit of the security sector reform programme, which modern day democracy preaches.

The uniqueness of the defence sector is such that the Executive branch of Government regards it as its own exclusive purview, just like the security agents themselves feel that their loyalty goes to the Executive. This therefore implies that tension between the two arms of Government over the effective supervision of the defence sector is inevitable in most countries. On the one hand, there is the need to ensure effective action by the executive in the activities of the sector, while at the same time balancing the democratic ideals of ensuring perfect checks by the legislature. Defence makes the establishment of such balance more difficult because of certain reasons (as cited in Lunn, 2003) viz:

a. Defence generally concerns the security of an entire Country and involves a decision to commit lives of people and enormous scarce resources. Thus decisions of this nature must enjoy popular support.
b. Also, defence involves the maintenance of Armed Forces, who are a special group, in view of the fact that they possess weapons and armament. The military therefore is a group that can make a difference between life and death. Its loyalty is essential for any government hence the need to maintain constant contact with it by the various arms of Government.

Further complications are created by the major question as to whether there exist areas in the defence sector that are strictly military in nature and should therefore enjoy non interference both from the Executive and the Legislature. It is generally believed that such areas do indeed exist. The development of military doctrines, tactics and the training of the armed forces should be left in the care and control of the military professionals themselves (Lunn, 2003). All other areas not falling within the above category will require that the military gives proper account to the civilian government, particularly the Legislature, as the representative of the people. In a democracy, ideally the representatives of the people should hold the supreme power so that every sector has a duty to report its activities. No sector should therefore be excluded. A State without Parliamentary control of the defence sector is like an unfinished democracy (Borns, 2003).

The enormous strength of the military in Nigeria, particularly at the period prior to the emergence of a democratically elected government in 1999, can best be understood and appreciated when the political history of the country is examined albeit briefly.

Nigeria, rated as the world's most populous black nation, attained its Independence in 1960, under a western type democracy. Political loyalty

and support were based on ethnic and sectional considerations; hence the main political parties during the period preceding political Independence and even beyond, were ethnic based. The main political Parties, the Action Group (AG) had its roots from amongst the Yoruba ethnic group, the Northern Peoples Congress (NPC) had its base in the North, while the National Convention for Nigeria Citizens (NCNC) had its base amongst the Igbo speaking people of Eastern Nigeria. At the same time, both domestic and Foreign policy issues were also based on such sectional and ethnic considerations.

It was therefore not surprising that when the first military coup was staged in January 1966, it was also based purely on such primordial sentiments. It was an attempt by one ethnic group that felt oppressed, to reverse the then status quo in its favours. That situation was maintained only temporarily, because a counter coup was organised just six months later in July of the same year, to again reverse the then status quo, in favour of another section of the country. Matters remained so uncertain that the country's armed forces had to be forced into a civil war, purely to address the national question. Both the military interventions of 1966 and the civil war that followed though fought for less than three years, merely boosts the interests of the Armed Forces in the act of governance, by creating an elite/ruling class within the military. The period from 1966 to

1979 witnessed a protracted military rule with varying degrees of infrastructural decay. It was during this period that the Nigerian society witnessed the emergence of a class of military aristocrats whose major pre-occupation became the act of governance and the art of coup making. Little attention was given to Professional soldiering. These crops of military aristocrats have variously been accused of sowing the seeds of corruption as is obtainable in the country today.

Little wonder therefore that even the re-emergence of a civilian government through the Second Republic did not last long, as the military seized the minimal excuse of corruption and economic recession to "reclaim" the political leadership of the country once again. This provided an ample opportunity for the elitists/ruling class of the military to further entrenched itself and attain tremendous power, not only over the political decision making of the country, but also the economy. In the third world, control over political power is a veritable tool towards attaining control over the economy.

The peak of the dominance of the military in the politico-economic affairs of Nigeria was witnessed between the periods from 1993 to 1998, when the country was highly militarised. All democratic structures were not only dismantled but also completely suppressed. All semblance of respect

for Human Rights and civil liberties disappeared and popular agitation for the de-annulment of the 1993 presidential election was met with absolute state sponsored violence. In particular, the Yoruba speaking people of South Western Nigeria were mostly affected by the repressive tendencies of the regime in power at that time. The annulled Presidential election of 12th June 1993 was largely believed to have been won by a prominent Yoruba Businessman and politician, the late Chief Moshood Abiola (Omoigui, 2005). The Yoruba race, viewed the annulment as an attempt by the then Northern ruling elite to further perpetuate itself in power, considering that all but one of the previous military Rulers were from the Northern parts of the Country.

It was against this background that a democratically elected civilian administration was established in 1999. The Military in Nigeria was in power for a period of about thirty years, much longer than the civilians. During the period of its rule, the Nigerian military had attained so much power, influence and relevance that subjecting it to democratic control may be more difficult than ever imagined. Particularly in view of the fact that several crop of the country's military, particularly those belonging to the group of ruling elites have so much wealth and even upon retirement, control several key Industries and Banks.

## ***1.2 Statement of the Problem***

This study examines Civil/Military relations in Nigeria with a specific focus on Parliamentary Oversight of the defence sector in the present democratic dispensation.

The Research problem is to explicate the problems of a military institution that had enjoyed political and economic power over nearly thirty (30) years of governance, subjecting itself to the supervision of an elected civilian government, particularly the Legislature. This supervision comes in terms of the need for the military to be transparent and accountable to the Parliament in key areas like general expenditure, weapons procurement, welfare of service personnel, recruitment of service personnel and their retirement from service. The study is to examine the effectiveness or otherwise of Parliamentary Oversight in this highly technical and important sector of governance given the prolonged period of governance. Another key area that poses a problem is the willingness, ability and legal backing provided for the Members of the National Assembly to embark on this all important assignment of overseeing the activities of the Defence Sector as another means of ensuring the sustenance of democracy and good governance. The study therefore examines the authority and ability for embarking on the task of

oversight as well as the right attitude of the Members of Parliament in Nigeria towards undertaking the assignment.

## ***1.3 Literature Review***

The study of the Parliamentary oversight of the Defence Sector is generally a new area, as much work has not been done, particularly in African Countries where the concept and practice of democracy is new. Most African Countries require a study of this nature, because a Country's military is highly essential to its survival and to borrow the words of the former French Prime Minister, Clemenceau, "War is too serious a business to be left in the hands of the Military" (quoted in Borns, 2003).

The Literature Review will be examined under two major headings viz:

- Security Sector Reforms
- Parliamentary Oversight of the Security Sector

The two headings above are interrelated because the latter is a product of the former. In other words, Parliamentary Oversight of the Security Sector can best be achieved when there exists adequate Security Sector Reforms.

***Security Sector Reforms***

Security Sector Reform recognises the need to adapt to changes resulting from the present day circumstances. It is a reorientation away from the cold war structures of the armed and defence forces to meet the demands of the new security environment. The legacy took the form of a bloated military force that absorbed a large percentage of resources, the absence of experienced civilians to work with the military and Parliaments lacking the mechanism or expertise to exercise any effective oversight role (Van Eekelen, 2003).

Democratic governance is the regulation of state institutions, officials and society to the principles and values consistent with democratic order as provided under the constitutional arrangement. It is the fundamental practice in all advanced democracies that the institutions of the security sector submit to democratic governance. The Head of State has the prerogative to deploy the armed forces in time of war. This is a demonstration of civil supremacy over the military and other affiliated institutions, hence promoting professionalism and autonomy. Governmental control must be seen in terms of promoting the integrity of the security structure to enhance the performance of its requisite functions (Gebe 2005).

The development of interest cannot help in the reform process, since it relates to putting in place major institutional transformations. To enhance democratic governance of the security sector, the constitution is very vital because that is the political process that gives the reform some legality. The military has to play its traditional role of watchdog by protecting the state against external attacks, maintain territorial integrity and national sovereignty. The military must not interfere in the democratic process of governance. Impliedly, elected officials of the state must respect the constitution in all respects so as not to incite the displeasure of any segment of society (Gebe, 2005).

Reforms in the security sector are necessary for four reasons: Conflict Prevention and stability- an unreformed security sector fails to prevent and even causes violent conflicts, leading to suffering and poverty. Effective reform on the other hand, through effective and efficient democratic control can bring internal and external stability. Again, a non reformed security sector, leading to instability and insecurity does not create a favourable climate for investment. A security sector plagued by corruption, constituting a burden to national economy, does not contribute to sustainable economic development. Similarly, a reformed security sector will have the ability to deal with violence professionally and professionalism in this sense entails dedication and the ability to

carry out tasks and orders of superiors and provide security within the context of dynamic and rapidly changing new security environment. Lastly, reforms also enhance democratisation by ensuring that the security services subordinate themselves to legitimate political authority. The legal framework for civilian supremacy over the security sector rests on the values of accountability and transparency (Born, Fluri and Lunn, 2003).

Although security services are to discharge their function of maintaining law and order, they have to comply with the societal values and democratic standards. Security Sector Reform therefore entails that all security services are to operate within the law and are to be accountable to the democratically legitimate political leaders (Born, Fluri and Lunn).

Reforms in the defence sector should be an integrated process involving governments, the military and Parliaments. Parliament's support for the reforms is important because apart from approving budgets, it can also explain the process to the general public. With contemporary threats coming from terrorism, the role of the military has become significant. Parliaments may therefore react to the budget proposals for the defence expenditure compared to the requirements of the civilian sector (Van Eekelen (2003).

Hanggi (2002) posits that Security Sector Reform is concerned with standards related to the good governance of the security sector, which are politico-military forms of confidence building measures. All around the world, there exists norms and standards which include directly or indirectly, the principles of good governance of the security sector as a confidence building measure. Infact, good governance of the security sector is believed to have a positive impact on International peace and Security.

According to Hanggi (2002) discussions at the United Nations Disarmament Convention (UNDC) have indicated that the belief that good governance of the security sector serves as a Confidence Building Measure is faulty. With these two opposing views, will it really make sense to regard the principle of good governance of the security sector as a practical Confidence Building Measure? From a theoretical perspective and viewing it from the realist school of thought, Confidence Building Measures are concerned with the management of the traditional security dilemma of the interstate world. The principle of good governance of the security sector on the other hand relates to the political system of States. It is a concern of the internal affairs of States. As a result, Confidence Building Measures are to be located within the context of disarmament,

while good governance of the security sector should be addressed in the context of Human Rights and the Rule of Law.

Good governance of the security sector also includes political accountability and transparency. In political accountability, governments are made accountable to the political sovereign. Security forces are primarily accountable to their political masters as well as the Parliament and sometimes the wider public. On transparency, national defence planning and budgeting should be made as transparent as possible. But it should be noted that the demand for transparency must be balanced with the security sector's legitimate needs for confidentiality (Hanggi, 2002).

After many years of civil war and political crisis in West Africa, there is less professionalism and capacity building within the security sector. The problem of ethnic, religious and regional partisanship and discrimination within security sector, complicated by years of dictatorship and bad governance, have negatively impacted on the legitimacy and public status of the security institutions (Alemike, 2005).

Hanggi (2002) further posits that in the Liberal Tradition, it is believed that the positive relationship between democratisation and peace provides the basis for the democratic peace proposition. The proposition is that

there is a relationship between democracy and International peace and security, because democracies are not likely to engage in any kind of armed disputes with each other. The democratic peace proposition supports the views that good governance of the security sector in particular, is relevant for International Confidence- Building.

Security Sector Reform also has an impact on social life because it has impact on the day to day security of women, men and children. This therefore implies that there is a need to transform the institutions, policies and people responsible for the security of communities and individuals. In many conflict affected areas, the components of the security sector, particularly the military, police, secret services and the intelligence normally have powers above the law. Instead of serving the population, they are used by the state to oppress opposition and thus further militarise the society. If the security sector is to become more transparent and accountable, there is a need for its reforms (Alaga, 2005).

According to Alaga (2005), the need for effective SSR is further necessitated based on the fact that during times of armed conflict and unrest, the actions of the security sector have a direct impact on the lives of men and women. Although military personnel deliberate on security issues, civilians are the first to be affected by the violence and insecurity.

People from marginalised and oppressed sectors of the society fear the police and donot consider them as the providers of basic security and protection. Thus secrecy and the all consuming power wielded by the security forces can lead to human rights violation. In particular, the sexual abuse of women is most common at times of conflict and in states where there exist very powerful security services. It is worth mentioning that during Security Sector Reforms (SSR), all forms of violence against women and their marginalisation from political power are not discussed due to social taboos. As SSR is becoming more legitimised as an important instrument for development, reconstruction and conflict prevention, there is a need to consider gender.

Women can contribute towards the success of SSR through several avenues. In the security forces, women can always bring gender perspectives to any discussion on security issues. Women combatants can participate in aspects of SSR as against the present situation where mostly women are given lower status. In Parliament, female Members of Parliament are in a position to formulate gender friendly policies, as well as play a key role in demanding for accountability and transparency from the security services. They can insist on determining budget policies to ensure that military expenditures donot take away resources from

developmental issues such as education, environment, healthcare etc (Alaga, 2005).

According to Alemike (2005), to embark on proper SSR, there is a need to have a participatory, transparent and accountable security sector that will adequately address the security needs of all including the full and equal participation of women in decision making position and process. The security needs of women, men, boys and girls are diverse and vary according to several factors. To meet the specific needs of women and girls, such initiatives as integrating domestic violence prevention programmes into disarmament, demobilisation and reintegration process and ensuring a just legal process for female survivors of sexual violence.

Attracting suitable candidates into the sector has become increasingly difficult. While the incidence of high unemployment rates has assisted the sector in meeting recruitment targets, most recruits enlist due to the absence of any other attractive job to do. Agencies thus recruit employees from the open market where they compete with other employees from the public and private sector. In the past and in several Countries, suitable individuals interested in service within the security sector can be attracted and monitored early in their career. This assists the services in recruiting

highly qualified persons into the system, while those unsuitable donot just get there (Alemike, 2005).

The protracted political and economic crises in most West African countries have negatively affected enrolment in educational institutions as well as standards of graduates of such institutions. Consequently, the recruits into the security sector will require more training than would ordinarily have been the case. Training in the core functions of the sector generally takes place on the job or within institutions established for the security agencies. Sometimes they adopt the training the trainers' approach, whereby fewer officers are trained, while they in turn train large number of officers. To increase the level of training, the security sector may collaborate with educational and research institutions in the training of their personnel. Similarly, the welfare of security sector personnel is not given due attention due to several factors. These include poor remuneration, provision of uniforms, transportation and communication, which are critical for efficiency of the security personnel, housing and health care, insurance for risks of injury and death and the prompt payment of severance benefits. The performance of security personnel in West Africa will remain sub-optimal for as long as the welfare of employees in the sector is not given due attention (Alemike, 2005).

Alemike (2005) posits that the security sector in West Africa has been ethnically and religiously partisan, hence undermining the capacity of the sector to defend the interest, territorial integrity and sovereignty of the nation. West African countries require comprehensive security sector reforms, which strategic planning for human resources development is an important and critical aspect.

Gebe (2005) posits that as the watchdogs of the society, Parliament, Judiciary and Civil Society will help in advancing democracy, good governance, transparency and accountability, if they are closely involved in the management of the security sector.

According to Fayemi (2004), with the emergence of a democratically elected Government in Nigeria in 1999, the need for security sector reform has become imperative. There is the greater need for the establishment of effective and accountable security agencies as well as establishing effective governance through the empowerment of civilian oversight mechanisms.

Fayemi (2004) further states that there appears to be a pattern of security sector governance in the post military era, with all the attempts at establishing the needed civil control of the sector by embarking on

reforms. He however observes that the present reforms lack focus, because the idea of subordinating the armed forces to civil control can only be achieved when civil control is seen as part of the complex democratic struggle that goes beyond election and beyond subordination to the presidency but also other oversight institutions.

The limitations associated with oversight include ignorance by the civilians on military matters, hence making the legislature more or less a rubber stamp to the decisions of the executive on matters concerning the security sector. Other limitations include the issue of secrecy and state interests as they affect Parliamentary Oversight. Fayemi (2004) further criticises the present administration's agenda for military re-professionalism by arguing that so far, the focus has been more on depoliticisation and subordination of the military to civil authority. There is however the need to improve civil-military relations by demilitarising public order and promoting broader security sector reform.

***Parliamentary Oversight of the Security Sector***

***i. The Legislature and security***

The Legislature is charged with the responsibility of legislating and oversight functions, aimed at regulating and monitoring the performance of the Executive. The idea is to ensure efficiency and accountability. The

Executive needs to be properly checked to guard against dictatorship in any democratic setting. Legislators as representatives of the people are expected to be closer to them and to reflect more accurately their aspirations, emotions and concerns (Jibril, 2004).

The Constitution of the Federal Republic of Nigeria sets the obligation of both rulers and the ruled. It charges the Legislature with the responsibility to make 'Laws for the peace, order and good government of the federation'. This therefore implies that the Legislature has to ensure national security. National Security is an attribute desired by states and it is usually discussed in the context of existing threat levels. There is however no clear cut definition of what constitutes a threat because it varies from one society to another and is the function of values and interests (Izah, 2004).

Nwolise (2004) posits that it is common practice for the populace to look up to the Legislature for the purpose of security, peace, development and welfare. Because the Legislature has not been compromised by the Executive, it remains the most important organ of government. It represents the people, makes and amends laws and controls public treasury. Similarly, it investigates affairs of State, screens executive

nominees and uses legislation to improve the living conditions of the people.

Jibril (2004) argues further that the Legislature has specific functions in relation to National Security, as enunciated in the 1999 Constitution of the Federal Republic of Nigeria. There are also the dimensions of internal and external security which leads to the conclusion that the challenges before the National Assembly in promoting national security are enormous. This is because every aspect of life has a bearing on security and should be catered for. The National Assembly should therefore partner with the executive in a bid to address the onerous responsibility.

Izah (2004) further argues that National Security is no longer understood in terms of threats in military terms. Poverty, hunger, corruption, disease etc are now regarded as issues in National Security. There are several issues in the external and internal dimensions to national security as well as the threat of poverty and corruption. There is total futility in the calls for a sovereign national conference to address the issues of national security, particularly ethnic irredentism, because the National Assembly, being properly constituted should be entrusted to consider ways and means of giving a sense of belonging to all sectors of the society.

It is generally considered obsolete the traditional understanding of the concept of national security as being 'freedom from harmful threats'. The new thinking in understanding and conceptualising national security does not stop at freedom from attack, but also bad government, ignorance, hunger, unemployment and activities of foreign residents and companies. In the new thinking regarding security, there is the need to focus on the military, political, economic, social and environmental issues (Nwolise, 2004).

Nwolise (2004) further posits that there are several sources of insecurity in Nigeria and the problems facing national security. There is also a linkage between the Legislature and National Security because since the Legislature makes Laws, it is expected to use Legislation to change bad situations concerning national insecurity. The Legislature is answerable to the people on security matters. The Nigerian Legislature will require putting in place certain measures to enhance national security. It also recommends the urgent need to revisit the Concept of National Security in Nigeria as a means towards addressing the sources of national insecurity.

***ii. Parliamentary oversight***

In Ghana, the roles of Parliament and some select Committees in discharging their constitutional duties are seen in terms of the processes of governance. It conceptualises the political set up within which the security sector operates and subsequently gave a detailed analysis of the legal framework that governs the sector as enunciated in the 1992 Constitution (Aning, 2005).

In Sierra Leone, after many years of authoritarian single party and military rule in Sierra Leone, (1978-92, 1992-96 and 1997-98), the country was deprived of a consistent and regular Parliament. Thus the efforts to subject the security sector to civilian democratic control and oversight was grossly affected. The realities of the country's eleven year old war (1991-2002) weakened not only the capacity of the security forces, but also that of the Parliamentary oversight of these forces (Gbla, 2005).

The historical background of the political evolution of the country, establishes political antecedents leading to the emergence of the present Sierra Leone People's Party led Government of President Ahmad Tejan Kabba. There are several constitutional and legal frameworks, including section 73 of the Constitution of Sierra Leone, which empowers the

Parliament to make laws and embark on oversight functions. Similarly, the 1998 British led Sierra Leone Security Sector Reform Programme (SILSEP) also emphasised democratic accountability of the Security Sector. The reform aims at restructuring and equipping security institutions to constitutionally and adequately perform their role in modern state building (Gbla, 2005).

In assessing the historical experiences of Ghana since Independence in 1957, a clear understanding of the role of the security sector in the turbulent years of the country's political history will explain why the sector is now willing to subject itself not only to civil but democratic control. There has also been a gradual opening of the political space within which other non-traditional security institutions are now playing a critical role (Aning, 2005).

For over three decades there have been ideas on how to establish some democratic control over the Security and Intelligence Services. Many reasons could be alluded to that, including abuse of power and rights by the agencies. The main focus of reforms now is the need for the legality and propriety of security-intelligence operations (Gill, 2003).

Parliament plays a central role in any democracy, although the centrality of the role will depend on the political system. No matter the political system, Parliaments have some common characteristics which include; representing the people, making laws and exercising oversight. Parliament is the mediator between the government and the people. As the cornerstone of democracy, no area or institution of government can be exempted from Parliamentary Oversight, including all organisations of the security sector (Born, 2002). Parliaments therefore have to develop a comprehensive security policy as well as keeping track of all security sector organisations. The main principle of Parliamentary Oversight is to keep the government accountable and secure a balance between the security policy and society by aligning the goals, policies and procedures of the military and political leaders (Born, 2002).

Born (2002) explains the democratic accountability of the military as implying that those who have the responsibility or authority to decide upon and implement security policy become accountable to the elected representatives or directly to the people. Accountability in this sense refers to money, activities and results. Democratic accountability has to be distinguished from other forms of accountability such as public accountability (media), administrative accountability (audit) and judicial accountability (courts).

According to Born (2002) Parliamentary Oversight means that all Parliaments have three characteristics which are to represent the people, to make laws and to exercise oversight. Parliaments articulate the wishes of the people by drafting new laws and overseeing their proper execution. This makes Parliament the mediator between the Government and the People. Parliamentary Oversight depends on the power of Parliament to hold Government accountable and is carried out through general powers, budget control, peace support operations, defence procurement, security policy and planning documents and military personnel. It is dependent on willingness, ability to hold the Executive accountable and the availability of infrastructure.

Ebo (2005) argues that Parliamentary Oversight is one of the fundamental characteristics of Parliamentary democracy. Although, West Africa experiences democratic deficit in the oversight of the security sector, global, regional, sub regional and national developments point to an expansion of the space for constitutionalism and hence effective parliamentary oversight.

Parliamentary Oversight is the responsibility, control and accountability of Parliaments, in this case over the security sector. Parliamentary

oversight is essential so as to ensure the effectiveness and efficiency of the security sector as well as the synchrony with the national priorities as defined in the Constitution. There are three mechanisms for Parliamentary Oversight, as Parliamentary debates, Parliamentary questions and interpellation and Parliamentary enquiries (Ebo, 2005).

Democratic Control of the armed forces means that all decisions regarding the defence of the Country, notably the organisation, deployment and use of the armed forces, setting of military priorities and requirements and the allocation of the necessary resources, are handled by the democratic leadership and scrutinised by the legislature. This is done to ensure popular support and legitimacy. The ultimate aim is that the armed forces serve the society they protect and military priorities and capabilities are consistent with political objectives and economic resources. The broader context of Civil-Military relations, which the democratic control of the armed forces is a part, is dynamic. With a continuous change in the security environment, all Countries need to have a rethink (Lunn, 2003).

For the attainment of effective democratic control of the armed forces, there are essential elements that should be observed or put in place. They include the existence of a legal and constitutional mechanism which

clearly stipulates the relationship between the Head of State, the Government, Parliament and the armed forces in terms of the division of authority, command and subordination. There should also be an appropriate mix of military and civilian personnel within the Ministry of Defence to ensure that military expertise is placed into the appropriate political and economic context. Furthermore, there should be effective Parliamentary Oversight to ensure democratic legitimacy and popular support, maximum transparency and openness, while the armed force is at ease with its role in society (Lunn, 2003).

In the opinion of Born (2002), oversight is the over viewing and setting guidelines for the Executive and its agencies. Good Governance is a whole system of democratic management of the security sector, where Parliament and Government play a significant role. There is a distinction between civilian and democratic oversight. Civilian oversight is a pre-requisite but insufficient condition for democratic oversight. In democratic oversight, the essence is to identify the dividing line between the Political and Military Leaders. Both categories of leaders have a shared responsibility concerning the security sector. The Political Leaders rely on the Commanders to carry out an effective and efficient security policy. On the other hand, the military Commanders rely on the Political Leadership for budget (resources) and political legitimacy for their

actions. Political and Military Leaders are therefore not adversaries, with conflicting goals. They need each other to achieve an effective security policy that meets functional and societal requirements to develop and implement an effective and sustainable security policy. Democratic Control is not restricted to commands and orders, but dialogue and communication between Political Leaders and Generals, leading to mutual respect.

Parliament's critical role of democratic oversight and accountability in internationalised security policy must be considered within a complex multilateral system of processes of consultation, engagements and open and accountable decision making. In conducting its legislative functions, Parliament maintains appropriate constitutional framework, laws and regulations governing security policy and the security sector. It approves the use of armed forces or police abroad, approves government defence and security policy, auditing budgets and public expenditure. In their representative functions, Parliaments represent the will of the people; provide a forum for debate, consultation, argumentation, bargaining, deliberation and the development of consensus. Parliaments therefore provide an avenue for the release of government information to the public, through providing access to citizens of the decision making process (Greene, 2004).

Regarding Parliamentary Oversight, the essence is to understand the dividing line between the Parliament and Government. Although Members of Parliament donot command the army, but Parliament and Government have a shared responsibility concerning the security sector. The two, political and military leaders, should not be adversaries with conflicting goals. Rather, they need each other to achieve an effective security policy that meets the requirements of both the military and society (Born, 2002).

According to Born, Fluri and Lunn (2003), there is the generally accepted view that security policy is the traditional task of the Executive, because it has the requisite knowledge and ability to act quickly. All major decisions involving the security sector are made by the Executive. The Parliament is to be kept out of it, because it is regarded as a less suitable institution to deal with security issues in view of the fact that its procedures are time consuming and also because it lacks the expertise. Parliaments also lack the ability to keep secrets.

Parliamentary Oversight is a way of giving people's needs and concerns in the debates about security. Infact, Parliamentary involvement makes a difference between civilian and democratic oversight. Civilian Oversight

is a pre-requisite but insufficient condition for democratic oversight. The reasons for Parliamentary involvement in security policy are varied; to prevent autocratic rule, because in a state the Representatives of the people hold supreme power. Parliamentary Oversight, if effective, can set limits on the power of the Executive. Again, since the security sector uses a substantial share of the state's budget, Parliament needs to monitor it because there is no taxation without representation. Similarly, the Executive may not be fully aware of those security issues which are priorities to citizens; hence Parliament that has regular contacts with the people can ensure that such priorities are reflected (Born, Fluri and Lunn, 2003).

Ebo (2005) posits that given the short history of democracy in West Africa, there had been the dominance of oversight of the security sector by the executive. With military rule, the security sector in West Africa was characterised by 'self governance' rather than Parliamentary control. Military rule therefore blocked the evolution and consolidation of civilian/parliamentary control, particularly of the armed forces, who often usurped all political powers, including that of oversight. This therefore explains the Concept of 'Double Democratic Deficit'. It is 'double', in the sense that there is weak oversight and the dominance of the executive arm of government. The second sense relates to the dictatorial political history

in the sub-region. The challenges facing Parliamentary Oversight of the security sector in West Africa are not just limited to lack of formal constitutional provisions. As an essential feature of democratic control of the armed and security forces, there is the need therefore to balance the double democratic deficit.

In conducting oversight, Parliaments focus on control over budgets. It authorises and monitors expenditure to ensure that the project is on track and money made available is not diverted. Parliaments also oversee recruitment and personnel policy, particularly because servicemen are voters and require protection from Parliament over dangers inherent in any operation. Furthermore, Parliaments oversee decisions concerning equipment procurement (Born 2002).

Lunn (2003) opines that there are three broad areas where political and military interaction is of particular interest. They include command- the responsibility for the decision to go to war must clearly be defined. There should be no doubt as to whom the Chief of Staff should take orders from. The role of civilians- In western democracies, the Ministry of Defence has a civilian background. That experience suggests that a civilian background is more appropriate to cover the full range of tasks required of the position. There is also the fundamental question of

identifying the division of competence and responsibility between the political and military sides. There are areas such as the development of doctrine and tactics and the education and training of armed forces which should be left in the hands of military professionals.

Born (2002) further argues that for an effective security sector reform, Members of Parliament should be able to participate in a policy making review cycle, providing adequate information through the process, leaving room for examining policy alternatives. They should also establish clear terms of reference for Defence Committees, so that they can examine and report on policy initiatives, including long term planning, reorganisation and major equipment proposals. Parliament should also be able to conduct inquiries on any issue raising special concern, providing procedure for hearing petitions and complaints from workers in the security sector, consider draft legislation and relevant International agreements and examine budget estimates as well as supplement any requests and audits.

Viewing the subject of Parliamentary Oversight from a different angle, Born (2002) posits that there exist complex relationships between efficiency and legitimacy in any democratic society. While it seems straight forward, on the other hand it appears problematic, because in

times of emergencies, a contradiction may arise between the need for quick decision making and the citizens' right to a transparent decision making process. But inspite of the contradiction, a democratic system has to be both efficient and legitimate.

Born (2002) argues further that a state's system of democratic oversight is a product of its system of Government, politics, history and culture. There are thus many different cultures and political systems. There is no single, definitive model for democratic oversight. With the existence of different models, the main issue is; how can democratic oversight be conceptualised?

Singling out Intelligence Services in the discussion on Parliamentary Oversight of the Security Sector, Born (2002) describes them as those governmental services responsible for collection, processing and dissemination of information to ensure the security of society and freedom of its citizens. It is a general practice that Intelligence Services are under the control of States, particularly institutions under the Executive. But Intelligence Services have to be under the control of responsible Political Leaders, if their products can be of any significance. However, if Intelligence is in the hands of those interested in conflict and coercion, then it can be used for the worse. Accordingly, Parliaments are

regarded as the pillars of democracy. No area or institution of the government can be exempted from Parliamentary Oversight, including the Intelligence Services.

But since the incident of 11th September 2001, debates concerning security and Intelligence have shifted to contemplate Intelligence failures. In this atmosphere, chances are that there may be the narrow minded belief that agencies unhampered by the requirements of oversight maybe more efficient and effective. Thus today, there is the complication of trying to establish better public control of Intelligence as well as ensuring efficient work of the Intelligence Services. Achieving a cultural change with Intelligence Services that have a long history of complete autonomy from outside control or influence is a long term project requiring greater political will (Gill, 2003).

In general, Security-Intelligence has certain common features regardless of their form. There is the constant use of secrecy, a tendency to confuse 'security threats' with 'political opposition' and the use of 'extra-legal' means of obtaining information to disrupt opponents. An examination of the level of control and oversight of Security-Intelligence Services will give a horizontal pattern of relationship. The relationship operates at four levels viz: Most secret level occupied by security and military

intelligence agencies, second level involving the executive branch, third level of State institutions including elected assemblies, Judiciaries and bureaucracies and the fourth level, involving Non State actors, particularly Civil Society (Gill, 2003).

Born (2002) states that Parliamentary and Democratic oversight of the Intelligence Services is important for several reasons viz: Parliamentary Oversight should ensure a balance between security and liberty. If an Intelligence Service becomes too powerful, it can infringe both civil and citizens' rights. Similarly, in an open and free society, there are chances that citizens can mistrust organisations involved in secrecy. Citizens have to be convinced that Intelligence Services operate within the confines of the Law. The Intelligence Service is a multi billion dollar project, employing over one million people around the world and using hi-tech equipments, which require adequate Parliamentary Oversight.

Both the Executive and the Judiciary exercise oversight functions over the Intelligence Services. As consumers of the services of Intelligence Organisations, the Executive determines the task to be undertaken by the Intelligence agency and how that tasking is to be carried out. By so doing, it ensures that Intelligence is not misused. Again in many countries, the Executive oversees the activities of Intelligence Services by establishing

special bodies charged with that responsibility. The Judiciary also exercises oversight because Intelligence Services have to function within the limits of the Law. In some Countries, even eavesdropping devices cannot be used by Intelligence Services without permission from the Attorney General (Borns, 2002).

Gill (2003) further argues that with specific reference to all, the United States Congressional and Senate Committees on Intelligence have been critical of attempts by the Executive to deny them access to information. On its part, the Executive has complained about the leaking of information from the House and Senate Intelligence Committees. In overseeing the security-Intelligence sector, the overseer has to rely on information given by the Intelligence service itself. Overseeing becomes a difficult task even for the factor of secrecy. With the so-called Intelligence failure resulting from the incident of 11$^{th}$ September 2001, overseers, particularly Parliaments are likely to be under pressure to reduce the level of their involvement. There is the greater chance for more ministerial rather than Parliamentary Oversight.

With the bombing of the Twin Towers in New York in September 2001, there are likely to be changes in oversight. Gill (2003) however advocates for cooperation among the overseers, particularly in terms of sharing

information. The overseers must also avoid being involved in management in their desperate urge for efficiency.

The development and effective operation of Parliamentary institutions are critical for democratic societies. In most countries, national Parliaments are weak in exercising oversight functions over the military and other security policies and programmes. But overtime, multi lateral coalitions and institutions have become increasingly central for security policies and operations (Greene, 2004). On Parliamentary scrutiny of budgets, full transparency is needed to build public consensus behind the armed services by showing that tax payers' money is being spent judiciously and that the defence department is a good employer of its personnel. Parliamentary scrutiny is most effective when policy control is combined with accountability for the past and current performance (Lunn, 2003).

Greene (2004) states that it is generally believed that political leaders use the excuse of Internationalisation of policy making as a means to avoid oversight by National Parliaments. Members of Parliament and ordinary citizens donot have enough information to enable them either contribute to it or effectively assess the outcome. Whenever decisions are taken at the international arena, National Parliaments are faced with a "take it or leave it" scenario. All these roles of National Parliaments are relevant in

internationalising security policy processes. They can exert control over the use and engagement of national armed forces and other security sector resources in international operations. They can also establish national legal frameworks, determining where executive regulation requires Parliamentary approval.

The internationalisation of military and security policies poses major challenges for democratic institutions and practices. This therefore creates a "democratic deficit" at the level of policy making. But the internationalisation process is not undesirable. The major challenge is to develop and reconstruct networks of institutions to enable all concerned have their say in policy issues (Greene, 2004).

For oversight and accountability, Parliaments function through Committees. The Committees have the power to hold inquiries, take evidence and consider reports from Government Executives, Accounting Officers, Ombudsman and Special Representatives (Greene, 2004)

In Sierra Leone oversight is conducted through the various Parliamentary Committees responsible, particularly the Defence, Internal and Presidential Affairs Committee and the Committee on Local Government

and Transparency focus significant attention on issues bordering on abuse of office. Gbla (2005.

Born (2002) posits further that the essence of democracy is the variety of democratic practices and systems. Thus there is no best practice of carrying out Parliamentary Oversight of the security sector, because some accepted practices, legal procedures and parliamentary structures in one established democracy may be unthinkable in another. The best practices in Parliamentary Oversight involve the use of Parliamentary Committee on Security and Defence. Given the complexity of the security sector, a highly developed Committee structure is needed if Parliament is to exert real influence on the government. Parliament may also use other oversight organisations inside the government and Civil Society. This is because Parliament alone cannot undertake the task and politicians generally have no time, resources and expertise to keep a close watch over the large and complex security sector. Parliaments also control budgets, through a systematic approach for evaluating and approving budget proposals. Again effective Parliamentary Oversight will require expertise and resources within the disposal of Parliaments. But expertise found within Parliament is no match for that found within government.

***iii. Limitations to Oversight***

The limitations to Parliamentary Oversight include lack of willingness on the part of Parliament to undertake oversight, as well as poor resources and staffing. The expertise found in Parliament is no match for the expertise in the Executive and Security forces. The main problem is that Parliaments rely on information emerging from the Executive or the Security forces that it is expected to oversee. Born (2002) therefore presents the following posers; are Parliamentarians mindful of their oversight powers and responsibilities? Do Parliamentarians duly exercise those oversight powers? Are they prepared to make the effort to become acquainted with the complex issues at stake?

A State's constitutional and political framework creates a constraint on the extent to which Parliamentarians can regulate the defence establishment. Whilst in some Countries, Parliaments have the legal wherewithal to exert scrutiny and control over developments in the defence sector, in others; Parliaments possess only limited legal prerogatives, because the executives dominate the sector. Parliaments may have the legal right to perform general and budgetary oversight but for practical and political reasons fail to do so. The Defence Committees may end up performing a different function instead of being the avenue through which civilian society exercises its voice in defence matters; they may act as the military lobby in the legislature (Betz 2003).

Van Eekelen (2003) posits that Parliamentary Oversight is in many Countries affected by lack of Parliamentary Organisation, Parliamentary Staff and expertise. It is important to point out that unless elected Representatives have the commitment or the political will to hold the government accountable, no amount of constitutional authority, resources or best practices will make them effective. Members of Parliament may not want to oversee the security sector primarily due to party politics. Parliamentary Political Parties, represented in government may not be eager to oversee their governmental counterparts, except during scandals or emergencies. Some Members of Parliament think that the security sector is not interesting or crucial to voters.

The challenges for Parliamentary Oversight of the security sector, including the secrecy of laws, lack of knowledge by Members of Parliament on security issues and the need to involve Parliaments on issues of the sector even at the International arena (Born, Fluri and Lunn, 2003).

Aning (2005) argues that in Ghana the great challenges are posed by the problems associated with Parliamentary support Staff as well as limited

resources at the disposal of the Committees and attributes further limitations to effective oversight of the Security sector by the prevailing culture of secrecy for the purpose of defending national interests.

Lunn (2003) posits that in view of the likelihood of tension between the legislature and the executive, there is a need to ensure the existence of a balance of function. The establishment of that balance is more difficult in the area of defence, because defence is not just another spending department. There are certain characteristics and qualities that complicate the relationship between Parliament and the executive, hence increasing the potentials for friction between the two branches. To that end, defence has to be organised and managed in a way that maximises military professionalism and efficiency and also guarantees political control and popular support.

Contributing to the debate on the limitations of Parliaments in conducting effective oversight of the security and defence sectors, Betz (2003) cites examples from several countries where Parliaments face hindrances. In Poland, the President has absolute control over the armed forces under the tenure of Leah Walesa. In Russia, it is the absolute prerogative of the President to appoint and remove the army's high command. The President also approves military doctrines of the State. The rights of the

legislature are negligible. In Ukraine, the President is as powerful as in Russia, appointing and dismissing the high command of the armed forces and other military formations. The Parliament determines the direction of the domestic and Foreign Policy. It also confirms the general structure and numerical strength of the armed forces, the security services and other military formations.

Betz (2003) however argues further that Parliaments must understand that it is not their place to command the military. Active military operations are the jobs of the Executive in concert with the military leadership. Parliament is to work out a balance between the demands for general oversight of policy and not be tempted to be engaged in micro management. In Hungary, Parliament is engaged in micro management; in Poland, Parliament only undertakes oversight functions, while in Russia and Ukraine, Parliaments are excluded from oversight.

Parliament's function is to ensure that military funding complies with national security goals and other budgetary priorities. Thus Parliament must be able to debate and establish the purpose of each expenditure. But in both Russia and Ukraine, although there is provision for Parliament to exercise oversight on military expenditure, in reality it does not take place (Betz, 2003).

In all States under review except Hungary, the nature of Executive-Legislative relations has been undermined by the effectiveness of Parliamentary Oversight. Poland has come a long way since the conflict between President Walesa and the government over the control of the armed forces. In both Russia and Ukraine the trend towards increasing centralisation of power in the President does not inspire confidence that the influence of the Parliament will improve much in the near future (Betz, 2003).

There is the general belief that security and defence policy lie within the prerogative of the executive. But it is necessary to point out that no defence policy can endure without the support of the public that it is deem to protect. As the elected Representatives of the people, Parliaments are at the heart of such democratic systems and have the dual function of both influencing and reflecting public opinion (Lunn, 2003). In a crisis involving national independence and territorial integrity, the defence department acquires special powers which allow it to by pass most Parliamentary procedures. Thus Parliamentary authorisation to go to war is not required (Lunn, 2003).

### *iv. Overcoming Limitations*

Proffering solutions to the above limitations, Van Eekelen (2003) opines that the goals of modern security policy have become much wider than the traditional tasks of protecting independence and territorial integrity and increasingly focus on multilateral action in support of crisis management. It is expected that Parliamentary scrutiny has to adapt to these changing circumstances in several ways. Thus sending soldiers on intervention missions abroad puts a greater political and moral burden on Members of Parliament than the task of the defence of the State against external aggression.

According to Van Eekelen (2003), although the multilateral work of Members of Parliament in consensus building plays an important role, control still remains with National Parliaments. Ideally, Parliament should have control over all sectors of government. But security and defence are special areas with special characteristics. The increase in the destructive power of new technologies has raised the issue of deterrence, defence and protection of the civilian population. The major preoccupation is how to devise a means where by the constitutional role of the legislature is exercised in a purposeful and professional manner. If a rigorous method is not established, Parliamentary control is in danger of

becoming political rhetorics, while many opportunities for the bureaucracy and the military are left to go their way.

To enhance the role of the armed forces in a democratic setting and to safeguard respect for human rights, Lunn (2003) advocates for training and education in the armed forces. There should be a fair and effective military justice system that enforces established standards of conduct and discipline. The commitment of the armed forces outside national boundaries should require broad endorsement by the elected Representatives of the people (Lunn, 2003).

Having undertaken a review of the above literature, it is necessary to point out the following as weaknesses of the existing literature on the subject by drawing up the following conclusions:

- Several of the literatures under review concentrate on explaining the meaning of the concept of Security Sector Reform, drawing lessons from the experiences of Western European Countries.
- Where there are general discussions on Security Sector Reforms, the focus is on the plight of Women and Children, as well as the prospects for recruitment of personnel to serve the sector.
- Similarly, the above literatures also focus attention on the meaning and conditions of Parliamentary Oversight of the Security Sector,

with emphasis on the situation as obtained in some selected Western Countries.

- The literatures also examine the relationship between parliamentary oversight and the Intelligence services, with particular emphasis on the experiences derived from the incident of 11th September 2001 and the possibility of deemphasising on oversight to cover any future intelligence failure.

This study focuses on an examination of the Parliamentary Oversight of the defence sector in Nigeria, given the background of existing attempts at Security Sector Reforms in a society where military dictatorship has thrived, with the society highly militarised and a legislative arm presumed to be weak and less matured to handle the task of oversight in the activities of the military.

## ***1.4 Theoretical Framework***

In conducting a study of this nature, we intend to revisit the use of the theory of Democracy, with the attendant principle of Separation of Powers.

***Democracy Revisited***

The evolution of democracy as it is known today can be attributed to the writings of classical Greek thinkers. Aristotle in his work on the subject argued that democracy has the capacity to take a firm root and blossom in societies where the middle class is large. In retrospect, where the society is predominantly poor, dictatorship may result (Diamond, 1988).

The commonest definition of democracy is the Government of the people, by the people and for the people. Democracy can also be defined as the rule of the people by means of maximum participation of all people (Pateman, 1970). Schumpeter defines democracy as an institutional arrangement for arriving at political decisions where individuals acquire the power to decide means of a competitive struggle for people's votes (Pateman, 1970). Democracy can also be seen as an association of people who enjoy equal rights of participation in their decisions and vote directly on issues. It is a procedure that guarantees desirable conditions or which is more likely to do so than any other alternative decisional procedure (Jones, 1983). It results in wise policies, just society, free society and decisions promoting the public interest or common good. Democracy is also viewed as a system of government where people exercise powers of governance directly or through their Representatives. Such Representatives are periodically elected by the people. A State is

democratic when it provides the institutional framework for the expression and the supremacy of the popular will (Apparadorai, 1975).

Prominent in democracy is competition for leadership. Everyone is free to compete for leadership in a free and fair election. Democracy also involves the tolerance of the opinion of others (Pateman, 1970). All interests that matter should be virtually unanimous in their allegiance to the structural principles of existing society. The major means of participation open to citizens are voting and discussion. Democracy entails tolerance and compromise. It is majority rule while accommodating the interests of the minority. Hence one group must not press demands at the expense of another (Apparadorai, 1975). There should be adequate opportunity for individuals to develop their personalities through access to knowledge and security against unemployment, minimum wage, fair conditions of work to guard against economic slavery.

Democracy as a system of government has to meet three conditions (Jones, 1983). The conditions are:

a. Meaningful and extensive competition among individuals and organised groups, especially political parties either directly or indirectly for the major positions of governmental power.

b. Higher level of political participation in the selection of Leaders and policies through regular and fair elections, such that no major social group is excluded.
c. Higher level of civil and political liberties like freedom of expression, freedom of the press, freedom to form and join organisations, sufficient to enhance the integrity of political competition and participation.

One essential feature of democracy is the constitutional arrangements that will ensure political legitimacy. This implies that there is the provision of three arms of government, namely the Legislature, the Executive and the Judiciary, which functioned effectively, but fairly independently, to ensure checks and balances. Thus the policy-making and implementation functions of the executive, the law making responsibilities of the legislature and the adjudication functions of the judiciary can only work when the three branches are effectively separated and such separation is backed by law (Gebe, 2005).

In any democratic setting, there is the room for Institutional expression, which refers to the equal rights of all adults to vote and stand as candidates for election. The opportunities for political participation entail the right of speech, publication, association, discussion and participation

in government (Apparadorai, 1975). Free discussion is necessary because democracy is based on the belief in the value of individual personality, obligation to respect the other man, listen to his arguments and take into account his view points.

For a stable democracy to be enhanced there must be necessary cultural values and psychological propensities. We refer here to the tolerance of the opposing political beliefs and positions and for social and cultural differences in general. These are pre-requisites of democracy because they are central to the exercise of freedoms of beliefs and actions (Diamond, 1988). They are also necessary for democratic stability, because their absence will make political opponents become enemies meant to be conquered and eliminated. Political competition therefore becomes warfare between various camps. For effective management of conflict, opposing camps must be willing to compromise, aimed not only at the recognition of the opposition's rights to hold its views, but also to some degree, of moderation in political position and partisanship. Political paralysis, polarisation and violence will be less likely when social and cultural interaction is not heavily polarised. Again the tone of political discourse remains decent and respectful and a measure of trust will exists between opposing social and political groups. Crosscutting social cleavages have been assumed to lead to democratic stability

reducing the emotions and aggressiveness involved in political choice (Diamond, 1988).

Democracy requires loyal opposition, committed strictly to the pursuit of power, while rejecting both the use and the rhetoric of violence. It must also refuse to condone or excuse anti democratic actions of other participants. Where all major political parties and factions stand united against violence and terror, democracy survives, but where parties support or even organised political violence, democracy cannot last.

There exist a direct relationship between democracy and socio economic development. Where there is an advanced level of economic development, socio economic inequality reduces, hence there will be less complaints of deprivation and injustice among the lower class and this reduces extremist politics. An increase in the national wealth on the other hand helps in enlarging the middle class, which has long been associated with tolerance and moderation (Diamond, 1988). Lipset observed thus:

> ***The poorer a Country and the lower the absolute standards of living of the lower classes…Consequently, the upper strata tend to regard political rights for the strata, particularly the right to share power …The upper strata not only resist democracy themselves, their often arrogant political behaviour serves to intensify extremist reactions on the part of the lower class***

(quoted in Diamond, 1988)

If democracy is seen as people's rights to participate fully in the discussions and decisions on issues affecting them, therefore take control of their lives, then democracy should not be reduced to the idea of voting alone, rather elections should just be seen as a small part of the idea of democracy. Democracy is the right of people to live their own aspiration and programme not only in political life, but also economic, cultural, religious and other aspects of life. It also includes the end of oppression (the monopoly and misuse of power of minorities), exploitation (unequal exchange in relations of production through the market) and discrimination (unequal rights and treatment on the basis of an incident of birth or of affiliation such as gender, race, religion, caste, language or ethnic group). (Imam and Ibrahim, 1991).

***Separation of Powers Revisited***

Democracy attempts to distribute power to various interests and segments of the society. The aim is to ensure that power is shared in such a manner that no segment or interest group in a society can pool power together as to overpower the other group and become the most powerful. Separation of Powers as a concept and in practice tends to checks against absolutism, because power is too explosive to be concentrated in too few hands (Shiyanbade, 2000).

Separation of Powers simply means that different kinds of governmental powers are allocated to different organs or branches of government. The major argument is that all governmental powers are not to be concentrated in one person, one group of persons, one office or department. The different kinds of governmental powers are identified and classified into three viz:

a. Legislative Powers- Power to make the general rules of conduct governing all members of society. It is the power to pass laws and enact legislation.
b. Executive Powers- Power to execute or carry out the laws which have been enacted by the legislative process. This includes the powers exercisable by Civil Servants.
c. Judicial Powers- The power to interpret the laws enacted by the legislative process and applies to cases of disputes.

Separation of Powers therefore refers to that situation where the allocation of legislative, executive and judicial functions is done respectively to the three branches of government. The essence of Separation of Powers is that each branch of government is prohibited from exercising the powers of the other branch (Joye and Igweike, 1982).

Effective democratisation can only be ensured when there is absolute Separation of Powers between the different arms of Government notably; the Executive, the Legislature and the Judiciary. Separation is meant to prevent the governed from tyrannical rule, hence the separation of powers (Walker, 1648 as cited in The Founders' Constitution, 2000). The separation between Legislative and Executive powers resembles the sharp dichotomy between the formation of policy and its administration. Separation in this case is seen as a means towards responsibility and accountability. Thus an executive charged with the responsibility of executing policies set by the Legislature can be held liable for its performance or non performance (Nedlam, 1656 as cited in The Founders Constitution 2000). Should that line of responsibility get compromised, people's liberty and interests will be jeopardised. If all State powers` were to reside in the hands of one or a few people, control would have been impossible. A free society will therefore share power among different independent states. They can then monitor each other reciprocally and prevent a concentration of mobilisation of power. State apparatus thus becomes clear and predictable. Without separation of persons, there cannot be a meaningful Separation of Powers. What is required is beyond accountability, in view of the fact that "every man will act for his own interest" (Trenchard, 1698 as cited in The Founders' Constitution, 2000). Thus the interests of the representatives have to be

interwoven with that of the people so that in acting for themselves, the representatives are also acting for the common good. Separation of Powers entails a clear distinction of power, an independence where each power conducts its deliberations free of external influence, a dependent where the actions of each are subjected to scrutiny and control by others. This may lead to the fulfilment of the requirements of the public liberty and happiness (The Founders' Constitution, 2000).

Historically, there was no idea regarding the concept of Separation of Powers before the 17th Century. The Courts of ancient Athens made rules, pronounced judgements and executed punishments. The Senate of ancient Rome performed legislative and judicial functions. The English Parliament was referred to as the High Court of Parliament. But by the 17th Century, John Locke in the second Treatise of civil Government argued that if those who made the laws were also vested with the power of executing them, they would probably manipulate their powers to advocate personal interests (Joye and Igweike, 1982).

Probably the theory of Separation of Powers is mostly associated with the writings of Baron de Montesquieu, the great French philosopher. In his book, L'esprit des Lois, (1748), Montesquieu provided the central idea of the theory as follows:

> ***Political Liberty is to be found only when there is no abuse of power. But constant experience shows us that every man invested with power is liable to abuse it; and to carry his authority as far as it will go…To prevent this abuse, it is necessary from the nature of things that one power should be a check on another…***

(quoted in Joye and Igweike, 1982).

Furthermore, Montesquieu identified three functions of the sovereign State; Legislation, the implementation of law and the administration of justice. Each to be put under the charge of an independent body, aimed at guaranteeing the freedom of citizens. In his views, Separation of Powers is meant to establish political liberty, which refers to "a tranquillity of mind arising from the opinion each person has of his safety". The governed cannot have its mind at rest if two or three of the kind of governmental powers is held in the same hands. The difference between freedom offered by democracy and that offered by dictatorship is Separation of Powers. In a dictatorship, power of decision making rests with one person. Citizens are thus left at the mercy of those in power. He argued that man is by nature aggressive and will seek to obtain as much personal power as possible. If people who make the laws are the same to execute, then much power will be concentrated in fewer hands. To guard against this, Montesquieu states thus:

> ***There would be an end of every thing were the same man or the same body, whether of the nobles or of***

> ***the people to exercise those three powers , that of enacting laws, that of executing the public resolutions and that of judging the crimes or differences of individual. (dalos education server, 2002)***

In his farewell address in 1796, George Washington states thus:

> ***The spirit of encroachment tends to consolidate the powers of all the departments in one and thus to create whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it, which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of Political power by dividing and distributing it into different depositories and constituting each guardian of the public weal against invasion by the others, has been evinced by experiments, ancient and modern.***

(quoted in dalos education server 2002).

For Montesquieu, there is no absolute separation. The Executive for instance is a separate branch. It properly partakes, through the veto, in Legislative functions. This overlap of functions makes separation check the excesses of one or the other branch. Parliament makes a lot of efforts to influence important executive decisions. This tends to push the government into acting in certain ways on certain issues. Government on the other hand plays a very central role in drafting and developing laws. Most laws are created in the ministries not in Parliament. Members of Parliament normally donot have enough information. Parliament sometimes creates skeletal laws and empowers the executive to take care of the details. In modern democracy, the load of Parliament is made

lighter due to the request for expertise and sometimes Parliament gets suffocated. The Executive becomes stronger with party loyalty and coalitions; most at times Parliament is brought under a lot of pressure to soften government's positions. Parliament also influences Ministers by exerting pressure on them to draft certain Laws or reach specific decisions.

The Judiciary, though separated, but some judicial pronouncements may be guided by historical and political reasoning. Judges are appointed by the Executive.

Further proof that there is no absolute Separation of Powers is the fact that sometimes the Legislature engages in the activities that can be considered executive in nature, for instance the conduct of investigation or enquiries into the activities of government departments. Similarly, the Executive department, through their power to promulgate rules and regulations (delegated legislature), is actually performing legislative functions. The Judiciary on the other hand, sometimes requires to make laws as it interprets the Constitution and statutes, hence filling the gap left by the vague or ambitious language (Joye and Igweike, 1982).

The Legislature has a greater advantage in Separation of Powers. Unlike the other branches, its members donot have to be subjected to checks by any constitutional tribunals but to the court of public opinion and sentiments (The Founders' Constitution, 2000). The Legislature requests for information from the other branches (from their execution and interpretation of law). It then uses it based on its sole judgement, for the promotion of the common interest.

Separation of Powers will thus ensure balance of power among the different branches and prevent one person/group from controlling the whole governmental powers (Joye and Igweike, 1982).

For the purpose of this research, the author intends to apply the theory of Democracy, with adequate emphasis on Separation of Powers to explain the research question. This is because having three arms of Government is a practice in democracy and by separating their powers and functions, while expecting each arm to serve as a check on the other is to ensure that none of the arms become so powerful as to become dictatorial. The theory of democracy and Separation of Powers is relevant here because by Parliamentary Oversight of the Defence Sector, we are indeed referring to Separation of Powers and the idea of ensuring checks and balances among the various arms of Government.

## *1.5 Objectives of the Study*

The Literature reviewed above has indicated that there exists a gap in the body of existing literature specific on the Parliamentary oversight of the Defence Sector in Nigeria. The studies done are either focussed more on Security Sector Reforms or on the study of the oversight of the security sector by other Parliaments outside Nigeria. It appears that it is a new area, considering the fact that democracy has just been rejuvenated in the Country and the idea of the military being accountable to the Parliament is new. The study, as an additional area of intellectual discourse is a departure from existing literature and is expected to achieve the following objectives:

a. An assessment of the nature of the Nigerian military with the aim of understanding the difficulties in Civil-Military relations, particularly during the period of military rule.
b. An assessment of the nature of the Nigerian National Assembly, particularly its Authority, Ability and Attitude towards oversight of the Defence Sector.
c. The effectiveness of Oversight in the Nigerian context.
d. Most importantly, the study will attempt to fill the existing Intellectual gap in the study of Parliamentary oversight of the Defence sector.

## *1.6 Research Questions*

The main Research Questions are:

a. Will the Nigerian Military subject itself to parliamentary control, considering its past antecedents as a powerful political/economic force, more involved in the act of governance than its professional duties?

b. Does the NASS have the Ability, Authority and the right Attitude towards embarking on effective oversight of the Defence sector?

c. What are the challenges towards effective oversight of the sector in Nigeria?

## *1.7 Research Assumption*

Our assumption in this study is that the constitution of the Federal Republic of Nigeria 1999 and other legal instruments have created the enabling environment for the Parliament to conduct effective oversight of the Defence sector, but the prevailing circumstances, particularly the logistics at the disposal of Parliament and the attitude of the Members of Parliament towards conducting the oversight has remained a significant hindrance towards achieving effective checks and balances. The study will however prove that there is a need to improve on the ability, particularly in terms of providing the various Parliamentary Committees

dealing with the Defence sector with adequately trained manpower that is well informed about goings on in the sector.

Similarly, the study assumes that since the inception of the present democratic dispensation, the military has been brought under Parliamentary control, except that the Honourable Members of Parliament donot fully understand their role due to the technical nature of the defence sector.

### ***1.8 Scope and limitation of the study***

The study will focus on Civil-Military relations in Nigeria, taking the case study of Parliamentary Oversight of the Defence Sector from 1999 to 2004. It intends to exclude other aspects of the internal security, like the Nigeria Police, Security and Intelligence Services, Customs, Immigration and Prison services. The Defence Sector in this study refers to the three services of the Nigerian Armed Forces (Army, Air force and Navy). The Parliament refers to in this study is the Senate and the House of Representatives of the Nigerian National Assembly. The study will focus on the activities of the various Parliamentary Committees in the National Assembly that have direct bearing with the Defence sector, notably the Defence Committee of the Senate, the Committee on Army, Committee on Air force, Committee on Navy and the Defence Committee of the

House of Representatives which deal with the oversight of the entire military.

A major limitation that affected this research is the classification of information concerning the Defence Sector. The researcher faced the problem of access to data particularly on issues considered sensitive or state secret.

### ***1.9 Method of collecting data and Analysis***

It was envisaged that reliance on secondary sources alone cannot adequately meet the Research Objectives, in view of the fact that several other activities associated with oversight cannot be published. The Researcher therefore relied primarily on elite interviews as the main avenue for data collection. The target persons here were the Members of Parliament serving on any of the Committees on Security, army, Navy and Airforce of the two chambers of the Nigerian National Assembly. The Researcher recognises them as the major players in the activities of their Committees. Similarly, the Researcher conducted interviews with the Secretaries of the Committees, who as civil servants are the custodians of the activities of their respective Committees. Indeed, the Researcher found them more reliable because they provided more data in

view of their role as the persons with institutional memory and continuity. At the level of the armed forces, the Researcher conducted similar interviews with senior personnel of the Ministry of Defence. Specifically, the Researcher interviewed the Director Army of the Ministry, who though a civilian, is the principal manager of the affairs of the ministry concerning the army, including the ongoing reform of the military resulting from the present democratisation in the country. Further interviews were conducted with Defence Correspondents of two media houses and an official of ActionAid International, a recognised Non Governmental Organisation. The list of all Interviewees and the sample of questions are hereby attached in the appendix.

Primary data collected from the elite interview was further supplemented by secondary sources. Here the Researcher focussed on existing literature in the area of study, particular works done on Civil-Military Relations in Nigeria as well as existing literature on Security Sector Reforms. These existing works have been subjected to a systematic Content Analysis. By using Content Analysis, the Researcher has been able to determine the presence of ideas relevant to the main theme of the thesis within existing texts. The aim is to quantify and analyse the presence, meanings and relationships of such ideas and make inferences about the message within the texts. Indeed by so doing this research has provided insights into

complex models of thoughts relevant to the subject matter under investigation.

Similarly, the Researcher used other secondary sources like the various Constitutions of the Federal Republic of Nigeria, Parliamentary documents (Standing Orders of Parliament), newspapers, magazines, journals etc, which provided adequate and in-depth data on the nature and pattern of Parliamentary Oversight of the Defence Sector within the period under review.

The Researcher used the Constitutions of the Federal Republic of Nigeria from the colonial period to the present day. These documents provided an insight into the legal working of previous Parliaments and hence provided the basis towards analysing the authority of Parliament to undertake oversight. Similarly, by resorting to the Standing Orders of the two chambers of the Nigerian Legislature, the Researcher has been able to provide further legal basis to examine effectively the authority of Parliament to embark on oversight. The Researcher also relied on newspapers and magazines, particularly those covering local events in Nigeria. This is because a lot of them focussed attention on the activities of the various arms of government, particularly the legislature. They

therefore provided a veritable source of data both on the activities in the defence sector and the activities of the Nigerian National Assembly.

## ***1.10 Organisation of the Study***

The study is organised thus:

Chapter one deals with the general introduction to the study. This includes the background to the study, statement of the Problem and Literature Review. Other aspects include the objective of the study. Research Assumptions, Scope and limitation as well as the Methodology of the Research.

Chapter two deals essentially with Civil-Military Relations, particularly its meaning, assumptions and a historical overview of the emergence of the Nigerian armed forces, Civil-Military Relation after 1966 and Civil-Military Relations during the fourth Republic.

Chapter three deals with the phenomenon of Security Sector Reform SSR. It attempts to explain the concept of security, the desirability of SSR, principles of SSR, the Agenda for SSR and the relevance of SSR to effective Parliamentary Oversight of the defence sector.

Chapter four deals with the Nigerian National Assembly, particularly its composition, structure especially committees and its oversight functions.

Chapter five deals with the main issues surrounding the Parliamentary oversight of the Defence Sector in Nigeria, in terms of approval of budgets estimates, defence procurements and defence policy issues. It also examines the possible subordination of the armed forces to civil authorities and examines challenges to effective Parliamentary Oversight of the Defence Sector in Nigeria.

Chapter six deals with the summary, conclusion and recommendations of the study.

# CHAPTER TWO

## CIVIL-MILITARY RELATIONS IN NIGERIA

### *2.1 Conceptual Clarification*

The term "Civil-Military Relations" has often been used by many writers and scholars alike, without making any conscious effort to explain it. This misnomer has led many to talk about different issues under the same subject. In this study we shall attempt a conceptual clarification on the subject matter with the hope that a meaning can be given to it.

In its definition, the North Atlantic Treaty Organisation (NATO), refers to Civil-Military Relations as "activities by NATO Commanders in war directly concerned with the relationship between allied armed forces and the government, civil population or agencies of non NATO Countries, where such armed forces are stationed, supported or employed" (quoted in Omoigui, 2005, part 1).

Carolina Hernandez on the other hand describes Civil-Military Relations as the balance of power between the military and civilian branches of government (Omoigui, 2005, part 1).

According to Omoigui, (2005, part 1), Civil-Military Relations means the supremacy and guidance of the civil populace over the military. It entails

full democratic control of the military as it plays its role as the ultimate guarantor of National Security. Ideally, the military is the servant of the society and it has the monopoly over the means of violence in the interest of its citizens in response to popular will and consent.

Civil-Military Relations refers to the totality of relations between the military and society which it operates and of which it is necessarily a part of. It comprises all aspects of the role of the military (as a professional, political, social and economic institution) in the entire aspects of national life (Ebo, 2005). Civil-Military Relations involves issues of the attitude of the military towards the civilian society, the civilian society's perceptions of and attitudes to the military and the role of the armed forces in relation to the state.

In any discussion of Civil-Military Relations, it is necessary to attempt to accommodate other actors, who though may not be members of the armed forces, but they play a significantly dominant role in the array of relations. It has therefore been observed thus:

> ***Non Military actors who nevertheless constitute part of the broader security community-the police, gendermarie, militia forces, the Intelligence organisations, paramilitary forces and guerrilla armies - also need to be accommodated within the ambit of good governance and national policy management. In***

> ***reality, it makes more conceptual and practical sense to broaden the scope of civil-military relations to include all civil/civilian security relations.*** (quoted in Ebo, 2005)

It is important to note that the armed forces have tremendous power, which is meant to curb external aggression, but may be misused to interfere in the political process, hence presenting a threat to the government and the citizens. These threats as presented by Nathan (2000) can be in the following forms-

a. direct coup where the military officers hold political power
b. 'silent coup', where military officers control or manipulate the politicians holding power.
c. Oppression of citizens, with or without the support of politicians.
d. Militarization, where military values are regarded as superior to civilian values, hence adopted by civil society.
e. Use of armed forces to advance the interests of the ruling party

Other possible forms of Civil-Military Relations as envisaged by Omoigui, (2005, part 1) may include the military acting behind the scenes as the sponsor, guide, protector and supporter of a civilian government. This may give it the leverage to influence the civilian government in many ways both within and outside the defence and security sector. Similarly, the civilian government may pretend to have control even though it does not. The total subordination of the armed forces will mean

that the civilian government has total control of all policy areas including national defence. Although the military still partakes in policy formulation and debate, the ultimate decisions are made by the legitimate civilian government, assumed to be acting on behalf of the larger society. Thus outright intervention by the military in the direct running of a government is the worse kind of civil-military relations.

The Armed Forces occupy a unique position in the society not only because they enjoy the monopoly of weapons (because even ordinary citizens can keep firearms, yet they are not members of the military), but also because they are highly organised and benefit from specialised training. Similarly, members of the military are not merely doing a job, but are embracing a whole way of life. They live in a total institution like inmates of a boarding school (Baynham, 1992).

The Armed Forces have a more rigid hierarchy of ranks and greater discipline. They are also expected to be self sufficient in power supplies, transport, welfare and secure communication. Soldiers are conscious that they are different from civilians, hence the existence of military view of the world. The military generally has cohesion, discipline and specialist training which is aimed at only the conduct of war. As potential threats to

existing administrations and the society at large, armies use force to achieve their objectives (Baynham, 1992).

According to Finer (1962), the armed forces have crucial advantages over civilians in three respects viz:

a. a marked superiority in organisation
b. a highly emotional symbolic status
c. monopoly of arms

The armed forces may not have the monopoly of weaponry, but it has an effective monopoly of organised use of violence. It is therefore important that it utilises this power in a responsible manner for the benefit of the larger society. To ensure that this takes place, most societies insist on the subordination of the armed forces to the political authority of the day (Baynham, 1992).

## ***2.2 Concept of Professionalism in the Armed Forces***

In dealing with the subject of Civil-Military Relations, it is essential to understand the meaning of Professionalism, particularly as it affects the armed forces. Any discussion on Civil-Military Relations will usually make reference to professionalism on the part of the military as a factor

that will foster perfect Civil-Military Relations and ensure the subordination of the military to the civil authority.

Professionalism in relation to the Military Officer has three characteristics viz (Huntington, 1957):

- Expertise
- Responsibility
- Corporateness

Expertise- An expert has specialised knowledge and skill in a significant field of human endeavour. Such expertise is acquired through prolonged education and experience. A universal standard is to separate the profession from laymen and measure the relative competence of members of the profession. Professional knowledge usually has a history and some knowledge of that history is essential to professional competence. Professional education consists of two phases; imparting the specialised skill and knowledge of the profession.

Responsibility- The Professional Man is a practicing expert who works in social context and performs a service. The client of every profession is society, whether individually or collectively. This therefore implies that social responsibility distinguishes the professional man from other

experts with only intellectual skills. Financial remuneration cannot be the primary aim of the professional man. Professional compensation is only partly determined by bargaining on the open market and regulated by professional custom and law.

Corporateness- Members of a profession share a sense of organic unity and consciousness of themselves as a group apart from laymen. This is due to lengthy discipline and training necessary for professional competence. A sense of unity manifests itself in a professional organisation that applies the standards of professional responsibility. This becomes a criterion of professional status which distinguishes a professional man from a layman.

The military has many varieties of specialists as obtainable within civilians like Doctors, Engineers and Lawyers. The commonest skill of the military as described by Harold Lasswell is “the management of violence” (quoted in Huntington, 1957). However the duties of a military officer as enumerated by Huntington (1957) include:

a. the organisation, equipping and training of the force.
b. The planning of its activities.
c. The direction of its operations in and out of combat.

The direction, operation and control of a human organisation whose primary function is the application of violence is the peculiar skill of the officer. Although the skills of other experts is necessary to the achievements of the objective of the military force, but their role is auxiliary and are therefore not capable of the management of violence.

A military specialist is an officer who is peculiarly an expert at directing the application of violence under prescribed conditions. Such conditions under which violence can be employed form the basis for evaluating relative technical competence. The larger and more complex the organisation of violence an officer is capable of directing, the greater the number of situations and conditions under which he can be employed, the higher is his professional competence. The officer who can direct the complex activities of a combined operation involving large scale sea, air and land forces is at the top of his profession. Military function requires a high order of expertise. Regardless of the intellectual abilities and qualities of character and leadership of an individual, he requires considerable training and experience (Huntington, 1957).

Before the management of violence became extremely complex as it is in modern civilisation, it was possible for someone without specialised training to practice officership. Nowadays however, it is only the person

who devotes his working hours to the task that can develop some level of professional competence. This is because the skill of an officer is neither a craft nor an art; rather it is an extraordinary complex intellectual skill requiring comprehensive study and training. The peculiar skill of an officer is the management of violence and the motivation of an officer is the technical love for his craft and the sense of social obligation to utilise the craft for the benefit of society. His behaviour in relation to the society is guided by the awareness that his skill can only be utilised for purposes approved by society through its political agent which is the state (Huntington, 1957).

### ***2.3 Assumptions on Civilian Control***

For the attainment of an ideal Civil-Military Relations, it is important to achieve near total civilian control over the affairs of the military and indeed all security organisations. In defining civilian control, how can military power be minimised? To answer this question, there are two broad assumptions as prescribed by Huntington (1957) viz:

- Subjective Civilian Control
- Objective Civilian Control

Subjective Civilian Control implies the maximisation of civilian power in relation to the military. Due to several factors like large numbers, varied

character and conflicting interests of civilians, it is impossible to maximise their power as a whole with respect to the military. To maximise civilian power is to maximise the power of a particular group. Civilian control as a slogan is utilised by groups that lack power over the military forces in struggles with civilian groups that have such powers. In democratic Countries, policy is determined by persuasion and compromise, while in absolutist Countries; it is determined by force and coercion. This implies that the military that controls the most powerful instrument of violence will be more powerful in totalitarian than in democratic Countries. This argument may however not be true because in democratic Countries the military may undermine civilian control and acquire greater political power through the legitimate processes. In a totalitarian regime, the power of the military may be reduced by breaking the officer corps up into competing units, established party armies and special military forces.

Objective Civilian Control implies maximising military professionalism. It refers to the distribution of power between military and civilian groups, most conducive for the emergence of professional attitudes and behaviours among the officer corps of the military. While Subjective Civilian Control achieves its objective by civilianising the military and making it a mirror of the state, Objective Civilian Control achieves its

objective by militarising the military and making it the tool of the state. Subjective Civilian Control exists in a variety of ways while the Objective Civilian Control is only in one way. The idea of Objective Civilian Control is the recognition of autonomous military professionalism, while Subjective Civilian Control is the denial of an Independent military sphere. Objective Civilian Control achieves the reduction of military power by rendering it politically sterile and neutral. This produces the lowest level of military power, while preserving the essential elements of power necessary for the existence of a military profession. A highly professional Officers Corps stands ready to carryout the wishes of any civilian group which secures legitimate authority within the state. Objective Civilian Control preaches political neutrality which all social groups can recognise.

As a critique to the work of Huntington on the assumptions of Civil Control of the military, Schiff (1996) states as follows:

> ***A major conclusion of current civil-military relations theory is that militaries should remain physically and ideologically separated from the political institutions. By contrast, the alternative theory…argues that three partners- the military, the political elites and the citizenry should aim for a cooperative relationship that may or may not involve separation but does not require it.***

The subordination of the armed forces to civil control is not a necessary result of the institutional separation of the armed forces from civil authorities. Effective civil-military relations are achieved through the extent to which political, military and civil actors find agreement and accommodate one another. In explaining the Concordance Theory, Schiff (1996) states further that the theory:

> ***…explains which major aspects of a nation should be in agreement in order to prevent domestic military intervention. How a particular society achieves such an agreement is largely dependent upon the nature of that society, its institutions and its culture…it usually predicts conditions for domestic military intervention without superimposing a particular historical or cultural context upon a nation.***

A further critique regarded the Objective Control as a mechanism of formal, constitutional and legalistic nature, which embodies the political and constitutional compact entered into between the state and the armed forces in most Liberal democracies. Formal mechanisms depend on the balance of power within any social formation as well as the extent to which this power relationship articulate itself within the political culture and tradition in question. To boost civil control, Subjective mechanisms are also required. They are neither formal nor constitutional/legalistic in nature. They however translate into patterns of relations between the

leadership of the armed forces and the leadership of political and civil elites (Williams, 1998).

The mechanisms in question may not necessarily be based on democratic civil-military relations, but may include such arrangements as party penetration of the leadership echelons of the armed forces, ethnic manipulation of the composition of the officers' corps to ensure loyalty, manipulation of the military mission to prevent its intrusion onto the party political terrain, monitoring the activities of the armed forces through other non military intelligence agencies and the establishment of security to counter the influence of the armed forces, for instance the police and other intelligence agencies. Other Subjective factors within the military which affect their predisposition to intervene are organisational features, social and class composition of their personnel, the disposition of authority within the military hierarchy, their corporate identity, skill patterns and operational experiences, the relationships between the different arms of the service and fissures and contradictions within the officers' corps (Williams, 1998).

Moris Janowitz (1960) formulated the assumption of Integration of political and military decision making. That civilian oversight can be achieved by integrating the soldier as much as possible in society. The

officer in force "is sensitive to the political and social impact of the military establishment on international security affairs. He is subject to civilian oversight, not only because of the 'rule of law' and tradition, but also because of self imposed professional standards and meaningful integration with civilian values". To carry out effective democratic oversight, military leaders are committed to political goals. Furthermore, Janowitz believes that it is not realistic to make a distinction between policy and implementation or between government and administration. This is because during military operations, particularly peace missions, military commanders have to take many military decisions with political implications. The Integration approach does not seek to separate politics from military affairs but rather it focuses on the search for complementary roles for the political and military leaders, by bridging the gap between military and society.

## ***2.4 Salient Features of Civil-Military Relations in Africa***

There is no doubt that effective military control of a particular geo-political area helps in establishing the definition of a state. Conversely, one of the indicators of a failing state is the inability to monopolise or exercise coercive instruments for the attainment of policy objectives. Historically, the emergence of the post colonial African Sates is a product of military expeditions (Shiyanbade, 2000). The African military is a

descendent of the colonial forces. Colonial armies were initially mandated to accelerate the expansion into the hinterland by the colonial powers. The African army thus began as an army of domestic conquest, making them more involved in internal politics of Africa (Shiyanbade, 2000). While the focus of the imperial armies was conquest and domination of the people, the society's need was that of security. The interests of the society and that of the armies were therefore diametrically in opposition. This fact made the separation of the military from the political process in Africa most difficult. Thus Shiyanbade (2000) quoting Gutteridge states as follows:

> ***In the somewhat arbitrary administrative units of which the new states are today the successors, little distinction was at first drawn between civil and military administration. Military officers were prominent in the government of provinces and the administration of justice and occasionally, civilians directed military expeditions.***

The above fact may explain why there has been so much military intervention in Africa, creating a particular pattern of Civil-Military Relations. This research work may not be able to treat the issues exhaustively not only due to the vastness of the African continent but also because of divergence in experience coming about as a result of differences from the countries in question. We shall however treat some salient issues that cut across experiences in the continent.

While it is almost automatic to have a subordinated armed forces in Western Countries, in Africa, Asia, Latin America and the Middle East, as a result of persistent intervention, that is not easy to achieve. In Africa, militaries no matter how small can constitute a threat because of the feeling that the military represents the only disciplined organisation meaning that either they rule directly or remain the unchallenged umpire.

What motivates the military to stage coups? The answer to this is located within the premise of the virtual monopoly of organised state violence, particularly in societies where the central political symbols and institutions are weak. This has enabled soldiers to seize power with relative ease. Similarly, the concentration of government buildings, party officials and symbols of state in the capital city makes an armed rebellion relatively easy. The seizure of a few locations guarantees the success of a coup (Baynham, 1992).

Several reasons have been advanced on reasons for staging coups in Africa. They include economic crisis, persistent poverty, regional/ethnic rivalries, government repression and corruption, maladministration, foreign interference, personal and corporate ambitions and so on. This study does not intend to focus on causes of military intervention in

Africa. Military intervention has however remained a legacy of the way in which the continent was divided by colonial powers. It is also linked to the pace and manner in which colonial powers withdrew from African States. Consequently, critical issues relating to the distribution of power and political office were never resolved. Similarly, with Africanisation of the armed forces, several young and inexperienced officers were elevated to higher ranks, hence leading to unrealistic career aspirations. The military's structural differentiation from the society gets compromised as soon as the barracks are abandoned for political office (Baynham, 1992).

The state is the largest employer of skilled labour in Africa. It is the most important origin of contracts to local and foreign business, providing credit, loans and assistance to domestic businessmen and farmers. Similarly, the state also has total control of the distribution of communications, clinics, schools, sanitation and other amenities. Given this concentration of power, there is the tendency for African citizens to associate the state with limitless power, endless wealth and high prestige. Armed intervention and military rule should not be viewed as an attempt by soldiers to mediate between antagonistic elite groups, rather an attempt to protect and extend its privileged position in competition with other societal interests (Baynham, 1992). By surrendering office, soldiers lose not only the direct control over the ideological orientation of the state and

the allocation of public resources from which they benefit under their rule, but also risk retribution from civilians.

The persistent military intervention in Africa has led to the development of several strategies by the civilian administrations to subordinate the armed forces to their authority. These strategies, employed depending on the peculiarity of the country in question, in terms of its ethnic and religious plurality, cultural values and beliefs and historical/colonial backgrounds have made the assumption of Objective Civilian Control less significant. Baynham (1992) identified the following and cited examples:

Ethnic/Kinship selectivity: Here some ethnic groups are encouraged to join the military more than others, principally because their loyalty is likely to be more guaranteed. Doorn (1969) describes it as control by recruitment and selection, where the political leadership tries to ensure that only soldiers with the desired social/political qualification are selected. This strategy began with the colonialist who had a deliberate recruitment policy aimed at getting recruits into the military from ethnic groups considered less hostile to colonial policies. In post independent Kenya, the Kalenjin ethnic group from where the then country's President Daniel Arap Moi hailed, dominated the armed forces. In Chad, President

Idriss Derby relies more on his ethnic group for his personal security. Yet in some countries like Bostwana, the President's family members are the preferred choice for high profile positions in the armed and other security forces.

Instrument of Pay-offs: This entails buying the loyalty of the soldiers by meeting their material satisfaction of pay, privileges and rewards. It may take the form of a deliberate allocation of high defence budget only to meet the welfare needs of members of the force rather than the procurement of military hardware (Goldsworth, 1981). This strategy exists in Zambia and Kenya where senior members of the armed forces have been drawn into the government's inner circle and are benefiting from the allocation of lands in choice areas. Some military officers have even been 'settled' with diplomatic postings abroad. Such postings are usually associated with special financial benefits.

Political/Bureaucratic cooptation: In this case senior military officers are directly drawn into the government to hold important positions, as members of boards of parastatal and sometimes even appointed cabinet ministers or party functionaries. Doorn (1969) calls it control by organisation. This is achieved by the integration of the army organisation and the political party organisation. The elites who rule the party

concurrently rule the army. Examples are bound in Gabon, Zambia and Tanzania. To check the possible adventurist tendencies of the Tanzanian Peoples Defence Force (TPDF), the government co-opted its members to be part of the governing elite. Thus there were frequent transfers from the TPDF to ministerial, diplomatic and party positions.

Manipulation of military mission: This strategy entails the deliberate deployment of armed forces so as to keep them fully occupied and professionally happy. This can be through countering external threats, using the military for civic action programme or for democratic law and order operation to aid civil power. It is however to be noted that internal security commitments have the potentially politicising impact on the minds of the military.

Ideological indoctrination: Here the military is indoctrinated with a particular pattern of ideology to guard against any possibility of adventurism. This strategy seems to be in line with the Subjective Control. Doorn (1969) describes it as control by indoctrination. Here the political loyalty of the political officer is guaranteed by the membership of the military professional to the party. In Tanzania for instance, after the 1964 mutiny by the first and second battalions of the Country's army and its resultant disbandment, members of the newly formed TPDF were

compelled to join the Tanzania African National Union (TANU). In Ghana in 1962, a similar policy was contemplated when the army was to be made to attend courses on party education organised by the Kwame Nkrumah Institute of Ideological Studies. President Nkrumah felt that what Ghana required was an armed forces, politically committed and loyal not only to the country but the Convention Peoples Party (CPP).

Recruitment of Expatriates: This strategy entails the appointment of foreign officers to the crucial command posts and other sensitive appointments inside the security establishment. In Gabon for instance "a major mainstay of Bongo's control of the Gabonese armed forces is the number of expatriate appointments of this kind" (Decalo, 1991).

Rival Security: This entails the creation of a rival body to act as check on the armed forces. In Ghana, President Nkrumah set up a National Security Services, which duplicated and usurped the powers of the regular military and police forces. Similarly, he encouraged rivalries and dissension among officers so that they do not have the opportunity to gang up against him. In Zaire (now Democratic Republic of Congo), Former President Mobutu Sese Seko created many security agencies and he encouraged the regular movement of officers to various units to prevent them from establishing concrete support base.

External Guarantees: This strategy entails getting external guarantees from friendly foreign powers. Most Franco Phone African States have defence agreements with France, who at many stages acted to ensure stability of her African friends. In 1964, Britain also acted to put down mutinies in Kenya, Tanzania and Uganda.

Having examined the assumptions, pattern and nature of civil control, particularly in Africa, we shall turn our intellectual attention to a brief account of the emergence of the Nigerian military.

### ***2.5 Emergence of the Nigerian Military***

To fully understand and appreciate the pattern of civil-military relations in Nigeria, it will be most appropriate to trace the historical factors leading to the establishment of the Nigeria Armed Forces during the colonial period and the subsequent politico-geographic factors that helped in shaping the military and giving it the present structure.

Upon the conquest of Lagos in 1861, a constabulary force was formed in 1863 to police the colony, protect British traders and contain incidental raids into the hinterland. In the period before the amalgamation of the Northern and Southern Protectorates and the Colony of Lagos, the West

African Frontier Force (WAFF) was based in Jebba. It was later moved to Kaduna in 1912 to examine the site of Lord Lugard's proposed new capital. Kaduna was a preferred choice because the colonialists wanted to avoid mixing with the natives and Lagos with its congestion could not guarantee that. Similarly, Kaduna had regular supply of water which became an added advantage (Omoigui, 2005 part 1).

The Nigeria Regiment of the West African Frontier Force (WAFF) was formed in 1914 with the amalgamation of the regiments of the Northern and Southern Protectorates. The unit had one Commandant, with two Infantry battalions stationed in the North and a battery of artillery based in the South. The main entity in the South was called the Southern Nigeria Volunteers. Upon the outbreak of the First World War however, the regiment was replaced by the largely European "Land and Marine Contingent". An Egba revolt was militarily crushed by ten companies from the newly created "Nigeria Regiment" in August 1914. Most of the recruits were deliberately drafted from the so-called minority areas of Northern Nigeria and some from the minority South (Omoigui, 2005, part 1). This was in line with the earlier identified reality that Ethnic considerations play a major role in recruitments into the military. The idea was to get recruits from an Ethnic group whose loyalty was

guaranteed. It was a policy adopted by both the Colonialists and the first set of ruling elites that took over immediately after independence.

In 1928, the Nigeria Regiment of the WAFF became the Nigeria Regiment of the Royal West Africa Frontier Force (RWAFF). Between 1929 and 1930, the Regiment was involved in the quelling of major internal security operations against Igbo women in what popularly came to be known as the Aba Women's riot.

By 1939 the structure of the Nigeria Regiment comprised of the Regimental Headquarters, the Nigeria Regiment Kaduna first battalion, the Nigeria Regiment Kaduna second battalion and the Nigeria Regiment Kano third battalion. Others were the Nigeria Regiment Enugu fourth battalion, Nigeria Regiment Ibadan, One Company Lagos fifth battalion, the Nigeria Regiment Zaria with detachments in Maiduguri and Sokoto, first Nigeria Light Artillery battery Zaria, Signals Company Zaria, Lagos Defence Force, Lagos (European Reserve Force) and Lagos Engineers Cadre (European Reserve Force). During the Second World War, the structure of the force was expanded to twenty eight battalions and support troops comprising one hundred and twenty one thousand six hundred and fifty two (121,652) servicemen out of which thirty thousand (30,000) served abroad (Omoigui, 2005, part 1). Massive expansion of the army

led to the establishment of temporary camps around the country, leading to civil-military tensions as civilians bitterly complained of brutal conducts from the recruits. It should however be noted that there was the lack of interest on the part of young men from the Western part of the country to join the armed forces. This singular factor is to have significant repercussions in the ethnic-geographic composition of the armed forces in the years following the Nigeria Civil War.

The end of the Second World War led to the demobilisation of soldiers with incentives to work in the public and private sectors. Issues bordering on CMR then were on indigenous taxation for defence without local political control, remuneration for servicemen and prestige. Army barracks were worse than police barracks and policemen were better paid. Method of civilian control at that time included the predominance of artillery unit, manipulation of pay scales for the rank and file and frequent rotation of military units to prevent undue fraternization with locals.

In 1953, the Nigeria Regiment stood by to back the police during riots in Kano. Similarly, it played the same role in 1958 during the Eastern Nigeria tax riots and the Ibadan riots of the same year. The role of the Nigeria Regiment in internal security matters was further extended to assisting in getting rid of lions and elephants in different parts of the

Country. The Regiment also constructed bridges in rural areas (Omoigui, 2005, part 1).

Further advancement in the growth of the military in Nigeria occurred in 1957 when the Local Federal Defence Council was established. It formulated the first set of formal Defence Policy decisions for the country by accelerating the Nigerianisation of the armed forces and opening up a new officer cadet preliminary training school in Kaduna. The Council also set up a Recce unit to patrol the open lands of the north. Furthermore, the Council increased pay for other ranks in the army to level up with existing scales in the police. It also granted car advances to Nigerian officers. As a departure from the British policy of selective ethnic recruitment, the Federal Defence Council decided to base recruitments of the rank and file into the armed forces on a quota system. The formula for the quota system gave the north 50%, the East 25% and the West 25%. The Council also recommended the regional mix up of officers in every unit (Omoigui, 2005, part 2).

In the preparation towards the 1959 federal elections, various political parties presented their defence policies. The Northern Peoples Congress for instance, promised to expand the military, citing border problems and fears of spill over of insurgents as justification. The National Convention

for Nigeria Citizens (NCNC) on it part regarded the army as an internal and external protector of the country. Hence it emphasised on improving its conditions of service. The Action Group proposed to enhance the welfare of veterans. It also proposed the establishment of a Frontier Protection Force, a new type of police organisation separate from the Nigeria Police (Omoigui, 2005, part 2).

At Independence in 1960, the armed force of Nigeria was officially named the Royal Nigeria Army. It was later renamed the Nigeria Army in 1963. Shortly after Independence, a conspiracy was uncovered among the Nigerian Officers and Soldiers of the Queen's Own Nigeria Regiment at Enugu. In 1965, the Nigerianisation of the army was completed and Major General Johnson Aguyi-Ironsi was appointed its first indigenous General Officer Commanding (GOC). As a response to pressure from the Parliament, quota system was extended to the recruitment of officers. The formula for the recruitment was 50% North, 21% West, 21% East and 4% Midwest (Omoigui, 2005, part 2). It is worth mentioning however that despite the introduction of quota for the recruitment of officers into the Nigeria Army, the Yoruba of the West still did not find the career attractive. By 1966 for instance, out of the ten thousand five hundred (10,500) soldiers, those of Yoruba origin numbered only seven hundred (700). This was against the projection of two thousand two hundred and

five (2205) in line with the quota system. In the North, there was lack of interest by the Hausa and Fulani speaking people, hence the quota was filled with the minority ethnic groups of the region. In the Midwest, interest was higher in the Anioma area. In the East, Interest increased among the Igbo speaking people but decline among the Calabar, Ogoja and Rivers (COR) areas. This was attributed to the increase in fortunes coming from the discovery of oil. According to Omoigui (2005, part 2), the use of quota as a method of recruitment into the Nigeria Army politicised the force because it coloured the way security and defence issues were viewed within the army and this took the centre stage in Civil-Military Relations.

The above accounted for the emergence of the Nigeria military from the colonial period until the eve of the first military incursion into politics in January 1966. It is however important to point out that Civil-Military Relations in 1966 took the classical model approach, where soldiers were hardly seen in public in their uniforms unless there was an official event. Barracks were mostly separated and remote from civilian housing. In addition, campaigns were not carried out in the barracks. Also worth mentioning is the fact that some long standing colonial military policies, particularly concerning recruitment into the armed forces, which from all intent and purposes were tilted to favour some sections of the country

against others. This was further compounded by the fragmented nature of the Nigerian political landscape, coupled with the country's unique history, provided the background to contentious Civil-Military Relations after independence.

### ***2.6 Post 1966 Civil-Military Relations***

Intense political rivalry, intrigues and infighting within the political class created a state of uncertainty which required the use of the military to stabilise the polity. Meanwhile, the army, having acquired significant experience by participating in foreign operations, gradually started developing an air of importance and independence. Its active role in resolving internal disputes made it to be more antagonistic towards the political class. Furthermore, the Nigerian media succeeded in implanting the views in the minds of a few politically inclined officers that military deployment for internal security was just a provocation. According to Omoigui (2005, part 3), the following events and the resultant military participation culminated in the feeling of dissatisfaction and hence military intervention;

Operation Banker: A joint operation between the army and the police in the Western Region, headed by Lt Col Maimalari who was then the Commanding Officer of the fourth battalion. This operation led to the

declaration of a state of emergency in the Region in 1962 and the subsequent appointment of an Administrator.

The arrest and imprisonment of Opposition Leader: Chief Obafemi Awolowo was arrested and subsequently imprisoned on suspicion of his role in planning to stage a civilian coup to overthrow the Federal Government. It was alleged that the plotters intended to exploit the absence of five army battalions from the country to seize power.

Census Controversy: The Army standby during the reactions to the National Census controversy of 1962/63 and 1963/64.

The Army standby during the Midwest referendum of 1963

1964 General Strike: The mobilisation of the army to provide essential services during the 1964 general strike. It was generally reported that soldiers criticised their civilian masters in the handling of the strike.

The Tiv Crisis of 1960/61 and 1964: The army was placed on standby in Tiv land, with the third battalion under Lt Col James Pam deployed to maintain internal security.

The Constitutional Crisis of January 1965: The President of the Republic, Dr Nnamdi Azikiwe refused to recognise the results of the then just concluded 1965 General Election; hence he refused to invite the Prime Minister, Sir Abubakar Tafawa Balewa to form a government. The President went ahead to mobilise the army to enforce his authority to suspend the government, annul the election results and appoint a temporary Interim Administrator to conduct fresh elections. But the oath of allegiance of the officers was not only to the Commander-in-Chief, but also to the government of Nigeria. The military was under the general authority of the Defence Minister in matters of command, discipline and administration, while the authority for operational use and control was vested with the Council of Ministers and the Prime Minister. Thus the then Attorney General reminded the President of the limitations in his powers. This resulted in the then Service Chiefs politely telling the President that they could not obey orders directly from him. Ultimately, the President reluctantly invited the Prime Minister to form a Government, having failed to use the armed forces to settle the political impasse.

Army standby in Western Regional Elections: In 1965, the army was made to standby in the Western Region to forestall any possible breakdown of law and order during election period. Worth mentioning

however was the political pressure mounted on the officers, which inevitably compromised their political neutrality, exposing deep personal, ethnic, regional and political schism in the process.

The army was nearly politicised because the bitter struggle by the political class to entrench its authority was a function of the loyalty of the army, which was mostly believed to be in favour of the north. General IBM Haruna succinctly describes the situation thus:

> ***The dominance of the NPC and the perceived dominance of the north in the centre were like a threat to the presumed more enlightened and better educated southerners, who believed they were the backbone of the movement for Nigeria's independence but did not succeed the colonial powers to run the affairs of the state. So with that background one can now lay the foundation of the perception of the military struggle in Nigerian politics.*** (quoted in Omoigui, 2005, part 3).

The first military intervention was staged by Major Chukwuma Kaduna Nzeogwu on 15th January 1966 against the administration of Sir Abubakar Tafawa Balewa. The major reason advanced for staging the coup was to end corruption, indiscipline, political violence, disunity and maladministration (Nigerian Tribune, 2nd July 1967). Nzeogwu promised to make military rule brief, claiming that he was not interested in running the government but was going to handpick civilians of proven integrity,

honesty and efficiency to govern the country. Military Officers were to standby to guard with their 'fingers on the trigger' to ensure that the new leaders were doing the correct thing (Tribune, 2nd July 1967). Although the Coup was said to have failed, the remnants of the members of the Council of Ministers in consultation with the Acting President, voluntarily handed over power to the GOC of the Nigeria Army, General Ironsi.

The inability of the government to resolve the internal contradictions that originated due to the ethnic pattern of the then defunct civilian administration led to the declaration of secession by the Eastern Region headed by its Regional Governor, Col Chukwuemeka Odemegwu Ojukwu. This act led to the civil war whose impact led to the expansion of the Nigeria Armed Forces. At the early stages of the war it was realised that the army was too inadequate. Thus there was massive conscription of men such that by the end of the war in 1970, the army had been expanded to two hundred and thirty thousand (230,000) men, the Navy was quickly upgraded from the merchant marine corps and expanded into a five thousand (5000) man organisation. The airforce was also hurriedly created and provided with a squadron of MIG 21 aircraft supplied by the Soviet Union (Dokubo, 1996).

At the end of the war, the military was no longer a ceremonial outfit and executor of defence and security policy. It became a confident military that had won a war and kept the country together and successfully implemented a plan for return to civil rule. It did not view involvement in politics as a threat to its professional integrity. Soldiers who were rarely seen in the 1960s were freely mixing with civilians in towns, sometimes refusing to pay rent for rented properties (Omoigui, 2005, part 4).

The emergence of the second republic ushered in a new constitution for the Federal Republic of Nigeria. The 1979 Constitution made the President the Commander-in-Chief and provided for the appointment of the Chief of Defence Staff, who reports directly to the President. The Constitution also made the seizure of power unconstitutional. Soldiers were banned from joining or openly associating with political parties, though they were allowed to vote. They were also forbidden from political speech making, writing articles without approval or political campaigns in the barracks. Besides these provisions, there was no sustainable civil institutional framework to control the military (Omoigui, 2005, part 4).

The civilian government however reviewed conditions of military service by introducing National Minimum Wage. The moribund Defence

Industries Corporation (DIC) was reactivated while the Nigerian Defence Academy was made degree awarding Institution in 1989. The administration, upon the recommendation of the military also purchased frigates, patrol boats and helicopters as well as deep interdiction and ground attack jets. In addition the President beefed up the police by establishing a Ministry for Police Affairs and expanding the police depots and colleges. The police uniform was changed and salaries increased. Similarly new equipments were purchased and new barracks were built. These positive developments created envy against the police in certain circles of the military.

Civil-Military Relations during the second Republic was more characterised by the inability of the civilian government to exert total control and influence over the military, particularly its field commanders. In 1983, nineteen islands on Lake Chad were occupied by Chadian troops. The third division under General Muhammadu Buhari, through the 21st Armoured Brigade unilaterally closed the border, cutting off food and oil supplies to Chad. This action was condemned by the Federal Government in Lagos and an order was given to reverse the situation by reopening the border. General Buhari refused and justified his action thus; "My first loyalty is to my troops. I cannot endanger their lives by sending them on a difficult battle to defend their father land and then turn round to

feed the enemy and supply them with fuel for their tanks" (Omoigui, 2005, part 5). Similar poor control over the excesses of the military was earlier demonstrated in 1980, during the riots in Kano organised and executed by the fanatical religious insurgent movement headed by a Cameroonian, Muhammed Marwa popularly known as "Maitatsine". In conducting the operation, the President requested for minimal civilian casualties. But the Commanding Officer of the operation, Major-General Dumuje bluntly told the President that he could not guarantee the minimal use of force to ensure low civilian casualty, particularly when one of his men got injured or killed. By the end of the operation several civilian casualties were recorded with a significant part of Kano township destroyed (Omoigui, 2005, part 5).

With examples of clear insubordination by the military against the civilian government, it was therefore not surprising that on 31st December 1983, the Shagari administration was overthrown.

### ***2.7 Post Second Republic Civil-Military Relations***

This section devotes itself to an analysis of the method and pattern of military rule in Nigeria, in an attempt to explain that military rule as a phenomenon is not uniform in pattern, nature and focus. There were two period of military rule characterising different patterns of Civil-Military

Relations. The first period was from 1966 to 1985. During this period, the military consulted widely with their colleagues and military rulers were modest, running a buoyant economy. The second period was from 1985 to 1999, when the military became a vehicle of corruption, indiscipline and infighting. General Muhammadu Buhari, describes the situation thus:

> ***The regime that came to power after 1985 and ushered in General Babangida destroyed all national institutions which, in its opinion, stood in its way. It tolerated, encouraged, entrenched and institutionalised corruption and glorified its perpetrators. At the end of its tenure in 1993, the military had established an image of corrupt unreliable and unaccountable lords of the manor.*** (Quoted in Ebo, 2002).

The table below best demonstrates the identified epochs in the pattern of military rule and the characteristics of each epoch.

**Table 2.1: Military Governments since independence**

| Dates | Type | Main Protagonists | Salient Military, Political and Economic shifts |
|---|---|---|---|
| Jan - July '66 | Military junta after first coup | General Aguiyi Ironsi as Head of State, strong civilian bureaucracy largely drawn from the East | Period of high political tension arising from the assassination of prominent political leaders - especially in the north; Destruction of the military *espirit de corps* and professionalism. |
| July '66 - July '75 | Collegial Military junta, weak at inception, but strengthened by civil war victory | General Gowon and members of Supreme Military Council | Broad-based support of all armed forces for military junta in spite of earlier problems, gained legitimacy in the aftermath of civil war; largely ignored restructuring of the post war military institution. |
| July '75 - Sept '79 | Military junta | Generals Mohammed, Obasanjo, Yar'Adua, Danjuma, and middle-level officers who overthrew previous junta | As above, but with more credibility and more emphasis on professionalism and political change. |
| Dec '83 - Aug '85 | Collegial military junta dominated by the Head and his deputy | Generals Buhari, Idiagbon | Professional-political prerogative; nationalist and authoritarian regime with a largely inward looking agenda. |
| Aug '85 - Aug '93 | Transition from junta to personalised dictatorship in a palace coup | General Babangida was the main player with 'bit parts' to close civilians and military 'politicians' | Co-optation of the military in the ruler's personal project via patronage and deft political manoeuvrings, Structural adjustment and preference for capital. |
| Nov '93 - June '98 | Full-blown military dictatorship | General Abacha | Undermined military professionalism, increased use of intelligence and security outfits, especially death squads, against political and military opponents. |
| June '98 - May '99 | Military dictatorship with a 'human face' - under pressure to reform politically and exit gracefully | General Abdulsalami Abubakar | Focus on political transition and preparation for withdrawal from government. |

Source: Adapted from J. Kayode Fayemi, Entrenched Militarism and the Politics of Democratic Consolidation in Nigeria', in Kees Koonings & Dirk Kruijt' (eds), *Political Armies* (London: Zed Press, 2002)

The major characteristics of Civil-Military Relations during this period was what Ebo (2002) described at the "Political-Economy of Trading Places" or the inverted relationship. Military forces that are supposed to be accountable to the civilians became masters to themselves. They became unelected politicians in uniform, usurping and arrogating to themselves powers of national sovereignty. Thus the military, rather than being under the control and supervision of the civilians as is constitutionally required, had taken full control of not only the civilian population, but the entire machinery of state. Military rule also shifted the balance of power in favour of the military, hence abrogating the doctrine of civilian supremacy. The military determined the form, nature and contents of political participation. This allowed it to arrogate wider roles and responsibility by determining who rules and under what conditions (Agbese, 2000). With economic decline and the prevalence of poverty, power and national treasury were monopolised. This led to hostile Civil-Military Relations with the military molesting, abusing and brutalising Nigerian workers, teachers and other professionals. To understand the intensity of the involvement of the military in politics, it is necessary to reflect on the views of a former Nigerian Director of Military Intelligence, General Ibrahim Sabo, at the Oputa panel (quoted in Omoigui, 2005). The General states as follows:

***The struggle among the contending interests***
***For the control of the central government is***
***The major source and cause of Nigeria's***
***Cut-throat politics and reoccurring instability.***
***There is also a very strong linkage between the***
***Military barracks, oil resources and coup d'etat***
***As soldiers ravage the nation to assuage personal***
***and group appetite for power and wealth***.

Many years of military rule in Nigeria have created a legacy of corruption, lawlessness, ethnic animosity, mass poverty, communal violence, human rights abuses and outright criminality. A combination of these factors has discredited the military as an institution. Intimidation of the civilian populace, deliberate attacks on civilians, use of soldiers to settle personal scores, participation of soldiers in criminal activities like armed robbery and illegal toll leading to extortion of money from motorists and officers' expropriation of public funds have contributed to the low reputation for the armed forces. Even the members of the armed forces have lost confidence in the profession. (Agbese, 2000).

The military was not a monolithic entity but was divided into camps. There was the camp of those who were ruling and therefore held political appointments and used such positions to enrich themselves and those who had no access to power and therefore restricted to professional military duties. The main feature of military rule was that those in power took decisions and committed several atrocities in the name of the military,

while the silent majority, restricted to military duties were not only professionally inclined but also progressive in thinking. The Late General Joe Garba argues thus:

> ***The fact that during the long years of military rule on Nigeria, the genuine professional needs of the armed forces were neglected, would confirm the view that the beneficiaries of the military participation in governance at the highest level are not the armed forces personnel themselves.*** (quoted in Ebo, 2002).

This situation adversely affected intra-military relations. The military became the first victim of its rule. Despite the high military budgets, welfare conditions of "non political" military officers was extremely poor. The table below shows Nigeria's military expenditure as a percentage of the GDP

**Table 2.2: Nigeria's Military Expenditure (MILEX)**

| YEAR | MILEX AS % OF GDP | MILEX AS CONSTANT (1998) US $ millions |
|---|---|---|
| 1988 | 0.8 | 976 |
| 1989 | 0.6 | - |
| 1990 | 0.7 | 857 |
| 1991 | 1.2 | 1645 |
| 1992 | 0.5 | 903 |
| 1993 | 0.4 | 670 |
| 1994 | 0.6 | 857 |
| 1995 | 0.7 | 987 |
| 1996 | 0.5 | 837 |
| 1997 | 0.6 | 903 |
| 1998 | 0.8 | 1055 |

Source: SIPRI as cited in Ebo, "The Political Economy of Civil-Military Relations in Nigeria: Agenda for Transformation in the 4th Republic," Paper Presented at the Conference on 'An Assessment of Nigeria's Democracy So Far' CASS, Abuja, 2002.

Attahiru Jega describes the situation thus:

> ***The condition in the barracks, the grounded air force planes, the unserviceable armoured cars and artillery equipment, the obsolete equipment on navy vessels, and the huge arrears in the payment of pensions and gratuity of retired rank and file soldiers, all speak volumes of the magnitude of the institutional decay that has set in.*** (quoted in Ebo, 2002).

The naked quest for political power among the officers has decimated the rank and file. Coup attempts or even rumours of a coup have led to the execution of many officers. Coup has destroyed the hierarchical chain of command in the armed forces. Junior Officers who succeeded in staging coups automatically promoted themselves above their superiors. (Agbese, 2000).This therefore implies that professionalism in the Nigerian armed forces may have been deeply compromised, considering the fact that many young officers got attracted into the career not to be a fighting force, but to achieve the blind ambition of becoming political leaders by staging coups. Military discipline and the popular concept of espirit de corps amongst officers and men were highly compromised as a result of the politicisation of the armed forces. This situation led a former Chief of Army Staff, General Salihu Ibrahim to describe the Nigerian Military as an institution where "anything goes" (quoted in Omoigui, 2005, part 7). In the same vein, another former Army Chief, General Chris Alli described the situation as a replacement of the traditional comaraderie

with suspicion, fear, rivalry, intrigues and vampirism (Omoigui, 2005, part 7). Indeed it has always been widely speculated that after the several years of military adventurism into politics and the negative effects it had on professionalism, there were more officers outside the service than there were within. Many officers prematurely lose their careers due to military coups, military trials, executions and other political machinations meant at maintaining a group in power as against the interest of another.

There was vertical separation in which senior officers constantly dreaded junior officers, fearing that they may one day carry out their long expected ambition of staging a bloody coup. Similarly, junior officers also dreaded their seniors for fear that they may become victims of witch hunts designed to wipe out political coup plotters (Agbese, 2000). General Ibrahim Babangida, then military President raised alarm over this when he made the following remarks:

> ***…good old days when the officers really cared for their men…the days of dedicated and committed senior officers who saw their primary duty as one of producing honourable, disciplined, healthy and loyal officers and men…*** (quoted in Babangida, 1991).

The former military President further lamentes thus:

> ***There seems to be a lack of commitment on the part of some of our officers and NCOs to the military***

> ***profession…many of us as senior officers hardly relate to our juniors. Often the gap between senior and junior officer has widened, thus making dangerous manifest generational cleavages. I expect that the military involvement in politics has had a hand in this. Also I think that the threat of witch-hunting under the guise of plotting to overthrow government is responsible for this.*** (quoted in Babangida, 1991).

Divisions were also found in terms of junior officers being associated with serving and retired Generals. Such officers are loyal to such Generals and they spy on their colleagues on behalf of their mentors. In this regard the Post Express (1998) made the following remarks:

> ***It is not only the civil society that had suffered in the hands of our military. The military institution itself (even before the death of Abacha) had reached the very depths of loss of esteem…Even more devastating is the effect of prolonged political involvement on the institutional integrity of the military itself. Espirit de corps that indivisible bond of respect for each other and for professional hierarchy that binds warriors (serving and retired) to each other and to the profession had long vanished. Political factions emerged in the barracks with their own adherents and detractors alike. Mutual suspicion among factions, crude materialism and corruption among the officers corps and rank and file have become the bane of the military.***

Such poor conditions in the barracks and the regular complaints of obsolete equipments are merely pointers that there was corruption in high places. Butts and Metz (1996) describe evidence of corruption thus:

> ***During the decades of military rule, the Nigerian***

> ***armed forces have lost nearly all semblance of Professionalism and become thoroughly corrupted. Senior officers all became immensely rich through theft, while juniors officers and enlisted men live in poverty. Today, there are no civil-military relations in the normal sense of phrase…the Nigerian political economy is seen primarily as a gateway to wealth…***

Writing for the Post Express, Obaro Ikimi also added his voice to the accusation of corruption in the state under the military. He observed that "nearly thirty years of rule by the military have turned the Nigeria Army into something of an ogre. Successful military regimes have displayed increasing autocracy and mindless acquisition of wealth at the expense of the national treasury. Not even the army would now dare to suggest that military rule is corrective. Our experience is that military rule has been extremely corrosive, and it has corroded the very soul and substance of the nation." (Ikimi, 1988).

There was a serious decline of state structure, with a total decay in infrastructure like electricity, pipe borne water, telephone services and even roads. The country's transportation was also very poor with no known plans to have it improved. Both the health and educational sectors were in a serious state of decline, while serious state of insecurity was pervasive. At the same time there was a high degree of corruption among the ruling elite thereby creating a populace characterised by frustration

and hopelessness. The average man on the street confronted with the harsh realities of the socio-economic situation also had to contend with daily brutality by men of the armed forces, in gross violation of his fundamental human rights. The elites had to contend with various repressive decrees which were the pillars of military dictatorship and formed the basis for human rights violation. Prominent among them were the State Security (Detention of Persons) decree No 2 of 1984, the Treason and Other Offences (Special Military Tribunal) decree No 1 of 1986, the Treason and Treasonable Offences decree No 29 of 1993, the Offensive Publications (Proscription) decree No 35 of 1993 among many others (UN Commission on Human Rights, 1999).

It is worth mentioning that with the strict implementation of some provisions of these decrees, human rights violation was common place in Nigeria. Particular mention has always been made of the trial and subsequent execution of the play wright and environmentalist, Ken Saro Wiwa by a special military tribunal that conducted its affairs in secret and without giving the convict (and his fellow ogoni activists) any right of appeal (Omoigui, 2005). On the other hand there were several cases of disappearances particularly of human rights activists, journalists and other opponents of the regime including fellow military men. The most celebrated cases were those of the sudden disappearance of Bagauda

Kalto, a Nigerian journalist with The News magazine and Chinedu Offoaro who worked with the Guardian newspaper. The mystery surrounding these two cases has remained unravelled till today (UN Commission on Human Rights, 1999).

The society became highly militarised with the pervasiveness of the culture of "with immediate effect" replacing administrative system and procedure as well as the culture of compromise, bargaining and the elements of good governance were deemphasised. Public discourse was characterised by rude, violent and foul language (Agbese, 2000). Contracts were no longer tendered but won by those who had adequate military connection. Those were the militaricians who may be politicians or politically ambitious military men (serving or retired). On the other hand they may be professional jobbers of academicians, technocrats, influence peddlers and other elites, who use the military as a shortcut for acquiring wealth (Ebo, 2002). It was this group that cornered lucrative contracts and patronages of the military government. Attahiru Jega buttress this position further by stating that "the culture of arbitrariness by public officials in public conduct, impatience of both the rulers and the ruled; insensitivity to, and lack of accommodation of differing perspectives and orientations; and intolerance of dialogue as a means of resolving disputes and avoiding conflict" (Ebo, 2002). Similarly, in a

study conducted by the Institute for Democracy and Electoral Assistance (IDEA, 2001), captures the militarization of the Nigerian society aptly thus:

> ***By the end of military rule in 1999, the effects of militarization had permeated all facets of society. The concern had come to include demilitarisation of politics, society and the economy, including the array of attitudes, beliefs, orientations, customs, interests, actions and processes associated with the long-entrenched and pervasive nature of military rule in Nigeria.***

As a direct response, the International Community imposed sanctions on the Federal Military Government of Nigeria. Prominent among the sanctions was the imposition of travel ban on members of the regime and their supporters as well as the sale of weapons to the regime. There were also several other forms of sanctions that were meant to cripple the Nigerian military, combined with a state of general isolation against the country and its citizens. There was however no sanctions on the purchase of Nigerian crude oil, the backbone of the country's economy. It was within this context that the transition to civil rule programme by General Abdulsalami Abubakar was conceived and subsequently implemented. The deteriorating civil-military relations affected even the political transition programme as several credible politicians did not really believe that there was any truth in the decision by the military to organise

elections and usher in a democratically elected government. This scepticism was further entrenched not only by the unnecessary annulment of the 12th June Presidential election by General Ibrahim Babangida in 1993, but worse still by the continued belief that the late General Sani Abacha had prior to his death concluded plans to succeed himself (UN Commission on Human Rights, 1999). Although elements within the regime did not confirm, they also did not deny that any such move was in the pipeline. Again, although the transition programme was vigorously pursued by the Abubakar regime and had eventually yielded the expected dividend of the establishment of a democratic government on 29th May 1999, this Author describes it not only as a hurried transition but also a transition conceived and supervised by the same military that created the political contradictions in the first place.

### ***2.8 Post 1999 Civil-Military Relations***

Having put in place a civilian administration which coincidentally is headed by a former General in the Nigeria Army and former Head of State, Chief Olusegun Obasanjo, it was expected that the administration will address the anomalies associated with the military and help enhance its professionalism by saving its already battered image. Indeed the fundamental principles guiding Civil-Military Relations in the forth

republic were enunciated in the Joint Doctrine Manual (2001) and contained the following-

Democratic Imperative: Everyone and every institution in the state including the military unconditionally accept and adhere to the principles of democracy. The role of the military in a democracy is not only to defend the government of the day but to defend democracy.

Civil Control of the Military: There will be strict adherence to the classical doctrine of civil control of the military. The Commander-in-Chief is constitutionally empowered to authorise the use of the military, subject to laws enacted by the National Assembly.

Military Professionalism: By training the members of the armed forces have acquired expertise in the art of warfare. The society therefore has a duty to ensure that the military is given the necessary support to enable it discharge its functions at all times. On their part, members of the armed forces shall uphold the provisions of the constitution by refraining from acts that can undermine the democratic system of government of the day. Through training, they shall be made to realise that intervention in politics is against the ethics of military profession.

In his inaugural address on 29th May 1999, shortly after becoming the President, Chief Olusegun Obasanjo noted that "a great deal of reorientation has to be undertaken and a redefinition of roles, retraining and re-education will have to be done to ensure that the military submits to civil society (Obasanjo, 1999). Later on the same day, the President announced the appointment of new service Chiefs, which left no one in doubt as to the determination of his administration to promote professionalism and ensure civilian supremacy. Not only were the appointees from minority ethnic groups, but they were officers that never held any political appointment in the past (Fayemi, 2004).

The President also went ahead to appoint General T Y Danjuma as Minister of Defence. Danjuma, a well respected retired General was the Chief of Army Staff from 1975 to 79. His view about re-professionalising the military was echoed in his address to senior military officers, where he stated that the behaviour of military personnel "have tarnished the image that many of us are ashamed to walk the streets in uniform. These are real challenges we have as professionals and it is my duty to reverse this trend" (Danjuma in Agbese, 2000).

To ensure the near complete depoliticisation and subordination of the armed forces, the President on 10th June 1999, approved the immediate

retirement of ninety three (93) officers. Out of the number, fifty three (53) were from the army, twenty (20) from the navy, sixteen (16) from the airforce and four (4) from the police (Fayemi, 2004). The idea behind the retirement according to the then government spokesman Doyin Okupe was "to achieve a clean break from years of military incursion into politics, which have been an unmitigated disaster for the nation". Furthermore, he added that the retirement was in "keeping with the pledge made by the President in his inaugural address to the nation to initiate far reaching measures that will ensure that…the Nigeria Armed Forces regain their pride and professionalism" (Okupe in Agbese, 2000). The administration also advanced other reasons for the retirement viz:

a. Most of the officers had become too wealthy having held various political appointments. Their continued stay in the armed forces may create disciplinary problems. The younger ones among them may not receive orders from their superiors who though higher in rank, never had the opportunity to amass riches of their own.
b. Most of the officers were politically ambitious and would have been tempted to overthrow the government.
c. They had lost touch with military professionalism and merely used their ranks to acquire wealth
d. They were extremely corrupt and would have been a mockery of the administration's anti corruption crusade.

The administration also removed military men from membership of board of parastatal and crime prevention, even though the upsurge in armed robbery, ethnic and religious clashes, resource control and restructuring the polity had over taxed the police. (Omoigui, 2005, part 7).

In a speech at the graduation of Course 7 of the National War College on 24th July 1999, the President highlighted the following principles as presented by Fayemi (2004):

a. The acceptance of the elected civilian President as Commander-in-Chief of the armed forces and the supremacy of the elected officials of state over appointed officers at all levels.
b. The acceptance of civilian headship of the Ministry of Defence and other strategic establishments.
c. Decisions regarding the goals and conduct of military operations must serve the political and strategic goals by the civil authority.
d. Acceptance of civilised principles to all military investigations and trials.
e. The right of civil (Supreme Court) authority to review any action or decision taken by military judicial officers.

In a similar vein, the Vice President, in his address to the inauguration of Course 8 of the National War College on 10th September 1999 enunciated the components of the transformation of the military. He stated the following as presented by Fayemi (2004):

a. The continuation of rationalisation, downsizing and right sizing to allow the military shed its dead woods as well as discard obsolete equipments.
b. Re-equipping the service and upgrading soldiers' welfare within limits of budgetary allocation.
c. Reversing the harm inflicted on military-civilian relationship by years of military rule through measures to subordinate the military to democratically constituted authority.
d. Building, rehabilitating and strengthening the relationship between the Nigeria military and the rest of the world.

The administration indeed planned to demobilise and downsize the military from eighty thousand (80,000) to fifty thousand (50,000). This was to be achieved over a period of time. All those with maximum of thirty-five (35) years of service or have attained the mandatory retirement age, personnel with poor disciplinary records and those who were unproductive. To cushion the effects, personnel affected were to be given attractive packages (Danjuma, 1999). The Defence Minister's desire was

to create a highly mobile, well trained, well equipped, well maintained and highly motivated armed forces, hence the idea to replace number with fire power. The military was believed to be too large for Nigeria's resources. Instead of a large number, what was needed was to improve the quality. Also, there was the need to ensure that who ever joins the military wanted to be a soldier and not just seeking for a job. Furthermore, the large number presented problems in terms of civilian control. Large size is one of the reasons for its poor maintenance. Soldiers needed to be confined to the barracks hence the need for rehabilitation (Agbese, 2000).

To re-educate members of the armed forces, General Danjuma and the Service Chiefs embarked on several visits to various military units in different locations within the Country. He explained to the Officers and Men their role in the new dispensation. He requested them to resist the temptation of being cajoled into organising coups. "The era of coups is gone worldwide". He urged the members of the armed forces to learn to subordinate themselves to the civil authority, challenging all those interested in staging coups to leave the armed forces, while Commanders were directed to search and flush out such officers (Guardian, 1999). He further states thus:

> ***It is our duty to use this lease to rediscover our good old ways and reintroduce true professionalism. The perks we used to arrogate to ourselves must be checked. All our actions will be examined critically by the public and the National Assembly.***

To improve Civil-Military Relations, the administration established the Human Rights Violation Investigation Commission (HRVIC), under the chairmanship of Justice Chukwudifu Oputa. According to Omoigui (2005 part 8) The Commission had the following terms of reference:

a. Establish or ascertain the causes, nature and extent of human rights violations or abuses in Nigeria from 1966 to 1999.
b. Identifying persons, authorities and institutions that may be held accountable for human rights abuses and determining the motives of the violation.
c. Determining whether such abuses or violations were deliberate state policies or acts of state officials or acts of any political organisations, liberations movements or other groups or individuals.
d. Recommending measures which may be taken whether judicial, administrative, legislative or institutional to redress the injustices of the past and prevent a reoccurrence in the future.

The Oputa Panel had long concluded its job but there is yet to be action on the part of the administration.

The re-establishment of democracy had led to the opening of old wounds. Conflicts that had their origins from the old concept of 'native-settler' animosities as well as poverty induced conflicts associated with the perception of unequal distribution of resources all began to emerge. Meanwhile, various communities had adopted the military way of settling disputes through the use of force as against bargaining (Fayemi, 2004). The military was therefore drafted to contain such clashes through the maintenance of internal security. In 1999, soldiers on internal security duties in Choba allegedly committed several atrocities against civilians including rape. This negatively affected civil-military relations. Similar incidents occurred in Odi and Zaki Biam where a whole village was allegedly destroyed by soldiers as retaliation for the alleged killing of their colleagues (Fayemi, 2004).

Another event worth mentioning in any discussion on civil-military relations in post 1999 Nigeria was the massive explosion at the ammunition dump at the Ikeja cantonment in Lagos, which occurred on 27$^{th}$ January 2002. About five thousand (5000) people, mostly civilians were believed to have lost their lives from that incident. The incident was

believed to be avoidable but for the non professional manner of the handling of the dump by the military (Vanguard, 2002). A military personnel who was a victim of the disaster admitted the poor handling of the weapons and the Punch (2002) reports thus:

> ***Over the years, he had been alarmed at the way officers in charge of the Accidental Transit Depot (ATD) at the barracks handled the dangerous weapons with levity. The destructive objects needed to be under air-conditioned environment, with anti-fire devices to prevent any accidental explosion. The bomb depot ought to have been watered or protected against the reach of the sun. Some ought to have been destroyed at safe locations a long time ago.***

In an attempt to re-educate and reform the armed forces, the administration contracted the job to a private US company that has linkages with the American government, the Military Professional Resources Incorporated (MPRI). It is worth mentioning that bilateral military cooperation was not a new thing to the Nigeria armed forces. The British helped set up the army and navy, the Germans helped established the airforce while the Indians and British established the Nigeria Defence Academy and the National War College (Fayemi, 2004). The MPRI describes itself as a professional services company that provides private sector leaders development and training and military related contracting and consulting in the US and international defence markets" (Fayemi,

2004). It was previously engaged in military training, weapons procurement and advisory services in Croatia, Saudi Arabia and Angola.

In 1999, the MPRI undertook on behalf of the US Department of Defence and the USAID office of transition initiative an eight person one hundred and twenty days assessment aimed at developing an action plan to integrate a reformed military establishment into a civilian context. It subsequently signed a contract "The Transition Civil Military Program of Nigeria". According to Fayemi (2004) the Program focuses on the following:

a. Military Reforms
b. Creation and development of new civilian institutions for civil-military affairs
c. Support for de-militarization of society.

But there have been too many criticisms against the program even by the then Chief of Army Staff, Major General Victor Malu who did not mince words when he states thus:

> ***We are a sovereign nation and we should protect our national interest. I don't think it's the duty of any foreign country to tell us what our defence policy or what our strategic policy or those things that can only be determined by Nigerians should be…Part of the misunderstanding we had with the Americans coming***

> ***to train us was that they wanted to train us in the rudimentary art of soldiering. We objected to that because we are an army of well trained soldiers and seasoned officers that lack logistics…***

(Quoted in Fayemi 2004).

It is worth mentioning that the MPRI has indeed been working to draft a Defence Policy for Nigeria. A preliminary report has identified the following as the elements in the Country's Defence Policy (Joint Doctrine Manual, 2001):

a. Protection of Nigeria's Sovereignty, citizens, values, culture and territory against external threats.
b. Protect the nation's democracy and maintain domestic peace and stability.
c. Protect Nigerians wherever they may reside.
d. Promote security consciousness among Nigerians.
e. Assist government and its other agencies in achieving national goals.
f. Ensure stability in the West African sub-region, which constitutes the nation's primary zone of strategic interest.
g. Contribute to international peace and security, working in conjunction with ECOWAS, African Union, United Nations and other recognised bodies.

The above discussions have provided adequate facts to show the nature and pattern of Civil-Military Relations in Nigeria from the pre-independence stage to now. It is worth noting that the pattern established on the CMR remains a determinant of the pattern of relations, the mentality and the behavioural pattern of the military in Nigeria. These behavioural patterns are contrary to the tenets of democracy and hence the need to effect rapid transformation. It is on the basis of this that this study now turns attention to a clearer understanding of the concept of Security Sector Reform, which will in turn provide the basis for addressing the main issue in this work.

# CHAPTER THREE

SECURITY SECTOR REFORMS

## ***3.1 The Concept of National Security***

Traditionally, man has always been concerned about how best to provide him with security that will guarantee him some level of freedom from any kind of threat. In the same token, states in their interactions with each other are also concerned about security (Zibadi, 2005). This concept has been defined by different scholars in different ways, mostly due to the difference in focus and approach. National Security concerns with the securing of public safety and welfare within the internal environment and the International system (Usman, 1999). It guarantees a state and its people against threats to their nation and individual interests both from within and outside the country. National Security is therefore thought of mostly in terms of existing levels of threat. Perception of threats is a function of the values and interests, which are often dynamic and keep changing (Izah, 2004). In the obsolete definition of the concept, scholars had referred to National Security only in terms of waging and winning wars. John Mroz for instance defined security as "the relative freedom from harmful threats". Ian Bellany on the other hand referred to security as "relative freedom from war, coupled with a relative high expectation that defeat will not be a consequence of any war that should occur" (cited in Nwolise, 2004). Arnold Wolfers sees security in any objective sense as

a measure of the absence of threats to acquire values in a subjective sense, the absence of fear that such values will be attacked (Zabadi, 2005). Walter Lippmann believes that a nation is secure to the extent to which it is not in danger of having to sacrifice core values if it wishes to avoid war and is able, if challenged, to maintain them by victory in such a war (Zabadi, 2005). In the cold war period, the concept of National Security was further re-defined to strictly focus on the building of armament as a guarantee to freedom from threats. There was therefore the belief that only a strong military system can effectively deter attacks, aimed at changing the society as well as provide the means of fighting (Garba, 1997). This conception of National Security made states to focus their attention on building armaments and manpower and neglecting other aspects, which are threatening to national survival and development (Nwolise, 2004). Generally Governments believed that once they enact tough laws and maintain a strong military and police there will then be adequate security. The above represent the traditional understanding of the concept of security.

Today, threats to National Security are no longer seen exclusively in military terms. Security is rather regarded as a multi dimensional concept. In relation to the state, the levels and dimensions of security are specific, as in political, military, social, economic as well as internal and external

(Imobighe, 1990). Security is now conceptualised in a more responsive direction, where emphasis has shifted from national/state security to focus on 'human security'. This includes access to means of life, the provision of essential goods, a clean and sustainable environment, respect for human rights and democratic freedom (Fayemi, 2004). In Africa, threats to security can be viewed as thus (Zabadi, 2005):

a. Political threats such as internal political instability, failed states, terrorism and human rights abuses
b. Economic threats like poverty, growing gap between the rich and poor countries, international financial recession, impact of an economically powerful or unstable neighbouring state.
c. Environmental or Man made threats, like nuclear disaster, global ecological changes, degradation of land or water, lack of food and other resources.
d. Social threats like minority/majority conflicts, overpopulation, organised crimes, transnational drug trafficking, illegal trade, uncontrolled wars, migration and disease.

Thus poverty, hunger, disease, corruption etc are all seen as threats to National Security. Even if a Country has the best military and police forces, it still isn't secured, considering that it has a bad government, suffering masses, illiteracy, hunger, disease, income inequality etc. To

further buttress this assertion, (McNamara, 1968) argues that the mere possession of coercive instruments alone cannot guarantee National Security. He therefore states as follows:

> ***Any society that seeks to achieve adequate military security against the background of acute food shortages, population explosion, low level of productivity and per capita income, low technological development, inadequate and inefficient public utilities and chronic problems of unemployment, has a false sense of security.***

Furthermore McNamara states thus:

> ***The rub is that we donot always grasp the meaning of security in this context. In a modernising society, security means development. Security is not military hardware, though it may include it; security is not a military force, though it may involve it; security is not traditional military activity, though it may encompass it; security is development and without development there can be no security…It is poverty, not lack of military hardware that is responsible for insecurity across the southern half of the planet.***

A broad understanding of National Security will include everything that ensures, facilitates or threatens peace, public order, public safety as well as territorial integrity and the external image of a country (Imobighe, 1998). For a proper understanding of National Security, it is necessary to categorise it in terms of external and internal security. The external dimension involves the duty of every state to protect its citizens from threats originating from outside the country. This aspect of security is

very essential considering that states in the international system will have to interact amongst them and sometimes in a bid for one state to defend and pursue her interest; it may adopt steps that may negatively affect other states (Izah, 2004). Internally, a state may have more challenges in protecting its security, because there are several facets to internal threats. These may include the nature and pattern of partisan politics, the plurality existing in the polity, in terms of ethnicism and religious bigotry, poverty resulting from income inequality and poor social security system as well as corruption. The security of a state is fundamentally affected by the nature of its political arrangements. Different political systems have different security requirements, which are determined by the level of threats facing the nation.

In an attempt to understand the concept of security in all its ramifications, it is necessary to explain the difference between National Security and Regime Security, considering that in many LDCs, especially in Africa, the two are used inter changeably. In the Social Contract school of thought, the state was created and given the monopoly of the legitimate use of force. It also guarantees the security of citizens. Thus the individual has given up his right to arm and protect himself, thereby allowing the state to discharge that function on his behalf. The state in response created institutions which were allowed to use force to defend

against any external threats as well as maintain law and order (Zabadi, 2005).

In Africa however, the assumption that state security is the same as Individual security is not obtainable. Colonial mentality provided that security forces protected the coloniser and not the colonised. This practice continued even after independence. The security apparatus of the state was used against citizens during the period of authoritarian rule. Individuals in Africa therefore regard state security as a major threat to their security. Consequently what is generally regarded as National Security is in reality Regime Security, implying that the security forces are protecting the regime in power and not the citizenry (Zabadi, 2005).

Further explanation on the features of Regime Security was provided by Hutchfull thus (Zabadi, 2005):

a. An orientation towards internal rather than external security.
b. Protection of an incumbent Government and its officials rather than citizens or state institutions.
c. Criminalisation of Political Opposition.
d. Reliance on special security units as well as foreign powers and mercenaries.

e. An orientation of the police and Intelligence services towards political policing.
f. Lack of transparency and respect for human rights in security policy and operations.
g. Monopoly control of security by the Executive wing.
h. A heavy involvement of the military in domestic security.

For the purpose of this study, we shall define National Security as the steps taken to ensure that everybody and group within a society goes about his normal and legitimate activities in peace and harmony and looks to the future with hope and satisfaction. Thus every democratic polity is expected to create such necessary conditions to guarantee the wellbeing of its people.

Having discussed the concept security, it is necessary to attempt a discourse on Security Sector Reforms (SSR). In the 1960s, there was a debate on the proper role of the armed forces in the Less Developed Countries (LDCs). One of the most important issues was the use of enormous resources on the armed forces and whether such resources are not better utilised elsewhere for developmental purposes. Many Academicians saw the military as the most modern institution in LDCS. This view changed in the 1960s and 1970s due to persistent military

intervention in political life (Brzonski, 2000). But East-West confrontation tended to divert attention from the real issues of military rule and its attendant consequences. The concern was more on which side of the divide a state belonged and not who ruled. Hence military issues were intertwined with ideological issues.

The end of the cold war led to more attention being shifted to military issues. Both multilateral and bilateral donors condemned excessive military expenditures, arguing that they were detrimental to development. Some donors insisted on linking excessive military expenditure for determining the size of development aid (Ball, 1998). What constituted excessive military expenditure however remained difficult to define.

With the advent of democratisation as against military rule or authoritarian one party rule in most LDCs, it became pertinent to begin discussions on how to bring the armed forces under control. One most acceptable way is to establish Good Governance, where there will be effective utilisation of resources, including minimal military expenditures. Military forces should therefore come under the general rule of Parliamentary Control, Accountability and other procedures considered vital in the establishment of transparency and legitimate government (Brzonski, 2000).

### *3.2 Constituents of the Security Sector*

The Security Sector is understood to cover those organisations in a society which are responsible for protecting the state and communities within the state. This may include the military, paramilitary, police forces and intelligence services, as well as those civilian structures directly responsible for oversight and administration (DFID, 1999).

Hanggi on the other hand defines the Security Sector from the security perspective thus:

> ***All those state institutions which have a formal mandate to ensure the safety of the state and its citizens against acts of violence and coercion, such as the armed forces (domestic and foreign), the police, gendarmerie and para military forces, the Intelligence and secret services, border and customs guards as well as judicial and penal institutions.*** (quoted in Zabadi, 2005).

Similarly, Hanggi defines the Security Sector from the Government perspective thus:

> ***The elements of the public sector responsible for the exercise of the state monopoly of coercive power…(and includes) the elected and duly appointed civil authorities responsible for management and control of the security forces, such as the Executive Government, the relevant ministries (so called power Ministries, particularly the ministries of defence and Of the Interior), the Parliament and its specialised Committees.*** (quoted in Zabadi, 2005).

The Security Sector has three pillars viz (Hendrickson, 1999):

a. Group with the mandate to wield the instruments of violence, here we refer to the military, Paramilitary and the Police Force.
b. Institutions with the role in managing and monitoring the security/civil ministries, Parliaments and Non Governmental Organisations
c. Bodies responsible for guaranteeing the rule of law, the judiciary, the penal system, human rights, ombudsman and where these bodies are weak, the International Community steps in.

Similar to Hendrickson but in a more detailed manner, Fitz Gerald (2003), provides a wider list of actors and agencies in the Security Sector viz:

a. Bodies authorised to use force like the armed forces, the police, paramilitary units and Intelligence agencies.
b. Civil Management and oversight bodies like the President, the Prime Minister, the Legislature and Legislative Committees, National advisory bodies, Statutory Civil Society Organisations, the Ministries of Defence, Interior, Finance and Foreign affairs.
c. Judicial and Public Security bodies like the Judiciary, Justice Ministries, Defence and Prosecution Services, Prisons and

Corrective Services, Human Rights Commissions and Customary and Traditional Justice systems.

d. Non State Security Bodies like the Private Security Companies, Political Party Malitias, Liberation Armies and Civil Defence Bodies.
e. Civil Society Bodies like the Media, Religious and Professional Organisations.

The Security Sector has several components which Figure 3.1 below will best describe:

**Figure 3.1: Components of Security Sector**

| | |
|---|---|
| ***Core security actors*** | Armed forces, police, paramilitary forces, gendarmeries, presidential guards, intelligence and security services (both military and civilian); coast guards, border guards, customs authorities reserve or local security units (civil defence forces, national guards, militias). |
| ***Security management and oversight bodies*** | The executive, national security advisory bodies, legislature and legislative select committees, ministries of defence, internal affairs, foreign affairs; customary and traditional authorities, financial management bodies (finance ministries, budget offices, financial audit & planning units); and civil society organisations (civilian review boards and public complaints commissions). |
| ***Justice and law enforcement institutions*** | Judiciary, justice ministries, prisons, criminal investigation and prosecution services, human rights commissions and |

| | |
|---|---|
| | ombudsmen; customary and traditional justice systems. |
| ***Non statutory-security forces*** | Liberation armies, guerrilla armies, private body guard units, private security companies, political party militias. |

Source- Department for International Development (DFID), "Understanding and Supporting Security Sector Reform," 2002

Arising from the above and based on the need to provide a definition that tends to capture all parties involved in the proper functioning of the security sector, the following definition can be considered:

The Security Sector therefore can simply be regarded as all those organisations that have the authority to use or order the use of force or threat of force, to protect the state and its citizens, as well as those civil structures that are responsible for their management and oversight (Zabadi, 2005).

### ***3.3 Security Sector Reforms (SSR)***

Like the Concept of Security, Security Sector Reform has also been defined differently by different scholars. However, a fairly acceptable definition is that offered by the Development Assistance Commission of the Organisation for Economic Cooperation and Development (OECD), where it defines SSR thus:

> ***the transformation of the security system,- which includes all actors, their roles, responsibilities and actions- working together to manage and operate the system in a manner that is more consistent with democratic norms and sound principles of good governance and thus contributes to a well functioning security framework***. (quoted in Imobighe, 1990).

The main objective of SSR is to create armed uniformed forces that are functionally differentiated, professional forces under objective and subjective civilian control, at the lowest functional level of resource use. (Brzonski, 2000). Similarly, SSR is aimed at achieving the establishment of good governance in the sector, as well as enhance a Country's capacity to develop systems of economic and political governance that benefit the society and promote the creation of a safe and secure environment at all levels (Ball, 2000). Explaining SSR, Robin Luckham (1998) states as follows:

> ***Security Sector Reform is the quintessential governance issues. This is so both in the sense that there is enormous potential for misallocation of resources and also because a security sector out of control can have enormous impact on governance- indeed be a source of mal governance.***

(quoted in Ball, 2000).

There are three broad contexts within which Security Sector Reform has been carried out. They include; the developmental context, the post authoritarian contexts and the post-conflict peace-building context (Obasi, 2005). The features and implications of Security Sector Reforms

differ from one context to another. This work intends to concentrate on SSR within the context of post authoritarian societies. However the box below explains vividly the contexts of SSR at the three levels:

**Table 3.1: Contexts of Security Sector Reform**

| | **Development context** | **Post-authoritarian context** | **Post-conflict context** |
|---|---|---|---|
| **Key criteria** | Level of economic development | Nature of political system | Specific security situation |
| **Key problem** | Development deficit | Democratic deficit | Security and democratic deficits |
| **Key reform objective** | Development | Democratization | Peace-building/ nation-building |
| **General reform process** | Transition from undeveloped to developed economy | Transition from authoritarian to democratic system | Transition from violent conflict to peace |
| **Nature of external involvement** | Development assistance coupled with political conditionality | Accession to multilateral institutions as incentive for reform | Military intervention/ occupation; mostly UN-led peace support operations |
| **Specific security sector problems** | Excessive military spending; poorly managed / governed security sector leads to ineffective provision of security, thereby diverting scarce resources from development | Oversized, over-resourced military-industrial complex; strong state, but weak civil society institutions; deficiencies in implementing SSR policies | Government and civl society institutions collapsed; displaced populations; privatization of security; possible pockets of armed resistance; abundance of small arms and anti personnel mines |
| **Possibilities for SSR** | Mixed (depending on political commitment to reform, strength of state institutions, role and state of security forces, regional security environment, donor approach to SSR, etc) | Rather good (strong state institutions, professional security forces, broader democratization process), even better if external incentives available (e.g. Accession to EU or NATO) | Rather poor (weak and contested state institutions, privatization of security, dependence on peace support/ intervention forces |

Source: Obasi, N, "Pre-Requisites of Post Conflict Peace Building and Security Sector Reforms in West Africa", Paper presented at the Sensitisation Training Workshop for Experts and Personnel in the Security Sector in West Africa, Abuja, 2005

According to Edmunds (2003), SSR in post authoritarian societies falls into two overlapping and interrelated phases; the first and second generation phases.

The first generation, which is primarily concerned with establishment of appropriate structures for democracy and civilian control, as well as measures to depoliticise the security sector actors and remove them from partisan intervention in domestic politics. The key elements of the first generation SSR include the establishment of civilian control over the security sector, with a clearly defined responsibility between relevant actors like the executive, legislature, bureaucracy, security sector formations and different levels of government (federal, state, local and republican). In the case of regular armed forces, it means the establishment of clear roles and appropriate structures for civilian control through defined chain of command responsibility for the Commander-in-Chief, the general staff, the Ministry of Defence, the Defence Minister and Parliament. A clear, civilian dominated chain of command ensures that control of the security sector remains firmly in the hands of civilians. It also ensures that the security sector's role is limited to that defined by the legislature or the constitution.

The first generation SSR also establishes the principles and structure for overseeing the transparent nature of security sector issues. Central to first generation SSR is the provision of the groundwork for reforming and professionalising security sector formations. They entail defining missions, tasks and structures for security sector actors with priorities as contained in the relevant legal documents.

The second generation SSR concerns itself with further consolidation of democratic procedures of oversight and transparency, the way structures and institutions implement policy, improvements in effectiveness and efficiency and the wider engagement of civil society. In Eastern Europe for instance, while armed forces have been removed from domestic politics, thus eliminating totalitarian tendencies, the military still has a disproportionate influence over defence policy. This situation is not because structures and procedures for civilian control of defence policy have not been established, but because of a distinct absence of civilian expertise in defence issues. The development of an informed civilian cadre with the skills and experience required to provide effective Parliamentary Oversight of more technical aspects of defence policy.

The second generation SSR also concerns the capacity for security sector bureaucracies both to implement policy and to support adequately the

oversight and transparent functions of other areas of the security sector infrastructure. These include the absence of detailed information on security sector spending, poor analysis of available policy options, unrealistic assessments of the relationship between goals and resources and bureaucratic structures unable to implement security policy. It is worth mentioning that a commitment to reform at the highest level of the armed forces may be difficult to implement if the middle level officers corps remain unconvinced of or do not understand the rationale behind the reform process. In these circumstances, reform programmes may not be adhered to in practice because of creative non compliance or simply because of ignorance.

For the attainment of SSR, it is necessary to establish a democratic government which will be most responsive and responsible to the wishes of the people. Above all there is the need to put in place practical methods of ensuring Good Governance. This is important because decisions on security related issues have to be taken in a coherent and transparent manner. This therefore implies that there has to be put in place mechanisms for defining security policy, identifying security needs and assessing appropriate ways to address these issues. Furthermore, there is the need to establish methods for accepting the doctrine, missions and structures of the security forces and how they will be financed. There is

also the need to establish norms and mechanisms for the observance of human rights and general rule of law (Ball, 2000). Where there is Good Governance there will be effective use of resources, including minimal military expenditures. Military Forces should therefore come under the general rules of Parliamentary control, accountability and other procedures considered vital in establishing transparency and legitimate government (Brzonski, 2000).

### ***3.4 Desirability of Security Sector Reforms***

Security Sector Reforms are highly desirable for the following reasons:

Role Orientation- The major role of the Armed Forces of most Less Developed Countries is to preserve the Government and ensure regime security. It may however entail external defence against cross border attacks, which is the major role of the armed forces in industrialised countries. Considering their experience in the past decades, it is almost natural for the armed forces to concentrate on internal enemies. Lack of political stability and economic success make the armed forces a vital organ for control (Perlmutter, 1975).

Functional Differentiation- Situations that place the military forces in charge of internal security, imply that the police and other non military forces have little role to play. Usually the police forces are small, ill

equipped and with little authority. Sometimes the police is even a small branch of the armed forces, with poor public image (Neild, 1998). In Less Developed Countries, it is usually unlikely to have on the one hand a heavy armed, unified, hierarchically organised, physically separated armed forces and light armed, functionally differentiated, organised police force dispersed according to population density (Brzonski, 2000).

Civilian Control- Where the armed forces guarantee the survival of the regime against internal enemies, it is difficult for the regime to establish control over the military. Therefore, armed forces in most LDCs by and large regard themselves as being above civilians (Brzonski, 2000).

Professionalisation- A situation where the armed forces operate according to the rules and regulations and hence prevent corruption, intensive involvement of members of the armed forces in many types of economic activities, violation of human rights and other illegal activities of individual units. A fundamental aspect of professionalism is differentiation. There should therefore exist military forces for defence against heavily armed and well organised enemies, a well armed, hierarchically structured police force to patrol borders and fight organised enemies and one or several police forces that fight local crime.

Security Sector Reform is multi dimensional. In other words, it does not address one issue only, but all issues relevant to the restoration of the security of the state and its residents. According to Obasi (2005), Security Sector Reform addresses issues in four dimensions viz:

Political dimension- In this case SSR seeks to establish or re-establish democracy, civilian oversight of the security sector as well as empowering civil society.

Economic dimension- SSR also seeks to ensure rational allocation of human, financial and material resources to the security sector, aimed at its efficient functioning. It is usually assumed that an excessive security apparatus denies other sectors of the scarce resources needed for post-conflict recovery. On the other hand, an under funded security sector lacks the capacity to ensure security for the population. By embarking on reforms, needs and key objectives are identified. What is affordable is determined; resources are prioritised and allocated for effective and efficient utilisation.

Social dimension- This is a focus on the guarantee of the security of citizens, as against the security of the state provided by the military. This

includes security of the population from attacks of all types on their life, health and property.

Institutional dimension- Emphasis here is placed on reforming the structures of the security sector and re-establishing their control by legitimate political authorities. This is due to the belief that security forces can only be efficient and accountable if their institutional tasks are clearly defined and subordinate to the political objectives of states.

For effective SSR, Governments must not only be capable of providing security, but must also ensure that security forces are not involved in governing the country, whether directly or indirectly. Security spending has to be made manageable enough to ensure that economic and social needs are not sacrificed at the expense of high security budgets. For effective SSR, civil organisations of the state have to function effectively. Thus the Ministries of Defence, Finance and Internal Affairs as well as the Budget Office, Office of the Auditor General, Office of the National Security Adviser and Parliamentary Committees dealing with security policy and appropriations, the security forces (armed forces, intelligence agencies, police and paramilitary organisations) must operate according to the norms of democratic societies (Ball, 2000). The precise nature of reforms to be carried out vary from country to country, but for it to take

firm roots, it must be compatible with the overall framework of socio-political development in each country and must be fashioned to each country's circumstances.

### ***3.5 Principles of Security Sector Reform***

The Principles of Security Sector Reforms as clearly spelt out are a guide towards achieving the process. There are several such principles viz:

Civil Control- Civil Management and oversight of security forces is the cornerstone of good governance in security sector. In the case of the armed forces, it includes a civilian Commander-in-Chief, a civilian Minister of Defence and a Defence Ministry independent of the military institutions, with a sizeable civilian staff. Minimally, civilians should constitute the key staff in policy and decision making positions. Similarly, intelligence activities should also be managed by civilians (Ball, 2000). For the armed forces to be accountable to the elected civil authorities, rules consistent with democratic practices and international laws and norms to guide their behaviour are critical. Security forces need to develop modes of behaviour consistent with these rules. Civil Management also implies that there should be a police independent of the armed forces and operating on the principles of policing by consent, to protect citizens against criminal activities. The police must, like the

military, have the capacity to adhere to democracy norms and principles. It must also be accountable to civil authority and require the support of the full range of institutions and organisations involved in the administration of justice for example the judicial system, the legal system and the penal code (Ball, 2000). In Civil Control, the armed forces are subordinate and accountable to the elected and duly appointed civilian authority. Soldiers have to accept this principle for democracy to flourish. There should therefore exist a hierarchy of authority on military matters, flowing sequentially from the Constitution to the President, the Cabinet, the Ministry of Defence and Head of armed forces. Parliament must approve defence budget as well as the power of supervision and oversight over the armed forces (Nathan, 2000). Civil Management and oversight of the security sector also assume that relevant civil departments and agencies have both the right and obligation to participate in the decision making process regarding the security sector. There should therefore be a mechanism for evaluating security forces whenever they violate civil and human rights (Ball, 2000).

Transparency in Security Sector Planning and Budgeting- This involves making information about the security sector planning and budgets widely available, within government and even to the general public. Some information may be kept confidential but essentially basic

information should be made accessible. Confidential information should be shared with civilian officials responsible for oversight of the security sector. Absence of such information may lead to risk of misallocating resources. All security related expenditure must be on the budget, just like information on other forms of expenditure. Extra budgetary expenditure by any of the security forces can affect economic development, while the forces may avoid developing responsible, accountable planning and budget practices (Ball, 2000). Similarly, security budgets have to be audited, while adequate analysis is carried out on such spending by the Ministry of Finance and budget office. The legislature must have the capacity to evaluate the security environment vis a vis budget requests from the security forces. Under Security Sector Reforms, defence spending must be predictable, in other words the stability in micro and strategic policy and in funding of existing policy must be guaranteed (Nwolise, 2005). Similarly, there must be contestability as all sectors must compete on an equal basis for funding during budget planning and formulation. Accurate information on costs, outputs and outcomes should be available (Nwolise, 2005). Military budgets should be planned and managed against a sectoral strategy. The needs assessment of the security milieu and military tasks and requirements must meet that milieu upon which a defence policy framework can be developed. Defence planning and budgeting should not

occur in a vacuum to avoid crisis in finance management. Ball (2002) explains the situation further:

> ***In the absence of well thought out and clearly articulate Policies, it is impossible to manage the finances of the military sector in a rational manner. Budgeting becomes adhoc. In the absence of a clear definition of which activities undertaken by the armed forces are included in the defence functions, it is impossible to develop adequate functional breakdowns of expenditure and to understand how much it costs to provide adequate military security. Additionally, it is difficult to develop performance benchmarks and thus to assess the efficiency and effectiveness of expenditure in the defence sector. Countries risk not obtaining a level of military security commensurate with their financial outlays.***

Fiscal discipline must be obtainable in military budgeting and accounting. Sometimes government under pressure increases defence allocations outside the budget especially while carrying out peace missions. Ball (2002) observes thus:

> ***Fiscal discipline is weak in many African Countries. While the military is by no means the only body responsible for the expansion of the resource envelope in the course of the fiscal year, it frequently enjoys a privileged position. Government officials…intervened in flagrant disregard for established procedures and predetermined spending priorities. Military officers have presented the Treasury with in invoices for expenses incurred outside the budget framework. Defence Ministries have refused to share the details of defence spending with finance Ministers and Parliament.***

A non transparent military sector provides the perfect cover for off-budget transactions. Under these circumstances there are perfect excuses

for the diversion of resources into private hands. Where a significant portion of a country's military expenditure are extra budgetary, core principles of fiscal responsibility in the public sector are violated. Similarly, the operational capacity of the military will suffer and that the operational capacity of the armed forces will suffer, while the military will not receive value for money (Ball, 2002).

Parliament should be given all relevant information and receive security budgets timely, to enable it debate the contents. Defence policies should be subjected to legislative debate and comments from the public. There is a need to review defence programmes over time, to accommodate changes in internal and external security environment. Central elements of security policies and practices on civil-military and civil-police relationships need to be enacted into law (Ball, 2000).

Role of Civil Society- Civil Society consists of a broad range of non state actors, like religious groups, academics, policy researchers, the media, women groups, professional associations etc. Civil Society has three critical roles to play in enhancing the accountability of the security sector, demanding for change, acting as watchdog and providing technical input. (Ball and Kayode, 2004). Civil Society can play an important role in monitoring the development and application of security policy and the

activities of security organisations. Watchdog activities can be through membership in community advisory/oversight boards, independent monitoring of the activities of security organisations and the dissemination of information regarding security policies. Such activities provide input into the decision making process. Civil Society can provide a pull of knowledge and hence training to members of the security organisation. Similarly, Civil Society can provide inputs into the overall defence policies, expenditure and procurement proposals, including human rights records of security organisations (Ball and Kayode, 2004).

Further discussion on the role of Civil Society in SSR was provided by Dandeker (2000) who posits that Civil Society plays a vital role in monitoring developments within the security sector. Non-Governmental Organisations seek to monitor the overall defence policy, expenditure and procurement proposals and decisions as well as doctrine, size, structure and deployment of the different security forces. The media assists in communicating ideas and encouraging debate. Based on the foregoing, Dandeker (2000) concludes that civil society is very central to many roles that the security sector is increasingly expected to play. This requires more complex and potentially fragile mechanisms.

According to Baly (2002), other critical roles played by civil society towards the consolidation of the democratic control of the security sector include the following:

a. Through the media, non governmental organisations and academics provide an alternative, non governmental sources of information on security issues for both policy makers and the public at large.
b. Civil Society provides the opportunity for popular debate, discussion and criticism of security issues
c. Similarly, the Civil Society can act as an important mechanism for holding other actors in the security sector to account through exposing malpractices and forming critical judgements.

In the LDCs there are fewer individuals and organisations that can play any leading role as watchdogs. Where countries have a vibrant civil society, they may lack expertise on security issues (Ball, 2000).

Other principles of SSR were presented by Nathan (2000) as follows:

Division of Responsibility- The Armed Forces must refrain from involvement in politics and undermining or usurping the authority of government. Similarly, government and opposition groups donot misuse the armed forces to antagonise the interest of others.

Legality- The Armed Forces must be subjected to the Rule of Law and their functions must be determined and regulated by law. Military operations must be conducted within legal framework.

Respect for Human Rights- Even where the military requires employing maximum force in situations of hostilities, it must respect the constitutional rights of citizens and adhere to international humanitarian law of war.

Political Non Partisanship- The Military should be politically non partisan. It must not seek to advance or retard the interest of any political party or group whether in government or in the opposition.

Accountability- Because of its capacity to exercise force, the military is bound by the principle of accountability to the elected civil authority. To achieve accountability it is essential to strengthen the supervisory role of the Parliamentary Defence Committee. The armed forces are also accountable to Parliament for the disbursement of public funds.

Transparency- Where there is the absence of critical information, formal mechanisms of control and supervision may be ineffective. In

determining information, a balance must be established between the public's right to know and confidentiality. Table 3.2 below shows the indices for determining the status of the security sector of a country.

**Table 3.2: Indices for the security sector**

| S/No | Indices | Reformed Security Sector | Unreformed Security Sector |
|---|---|---|---|
| 1 | Accountability & Transparency | Fully accountable to the civil authorities particularly parliament as representative of the people. | Not accountable to civil authorities. Feels superior to the civil authorities who depend on it for survival. |
| 2 | Information on Security budget | Always available and made public. Parliament approves such expenditure and monitors its execution. Extend queries where necessary. Military expenditure made managable in accordance with socio-economic needs | Collossal military expenditure usually allocated without due regards to needs in other sectors. Information on such allocation is not made public, even where it is publicised it is not accurate. |
| 3 | Role of civil society | Vibrant civil society that monitors the activities of the security sector. It is also engaged in resource allocation. | Weak and in most cases non-existent civil society. |
| 4 | Functional Differentiation | Clear functional differentiation between the military and the police. While the military is to defend territorial integrity, the police is to curb crimes | No clear functional differentation. Moslty the police is subsumed under the military and is poorly equipped. |
| 5 | Human Rights | Respect for human rights highly observed. A strong judiciary that has the mandate to impatially adjudicate all cases of human rights violation. | Poor observance of human rights. Security personnel have free hand to embark on any activity, while judiciary is weak. |

Source- The Author

### *3.6 Agenda for Security Sector Reform*

To achieve effective civil control of the security sector, it is necessary to draw up an agenda which Brzonski (2000) presented as having the following elements:

The structure of the security sector- The structure of the security sector has to be made optimal through:

a. Objectives and Doctrines- there has to be a general review of the objectives and instruments of the forces. At the strategic level, security sector reform may include peace and disarmament, regional cooperation and global arms control. There may also be the need to change military doctrines, through abandoning military forces and concentrate on police and other non military style forces (Ball, 1998).
b. Size and cost of the security sector- the need to free money for other purposes means that the security sector has to be 'right sized'. A bloated security sector remains a major development concern. Reducing military forces and expenditure is a realistic objective, but in view of the low numbers of police forces with poor remuneration, there may be the need to increase the costs of some types of uniformed forces. Both the military and the police should

perform specific functions and the choices of such functions must be made by the proper authorities that guide resource allocation among the forces. Usually choices are determined by development considerations.

Professionalisation of the Security Sector- This implies acceptance of the roles and responsibilities of security forces in democratic societies. There is also the need to define the kind of behaviour that is legitimate in discharging their duties and that which is not. Soldiers must be trained to have respect for the civilian government, the rule of law and international human rights standards (Ball, 2000). The above can be achieved depending on specific circumstances, however the following are vital:

a. Skill development- Forces require to develop skills for their functions and management.
b. Role Orientation- Forces have to develop and implement rules of behaviour in line with general laws and regulations.
c. Internal democratisation- Forces also need to balance considerations of hierarchy alongside those of the citizens' participation of policemen, soldiers, officers etc in the democratic process.
d. Technical modernisation- With functional differentiation of forces, reform of doctrine and general improvement of skills, there is the

need for new technology, including weapons. This will however need to balance with cost reduction.

Effective Civilian Control- This implies the transparency of forces in the security sector, especially their accountability and subordination under civilian control. Concerns here are focussed on:

a. Civilian Executive Command- To enhance civilian control, the top command (as in the Commander-in-Chief), should be a civil position. Administration should also be managed by civilians. Similarly, the appointment of high ranking officers should be the prerogative of the civilian Commander (US Department of State, 1998).
b. Public Involvement- The Civil Society should also play a role in controlling the armed forces through integrity checks. This therefore implies that the public must also have adequate access to information. Similarly, the media and the public need to have expertise and experts to evaluate data and monitor the behaviour of armed forces.

Professionalising Civilians- In Countries where reforms are needed, there is the general belief that civilians are incapable of evaluating security requirements or taking responsibility for security related decisions. But

the shortage of civilian security analysts is more to do with the unwillingness by the security forces to share information with civilians as well as restrictions on media reporting of security related issues. There is also the official hostility towards civil society organisations dealing with security issues. Civilians therefore need to be trained in security studies, defence budgeting, planning, management and procurement as well as conflict management (Ball, 2000).

Strengthening Civil Institutions: Relevant government and non governmental civil institutions must exist and function proficiently. There should therefore exist Ministries of Defence, Justice and Internal or Home affairs, Independent Ombudsmen, Civil Review Boards, Penal Institutions, Legislatures, Budget Offices, Audit Units, Finance Ministries etc (Ball, 2000).

Institutionalised Mechanism for developing security policy and assessing security needs- For the attainment of good governance, there is the need to have the ability to engage in strategic planning on a whole range of security sector issues. There has to be functioning organisations and institutions with adequately knowledgeable personnel in both security forces and civil organisations and charged with managing the security sector. Most Countries lack institutional and human resource, even

though they are in need of improving governance of the security sector. Even where the institutional and human resource pre-requisites are met, there is no guarantee that strategic planning will occur and in a transparent manner (Ball, 2000).

### ***3.7 Relevance of SSR to Legislative Oversight of Defence Sector***

The concept of legislative oversight is based on the principles of accountability. A person is accountable when he is responsible for his actions. He must be able to give satisfactory reason for his behaviour. Democratic accountability therefore implies that those who have the responsibility or authority to decide upon and to implement security policy are accountable to the elected Representatives or directly to the people.

Accountability deals with three issues namely money, activities and results. Any government without accountability is democratic deficits as the people donot have a say (Borns, 2002). Therefore democratic accountability is connected to the very roots of democracy. Democratic accountability differs from the other forms of accountability like public accountability (through the media), Administrative accountability (through government institutions such as audit offices) and judicial accountability (through National and International courts). According to

Borns (2002), the elements of democratic accountability of the military are:

a. Constitutional and Law: These define and stipulate the superiority of the political leadership over the military and the responsibility of the government and Parliament in times of war and peace.
b. Checks and Balances: This is provided for in the constitution concerning the powers and functions of the three branches of the state. The aim is to ensure that the executive does not control power without any checks.
c. A civilian Minister of Defence with both top military and civilian advisors.
d. Parliamentary Oversight: Elected Representatives of the people should have the power to grant or withhold democratic legitimacy to the military.

All forces should be accountable to the proper legislative bodies. Parliaments should have access to accurate budget information and also take charge of authorisation. A timely and comprehensive account of budget operation should be presented to the legislature and a national audit body or equivalent organisation appointed by the legislature should report on their financial integrity (IMF, 1998). A Country's Armed Forces cannot be made to operate above the legislative powers of

Parliament. To achieve the above however, Parliaments need to have expertise and experts on military and police matters either as members or as staff (Born 2002).

The Parliament is the repository of popular mandate; it represents the will of the people and has both a duty and right to exercise judgements over all facets of public life. This includes the defence sector. Parliament is supreme in the hierarchy of authority within a parliamentary democracy. Thus Hanggi states the following:

> ***…Parliaments are the central focus of accountability and legitimacy in democratic polities…Though institutions and practices of democracy are an evolving phenomenon and vary from country to country, it is an undisputable tenet of democracy that the Parliament, being the representative body of the polity, must exercise oversight over every element of public policy, including the security sector.***

There is also the need to 'guard the guards'. The armed forces hold and deploy the means of coercion on behalf of and for the protection of the entire society. Parliamentary oversight is meant to ensure that the bearers of arms donot end up functioning as a threat to the same elements they were suppose to protect. Rudolf Joo observes thus:

> ***Civilian control is needed essentially to prevent the military- which is an organised body that is legally empowered to use force on behalf of the state- from challenging the state's duly constituted***

***political authority and dominant values. It ensures that the armed forces will not endanger the basic liberties that they are supposed to protect.***

Oversight ensures effectiveness and efficiency of the security/defence sector and ensures that they are in synchrony with the national priorities defined by the constitution (Ebo, 2005). Traditionally, the functions of Parliament include legislative, budgetary, deliberative and oversight. But Hanggi (2004) is of the opinion that these roles of Parliament are often encroached upon by the executive due to political factors such as party discipline and one party majority. For instance, powers to make laws are sometimes exercised by the executive and Parliament becomes simply a rubber stamp.

It is therefore important to examine the degree to which legislatures discharge their oversight functions. Table 3.3 below presents a picture in that regard.

**Table 3.3: Degree to which Legislatures Conduct Legislative Oversight**

| | **Comprehensive Legislative Oversight** | **Limited Legislative Oversight** | **Little or No Legislative Oversight** |
|---|---|---|---|
| **Committee Oversight** | Strong oversight by committees:<br>• Committees have adequate staff and expertise<br>• Ministers attend oversight hearings and | Committees respond solely to issues brought to their attention, but lack comprehensive or proactive approaches to | Lack of committee oversight;<br>Committee hearings seldomly include Ministers or other high-level government officials; written requests for |

| | | | |
|---|---|---|---|
| | respond promptly to written requests for information<br>• Investigations may be conducted, and/or visit embarked on sites | oversight; Committees may lack critical expertise or resources | information are ignored |
| **Public Accounts Committee** | Separate, well-staffed and funded Public Accounts Committees conduct coordinated oversight of government expenditures; coordinate efforts with the Auditor General | Existing Public Accounts Committees, but may be understaffed or under funded | No Public Accounts Committee; Legislative oversight of financial policy is under-resourced or non-existent |
| **Parliamentary Questions** | Frequent use of parliamentary questions; Ministers are required to respond appropriately and promptly; Prime Minister and other Ministers attend public "Question Time" | Legislature uses parliamentary questions, Ministers often evade questions and/or give insufficient responses; opposition may be given adequate opportunity to raise issues | Limited or no use of parliamentary questions; Ministers ignore written questions and do not attend "Question Period" |
| **Independent External Oversight** | Existence of independent, well-staffed external oversight entities, such as Auditors General, Comptrollers, Ombudsmen | Some institutions exist; may be underfunded, or underutilised by the legislature | No independent external oversight entities; parliament must identify and pursue oversight issues on its own |

**Source:** National Democratic Institute for International Affairs, *Strengthening Legislative Capacity in Legislative Executive Relations*, Legislative Research Series no. 6, Washington, DC, 2000, p. 38.

Furthermore, SSR is relevant in the phenomenon of Parliamentary Oversight of the defence sector in the area of security budget. Where there is adequate SSR, information on security budget is readily available and the public can easily obtain it. Usually in a democratic society, Parliament approves such expenditure and monitors its implementation, it

gives queries where necessary. SSR ensures that Parliament, in approving security and defence estimates, makes it manageable enough to provide for other socio-economic needs of the society. An unreformed security sector does not come under Parliamentary scrutiny; hence defence budgets are out of public scrutiny. Similarly, military budgets are colossal, with little or no regards for the needs of other sectors.

### ***3.8 Obstacles to Security Sector Reforms***

Despite the above, there are still several obstacles to SSR as identified by Nathan (2000).

The Problem of Complex- Security Sector Reform is complex because there are many policies to transform and such changes have to be done simultaneously. Similarly, such transformation has to be done in a radical manner considering previous security culture and practice. Security Sector Reform is a complex and potentially difficult undertaking. It involves taking power away from those who already have control over it. Similarly, it requires a radical change in an organisation that is conservative and resistant to change. These make reforms difficult to achieve.

The Problem of Expertise- Lack of organisational, managerial, planning, financial and policy expertise. Even freedom fighters may find running conventional security services new. Mostly, Decision Makers may be unfamiliar with debates on security and defence, particularly with the range of policies available. Parliamentary Committees also lack expertise on security and defence issues, thereby affecting their oversight and decision making functions.

The Problem of Capacity- Good Governance entails efficiency and effectiveness in fulfilling the functions of the state. In Africa these qualities are missing, because there is a lack of skill base, expertise, infrastructure and resources to meet the welfare and other security needs of citizens.

The Problem of Resistance to Change- Even where reforms appear to be moving smoothly, there are dangers of reversal. Members of the armed forces and other security services may oppose reforms due to ideological and political reasons. Mostly, conventional armed forces are conservative. They regard their function as defending the status quo against illegitimate change. This has therefore led to the argument that highly professional military forces are a greater danger to civil society than inefficient military (Finer, 1962). Thus it is unnecessary to have a highly modernised

military force, when civilian institutions are too weak to provide effective and legitimate control.

The Problem of Insecurity- Militarization, particularly in African Countries is a product of structural conditions, constituting a crisis for human security/stability of state. If a state is too weak to maintain law and order, criminal activities will flourish, leading to privatisation of security. Should a state lack institutional capacity to resolve the normal political and social conflicts characterising societies, some individuals and groups may settle disputes through violence.

In its effort to ensure the attainment of effective SSR, African Heads of State under the aegis of the African Union commenced the process of preparing for the Code of Conduct (C of C) for the military in Africa, in 2001. This culminated in the second meeting over the C of C in 2002 leading to the final adoption. A detail of the provisions of the C of C is attached as appendix 1. A summary of the content is hereby reproduced in the table below.

**Table 3.4: summary contents of the draft Code of Conduct for Armed and Security Forces in Africa**

| Chapters/Articles | Issue Area | Main elements |
|---|---|---|
| **Chapter I** (Articles 1 - 15) | Regulatory Framework | • Individual responsibility for illegal acts (Atr. 5)<br>• Professionalism of armed/security forces (Art. 6)<br>• 'Professional secrecy' (Art. 7)<br>• Rule of law, according to IHL, Human Rights, and national laws (Arts. 9 - 11)<br>• Civilian responsibility, for finance (Art. 12), to restrain from using forces to contain legitimate dissent (Art. 13)<br>• Illegality of unconstitutional change, as detailed in AU instruments (Art. 14) |
| **Chapter II** (Articles 15 – 20) | Relations between the armed forces and the security forces | • Cooperation between armed forces and security forces (Art. 15)<br>• Security is primary responsibility of police in peacetime and crisis (Arts. 16, 17)<br>• Use of armed forces in crisis at the request of political authority and as last resort (Arts. 17, 20) |
| **Chapter III** (Articles 21 - 26) | Relations between the armed forces and the civilian population | • Armed and security forces to show respect, protection, assistance to civilian population (Art. 21)<br>• Armed and security forces to inform and educate the public on their unclassified operations (Art. 22)<br>• Armed and security forces shall avoid disreputable behaviour (Art. 23)<br>• Transparency and accountability form the basis for democratic control particularly in defence planning, budgeting, and procurement (Art. 24)<br>• Regular interaction between civilian, political and administrative authority, civil society including NGOs and media |

| | | |
|---|---|---|
| **Chapter IV** (Articles 27 – 32) | Armed and Security Forces, Human Rights and International Humanitarian Law | • Personnel shall be given education in constitutional law, human rights, IHL, and peacekeeping (Art. 27)<br>• Both civilian and armed/security forces individually responsible for illegal instructions, orders, and actions (Art. 28)<br>• Armed and security forces shall show no discrimination (Art. 29)<br>• Armed/security forces shall refrain from murder, torture, corporal punishment, rape, mutilation, cruel, inhuman degrading treatment, hostage taking, collective punishment (Act. 31)<br>• In enforcing internal law and order, use of firearm as last resort; in the event of injuries, assistance to victim, public enquiry and report (Art. 32) |
| **Chapter V** (Articles 33 – 34) | Implementation | • CoC to be integrated into training curriculum of AU members and shall be widely disseminated (Art. 33)<br>• Periodic meetings at various levels to assess implementation (Art. 34) |

Source: Ebo, A; "Towards a Code of Conduct for Armed and Security Forces in Africa: Opportunities and Challenges", DCAF policy paper, Geneva, 2005.

Having established a background on issues concerning Security Sector Reform, we shall now turn attention to a study on the Nigerian Parliament. This is as a prelude towards examining its role in the oversight of the Defence Sector.

# CHAPTER FOUR

## THE NIGERIAN LEGISLATURE

The focus of this study is Parliamentary Oversight of the Defence Sector in Nigeria. To embark on the study however, it will be essential to understand the historical emergence of Parliamentary democracy in Nigeria and the working dynamics of Parliament in contemporary Nigeria. This chapter therefore focuses on this aspect of the study.

### ***4.1 Legislature: An Overview***

The Legislature is a unique arm of Government because by its structure it is meant to promote democracy and good governance. Not only is the legislature an arm of government, but it is the representative of the people and is the primary law making organ of government. John Locke, in describing the power of the legislature regarded it in every society as the greatest instrument that guarantees men the enjoyment of their property in peace and safety, having entered a social contract to live in society which he called the "commonwealth" (Laslette, 1960).

The Legislature, synonymous with a Parliament, can best be described as a body of persons invested with powers to make or enact laws of a Country. The legislature is a deliberative assembly where the issues of the

day are discussed while laws are made and amended (Griffith-Traversy, 2002).

Legislatures handle variety of issues like assenting to and imposing taxation, considering and approving expenditure, debating and voting on policy issues and passing new laws and amending existing ones (Griffith-Traversy, 2002).

It is however pertinent to state that legislature differs from one country to another depending on their policy making role, which is usually determined by the country's political culture, constitution and electoral/party system. Griffith-Traversy (2002), identified three major types of Parliament in relation to their role on policy making viz:

- Those Parliaments that make policy, like the United States Congress. It has the power to consider, amend and concur in or reject measures brought by the Executive. It also has power to initiate and formulate their own policies
- Those Parliaments with no power to amend or affect policy for instance Communist regimes and single party.
- Those Parliaments that influence policy through amending or rejecting legislation but lack the capacity either to formulate or substitute their own policies or to bring their own ideas into effect

to any significant degree. Most legislatures occupy this middle ground of influencing policy. They can change or amend or reject legislation but donot play any significant role in initiating it.

The Nigerian Legislature is considered to be a policy making as well as policy influencing Parliament. This is evidenced from the ability by individual MPs and the Parliament as a whole to initiate a bill that can result into the emergence of a policy (Interview, Deputy House Whip, 12th October 2006). A classical example can be cited of how in the life of the first trench of the NASS, in 2000, the former Senate President, then an ordinary Senator, Late Dr Chuba Okadigbo, initiated the bill on the National Order of Precedence, which established national hierarchy placing the President of the Federal Republic as number one citizen, the Vice President as number two, the Senate President as number three, the Speaker of the House of Representatives as number four and the Chief Justice of Nigeria as number five. This has become a national policy today (Interview, Senate Sergeant-at-Arms, 10th June 2006). The late Senator Okadigbo also initiated a bill which led to the establishment of the Federal Roads Maintenance Agency (FERMA) that is today responsible for the repairs and maintenance of federal roads throughout the country. This again is an existing policy (Interview, Senate Sergeant-at-Arms, 10th June 2006).

The Legislature in Nigeria is a very distinct arm of government. Given the country's history of military intervention since 1966, it is pertinent to observe that the legislature has remained the first victim because it is the only arm of government that gets dissolved after any military intervention. It therefore lacks the necessary continuity to enhance a fast growth in legislative culture.

Section 4 of the 1999 Constitution of the Federal Republic of Nigeria provides for the creation, existence, authority, power, duties and legitimacy of the legislature. It is created to ensure a balance in the structure of government through the principle of separation of powers. It has equal responsibility with other arms in the governance of the country and the general protection of the constitution. Its powers cannot be eroded or derogated from nor encroached upon except as provided in the constitution.

Democracy and Liberty will be in jeopardy where the Legislature and the Judiciary are allowed to become mere appendages of the Executive. This will inevitably lead to the emergence of the dictatorship by the Executive. The Legislature evokes the idea of representative democracy more than any other branch. Democracy therefore can only be sustained when the

Legislators have the will, ability and information to make decisions that reflect the interest and needs of the society. The governed must also have the will, ability and information to transmit their needs and interests to their Legislators to evaluate the performance of the Legislatures and various parties and to reward or sanction their actions (Esebagbon, 2005).

In contrast to a Minister, a Legislator is an elected member of the legislative assembly, with clearly defined and specific legal constituency and enjoys a real popular mandate. The Legislator is therefore obliged and authorised by law to interact with his constituents on a regular basis. The idea is for him to have a complete grip of the needs, wants and problems of the constituents. The ease with which the constituents of a Legislator approach and present complaints of different forms and dimensions to him/her on public and private matters is a reflection of the people's confidence that their problems are likely to receive faster attention.

Whenever the Executive takes any unpopular decision, the people invariably depend on the Legislature to reverse such policies. Recent example in Nigeria is the bill for the amendment of the 1999 constitution, which contained a provision for the elongation of the tenure of the President from two four year tenure to three four year tenure. This

particular provision was detested by majority of Nigerians, who saw in the provision an attempt for the then incumbent President to extend his stay in office. It was to the Parliament that the Nigerian citizenry turned to, expecting that the bill or at least that provision does not pass through. This aspiration was actualised when the Senate rejected the amendment bill in its entirety at the stage of second reading (This Day Newspaper, 17th May 2006).

For proper confidence building with their Constituents, Legislators are advised to undertake the following steps (Esebagbon, 2005):

i. Legislators must encourage public interest to promote free interaction between them and their Constituents on matters of citizens concern.
ii. Legislators should train citizens' organisations and advisory groups set up to promote environmental concerns, women and youth empowerment.
iii. Legislators should prepare citizens groups to testify at public hearings, because investigations have revealed that citizens' organisations often do not have adequate knowledge of the purpose of public hearings or how they are conducted.

iv. Legislators should also conduct constituency relations programmes in order to maintain good relations with citizens on a regular basis.

Having briefly discussed the general principles underlying the relevance of the legislature in any democratic setting, we shall give a historical account of the emergence of the legislature in the political history of Nigeria. It is worth mentioning that the emergence of Parliamentary democracy in Nigeria can be classified into two epochs; the period from 1914 to 1960, characterised by colonial constitutionalism and Parliamentary system based on Westminster practices. The second period is the period covering the second republic and the present fourth republic, where the country operates a Presidential system with several differences from the parliamentary system in terms of the relevance of Parliament in representation and involvement in the running of the administration. Significantly, there is Separation of Powers and Checks and Balances.

## ***4.2 Historical Emergence of the Nigerian Legislature***

Nigeria became a unit resulting from the report of Lord Lugard in 1914. In the report, he recommended the amalgamation of the Colony of Lagos and the Northern and Southern Protectorates. This recommendation was approved by the British Government. Upon amalgamation therefore, the

constitutional arrangement included the appointment of a single Governor and Commander-in-Chief for the entire country. The powers of the Legislative Council were restricted to the Colony of Lagos. An advisory and deliberative Council was set up for the entire country with the Governor as Chairman. There were also thirty (30) members nominated by him. Out of the nominated members, seventeen (17) were ex-officio while the rest were unofficial members. Seven (7) out of the thirteen (13) members were nominated to represent commercial, shipping, mining and banking interests (Joye and Igweike, 1982). The Legislative Council comprised mostly of British officials, appointed by the Governor and responsible to him. The Council only provided a forum to enable British Officials obtain much local advice and opinion.

The Procedure of the Legislative Council was based on that of the Parliament of Britain. The Standing Rules and Orders stated clearly that "in cases of doubt, the Standing Rules and Orders of this council shall be interpreted in the light of the relevant practice in the Commons House of Parliament of Great Britain…" (cited in Ojo, 1997, vol 1).

Ojo (1997) states the powers of the Legislative Council thus:

> ***It shall be lawful for the Governor, with the advice and consent of the Council, to make laws for the peace, order and good government***

> ***of the colony of Nigeria and for that portion of the protectorate of Nigeria known as the Southern provinces. Such laws shall be styled 'ordinance' and the enacting words shall be 'enacted by the Governor of Nigeria, with the advice and consent of the Legislative Council thereof.***

The Governor had the responsibility to transmit to the Chief Justice of Nigeria a transcript authenticated under the public seal and by his own signature, of every ordinance made by him for the protectorate. It is worth mentioning that the Legislative Council was not a Parliament but a glorified advisory body. The Governor was not bound by any Resolution of the Council. Similarly, the Governor could also make laws without the consent of the Council or could overrule Council's decision (Ojo, 1997, vol 1). Emphasising and supporting the autocratic posture of the Governor, Joan Wheare states as follows:

> ***In a Country such as Nigeria, which in too many of its areas has not yet emerged from barbarism… an autocratic government is essential…The Council is designed therefore not to weaken or hamper the efficient administration of the country, but to aid and strengthen the government…In other words, there is here no question of a government and an opposition…***

(Cited in Ojo, 1997, vol 1)

Reacting to this assertion, an unofficial member, Mr Moore declares thus:

> ***Under our constitution, it is not possible for (unofficial members) to offer such an opposition which if successful might lead to the overthrow of Your Excellency's administration and substitute it with another…No Sir, such a thing is***

> ***not possible, but I do think it is the duty of the unofficial members of this Council to offer strenuous opposition to any government measure or policy which, in their opinion, is not conducive to the best interest of the country.***

(quoted in Ojo, 1997, vol 1

Dissatisfied with these arrangements, Nigerian educated elites joined their counterparts in other West African States to press for constitutional changes. Specifically, they demanded for the formation of a Legislative Council with half of its membership composed of elected Africans (Joye and Igweike, 1982).

In 1922, Sir Hugh Clifford, compelled by the growing demands and agitations of the educated elites, recommended the replacement of the Lugard Council with a single Legislative Council. Under the new constitutional arrangement, there was the formation of the Legislative Council of Nigeria. The Council had the Governor as President, twenty six (26) official members out of which twenty three (23) were ex-officio and three (3) nominated. There were also four (4) elected unofficial members out of which three (3) represented Lagos and one (1) represented Calabar. There were not more than fifteen (15) unofficial members. Furthermore the franchise was widened by the reduction of the property qualification of voters from £100 to £50 gross annual income (Joye and Igweike, 1982). The Constitution also provided for Councils

for each of the three provinces. These Councils were however deliberative and advisory without any legislative powers. The legislative functions of the Council were limited to the Colony and Southern Protectorate. Legislation over the Northern Protectorate was vested in the Governor.

There was so much criticism over non consultation which led to a revision of the constitution through the establishment of the Richards Constitution in 1946.

In the new arrangement, there was an enlarged Legislative Council and the Council was to pass laws for the whole country. The Council had the Governor as President, sixteen (16) officials out of which thirteen (13) were ex-officio and three (3) were nominated. There were also twenty eight (28) unofficial member twenty four (24) nominated and four (4) elected. The Governor nominated three (3) officials, while the provincial councils, acting as electoral colleges, nominated twenty (20) unofficial members. The arrangement ensured that nominated African official members were in the majority. Nominated unofficial members held their seats for three years subject to re-appointment, while elected members were to hold their positions for three (3) years subject to re-election. Both unofficial and elected members must be male, British subjects or British

protected persons and not less than twenty-one (21) years of age. The constitution also provided for Legislative Councils for each of the three provinces. These Councils were merely deliberative and not advisory. (Ojo, 1997, vol 1).

Section 30 of the Standing Rules of the House states as follows:

> ***Subject to the provisions of this order and of any instruction under His Majesty's signature manual and signet, the Legislative Council may from time to time make, amend and revoke Standing Rules and Orders for the regulation and orderly conduct of their proceedings and the despatch of business…provided that no such Rules or Order shall have effect unless and until they shall have been approved by the Governor***

(cited in Ojo, 1997, vol 1).

In 1951, the Legislative Council was renamed the House of Representatives. Members were indirectly elected but they could speak freely. The House had six (6) ex-officio members, One hundred and thirty six (136) elected members out of which six eight (68) represented the north, thirty four (34) each for the east and west. These members were elected by the Regional Houses of Assembly acting as Electoral Colleges. In addition there were six (6) Special Members appointed by the Governor from outside the House. Members were permitted to speak for their Regions. Similarly, the Governor no longer presided over the house but appointed a President from outside the house. The Governor however

retained reserved powers that enabled him to certify and treat as passed any measure or resolution considered but rejected by the Legislature (Ojo, 1997, vol 1). The house was given powers to legislate for the peace, order and good government of the whole country except that the Secretary of State for the colonies can disallow a law passed by the house even after the Governor's assent (Joye and Igweike, 1982). A procedure for consulting the Regional houses was also put in place before the House of Representatives can consider a bill. But non compliance with this procedure shall not prevent the introduction of a bill in the house. Should the bill become law, it shall not affect its validity.

Election into the various houses was by a combination of direct and indirect methods. Members of the House of Representatives were elected by the Regional Houses of Assembly from among their own members. Members of the Regional Houses of Assembly in turn were elected partly by persons entitled to be registered as voters and partly by electoral colleges. To qualify for registration as a voter, a person must be an adult taxpayer and must either be born in the Native Authority Area in which he wished to vote or be voted for or resident in any area for at least twelve (12) months, if a non Native (Joye and Igweike, 1982).

Under the 1954 Constitution, there were three changes in the Legislative Council. There was the complete disappearance of the British Officials in the legislative houses; the House of Representatives was enlarged to one hundred and eighty four (184) elected members out of which ninety two (92) represented the north and forty two (42) each from the east and west. In addition six (6) members represented Southern Cameroon and two (2) for Lagos. There was also the creation of a Senate or upper chamber at the centre, consisting of twelve (12) members from each region. There was direct election in the Eastern and Western Regions as well as Southern Cameroon. Franchise provisions differed from region to region. In the Eastern Region, universal adult suffrage was introduced for all elections. In the Western region, an elector must have paid income tax rates for one financial year if he was a native and for two years if a non native. In the Northern Region, franchise was limited to only adult male taxpayers who satisfy a residency qualification of twelve (12) months if non native (Joye and Igweike, 1982).

Although the Governor General ceased to be a member of the legislative house, he still retained a measure of discretion over the enactment of legislation. Bills passed by the house could not become law until the Governor General gave his assent and he could refuse to give such assent.

Similarly, the Secretary of State could disallow any law enacted by the Legislature even after the Governor General had given his consent.

The London and Lagos Constitutional Conferences led to the amendment of the 1954 Constitution, particularly in the composition of the two chambers. From 1959, the Senate was to consist of twelve (12) members nominated from each of the Regions, four (4) from Southern Cameroon, four (4) from Lagos and four (4) nominated by the Governor General. There was also to be a President for the Senate. The House of Representatives on the other hand was enlarged to a membership of three hundred and twelve (312) elected through universal adult suffrage for Lagos, Eastern and western Regions. In the Northern Region only male adults were allowed to vote (Ojo, 1997, vol 1).

Upon the attainment of independence in 1960, an Independence Constitution was promulgated. Each Region continued to be represented in the Senate by twelve (12) persons elected at a joint sitting of the Legislative houses of that region. There was also a provision for eight (8) Senators out of which four (4) represented the Federal Capital Territory of Lagos and the remaining four (4) selected by the Governor General. The House of Representatives on the other hand consisted of three hundred and fifty (350) elected members representing constituencies

decided on the basis of approximately equal population per unit constituency (section 43 of the Independence Constitution, 1960). For qualification for membership into the house a candidate must be a citizen of Nigeria not below the age of twenty one (21) and must be a male as in the case of the North (Joye and Igweike, 1982). The minimum age for qualification into the Senate was forty (40) years and twenty one (21) for the House of Representatives. The Constitution disqualified any person for membership into either of the houses when he had double citizenship, sentenced to death for committing any offence or any sentence exceeding six (6) months. Other reasons were undischarged bankruptcy, being an employee of any of the public services of the federation and a lunatic or a person of unsound mind (section 45 of the Independence Constitution, 1960).

Both the Prime Minister and other Ministers were elected as members of the House of Representatives. They introduced bills and other governmental measures for the consideration of the house. Their party being in the majority, they always had the support of other members of the house. On the other hand, Government could be dissolved based on a resolution of the house, where it had no confidence in the government.

Parliament had powers to make laws for the peace, order and good government of the country or any part thereof with respect to any matter in both the exclusive and concurrent legislative lists and for the peace order and good government of the Federal Territory on any matter whether on the legislative list or not. Laws made by the Central legislature took precedence over those made by Regional Assemblies even on items included on the legislative competence of the latter. The Federal Legislature could also exercise jurisdiction in relation to cases of emergency with respect to matters not included in the legislative list to the complete exclusion of a Regional Legislature. Parliament could also make laws on income tax, estate duties, trade and commerce, banks and banking, electricity and gas and the implementation of treaties (Ojo, 1997, vol 1).

On finance, moneys accruing to the government were paid in the Consolidated Revenue Fund and no money was taken out of the fund without Parliament's approval through an Appropriations Act or by authority of expenditure in advance of appropriations act (Ojo, 1997, vol 1).

It will be pertinent for this study to examine the Nigerian Legislature under the Presidential system of Government as obtainable in 1979 and

1999 Constitutions. As a prelude, it may be necessary to discuss the concept of Checks and Balances which is relevant to the Legislature under the Presidential system of government.

### ***4.3 Checks and Balances***

This concept is a follow up to the theory of Separation of Powers which is the main tool of analysis in this work. It is an acceptable fact that the three arms of government function better when they are separated and concentrate on their primary functions. But to avoid dictatorship particularly by the Executive, it is best that although they function differently, they are made to check on the activities of each other hence establishing some level of control. Ben Nwabueze describes the system of Checks and Balances thus:

> ***The checks and balances system rests on an open recognition that particular functions belong primarily to a given organ while at the same time superimposing a power of limited interference by another organ in order to ensure that the former does not exercise it acknowledged functions in an arbitrary and despotic manner. This is all that the system seeks to do.***

(cited in Adejokun, 2004).

The President as the Chief Executive of the country is undoubtedly very powerful. His powers are however not absolute, based on the fact that he is liable to impeachment and dismissal for treason, bribery or other

misdemeanours. Similarly, his nominees are subject to Senate approval and his power of veto can be neutralised by 2/3 majority of the Legislature. The Legislature, though powerful, is subject to checks by the law courts which can declare a law passed or its actions as unconstitutional. The Executive is checked by the Legislature and the Legislature in turn is checked by the Judiciary (Ojo, 1997, part 3). Anyanwu (1999) describes the situation aptly thus:

> ***A popularly elected legislature makes the laws and monitors and checks their 'faithful' execution by an elected Executive. And the Judiciary, as the bulwark of the constitution against legislative encroachments, applies its power of 'judicial review' to keep the legislature within the confines of constitutionality.***

Similarly, John Stuart Mill, in describing the importance of Parliament states that the proper office of the legislature is "to watch and control the government; to throw the light of publicity on its acts; to compel a full exposition and justification of all of them, which anyone considers questionable and if the men who compose the government abuse their trust…to expel them from office" (cited in Asobie, 2004).

Checks and Balances make the theory of Separation of Powers an effective instrument of constitutional government. The power of confirmation or rejection by the Senate does not mean that appointments

are the joint responsibility of the Senate and the President. The Senate can only ratify or reject but it cannot appoint. In addition, the power of impeachment gives the legislature control over the presidential tenure. Explaining further the concept of Checks and Balances, Nwabueze (quoted in Ojo, 1997, vol 3) states further:

> ***Impeachment is not an 'inquest of office', a political process for turning out a President whom majority of the House and 2/3 of the Senate simply cannot abide. It is certainly not nor was it ever intended to be an extra ordinary device for requesting a vote of no confidence. If it were then it would upset the balance of the scheme of government and destroy the independence of the executive, replacing it with the principle of executive responsibility to the legislature, which characterises the Parliamentary executive of the westminster.***

Similarly, Walter Oleszek states thus:

> ***Checks and Balances have a dual effect; they encourage cooperation and accommodation among the branches (Particularly the legislature and executive) and they introduce the potential for conflict. When conflicts occur, they are most frequently resolved by negotiation, bargaining and compromise***.

(quoted in Ojo, 1997, vol 3)

Evidence of Checks and Balances involving the Judiciary can be found in Nigeria's first republic, being a Parliamentary System of Government, judicial officers were recommended by the Prime Minister before their

appointment by the President. The same process of their appointment was used for their removal. Under the Presidential System of Government, Justices of the Supreme Court are recommended to the President for appointment by the Judicial Service Commission. Such appointments are however subject to confirmation by the Senate. Furthermore, under the Presidential system, once a Legislator agrees to accept a ministerial or other executive appointment, he is compelled to resign his seat in the Assembly (Ojo, 1997, vol 3).

In processing money bills, although the initiative for formulating the bill may originate from the Executive, which spends the money, once the President submits his budget proposals to the Legislature, the Executive has nothing to do with it until the Legislature approves the way it feels like. The President can only submit a bill to the Legislature for consideration. Such a bill can be thrown out. To ensure its successful passage, the President can only cajole members of the Legislature particularly from his party and this can be done through lobbying (Ojo, 1997, vol 3). Other evidence of the operations of Checks and Balances will be cited in the course of this chapter, particularly while discussing the functions of the Legislature.

### *4.4 The Legislature in the 1979 Constitution*

The 1979 Constitution ushered in yet another attempt at democratic rule after many years of military dictatorship. Unlike the first republic when a Westminster type of parliamentary democracy was practiced, in the second republic, a Presidential System was in operation.

The Presidential constitution provided for a bicameral arrangement for the legislature at the centre, while the states had a unicameral arrangement. The composition of the House of Representatives was based on division into federal constituencies on equivalent population basis. Five (5) Senators represented the nineteen (19) states.

The constitution stated that the legislative powers of the Federal Republic of Nigeria shall be vested in the National Assembly of the federation, which shall consist of the Senate and the House of Representatives. The National Assembly shall have powers to make laws for the peace, order and good government of the entire federation or any part thereof with respect to any matter included in the exclusive legislative list (section 69(1) of the 1979 Constitution). In addition and without prejudice to the powers conferred by sub-section (2), the National Assembly shall have powers to make laws with respect to the following matters:

a. Any matter in the concurrent legislative list set out in the first column of part ii of the second schedule.
b. Any other matter with respect to which it is empowered to make laws in accordance with the provisions of this constitution.

The Constitution also empowered the National Assembly to control public funds. Section 74 established the Consolidated Revenue Fund, Section 75 and 76 empowered the Assembly to authorise public expenditure and section 77 established a contingency fund. Other provisions included section 78 which empowered the Assembly to prescribe remunerations for certain public officers and section 79 and 80 creating the office of the Auditor General of the Federation.

Establishment of the Consolidated Revenue Fund: All revenues or moneys raised and received by the federation were to be paid into one consolidated fund of the federation. Withdrawal of money from the fund was allowed where such moneys had been duly appropriated. Apart from the Consolidated Revenue Fund, the constitution also prohibited withdrawal of moneys from any other public fund of the federation unless the issue concerning the withdrawal of such money had been duly authorised by the National Assembly (Jimoh, 1999).

Authorisation of Expenditure: The President was to present an annual appropriations bill to the National Assembly. The bill should contain the estimates of revenue and expenditures of the federation for the next financial year. Upon the passage of the bill, money could then be withdrawn from the Consolidated Revenue Fund. The President may also present before the National Assembly a supplementary appropriations bill containing supplementary estimates required. The National Assembly could only pass a supplementary appropriations bill in any financial year when it was established that:

a. The amount appropriated by the Appropriations Act for any purpose was insufficient.
b. There was a need for expenditure for a purpose for which no amount had been appropriated by the act (Jimoh, 1999).

Where the appropriations bill in any financial year had not been passed into law at the beginning of a financial year, the President could order withdrawal from the Consolidated Revenue Fund to meet expenses necessary to carry on the service of government. This power was however functional for six (6) months or until the coming into operation of the appropriations act (section 76 of the 1979 Constitution). There was however a provision which stated as follows:

> ***Provided that the withdrawal in respect of any such period shall not exceed the amount authorised to be withdrawn from the Consolidated Revenue Fund of the federation under the provisions of the appropriations act passed by the National Assembly for the corresponding period in the immediately preceding year, being an amount proportionate to the total amount so authorised for the immediately preceding year***.

(Section 77, 1979 Constitution).

Determining the Remuneration of the President and certain other public officers: Section 78 of the 1979 Constitution empowered the National Assembly to prescribe the salaries and allowances of the President and a number of other public officers. These salaries and allowances were charged on the Consolidated Revenue Fund of the Federation. The officers as contained in section 78(4) included the President, the Vice President, the Chief Justice of Nigeria, Justices of the Supreme Court, President of the Federal Court of Appeal and the Chief Judge of the Federal High Court. Others were the Judges of the Federal High Court, the Auditor General of the Federation, Chairman and Members of the following Executive bodies; the Federal Civil Service Commission, Federal Electoral Commission, the Police Service Commission and the National Population Commission.

Auditing of Public Accounts: The Auditor General of the Federation was appointed by the President upon the recommendation of the Federal Civil Service Commission, subject to confirmation by the Senate. Section 79 sub sections 2 and 3 of the 1979 constitution state as follows:

> ***The public accounts of the Federation and of all offices, courts and authorities of the federation, including all persons and bodies established by law…shall be audited and reported on by the Auditor General…***
>
> ***The Auditor General shall submit his report to each House of the National Assembly and each House shall cause the reports to be considered by a Committee of the House of the National Assembly responsible for public accounts.***

The National Assembly's power of investigation was provided for in sections 82 and 120. The Assembly, through a resolution published in its journal or in the official gazette of the government of the federation, could direct or cause to be directed an investigation into any public affairs. Such investigation could be directed into-

a. any matter or thing with respect to which the legislature has power to make laws.
b. the conduct of affairs of any person, authority, ministry or Government department charged or intended to be charged with the duty of or responsibility for executing or administering laws

enacted by the legislature and disbursing or administering moneys appropriated or to be appropriated by the legislature.

Some Legislatures make the result of an investigation the basis of prosecution where offences are committed. In other cases such reports may form the basis of the removal of public officers from their positions. Legislative power to conduct investigation in Nigeria does not include the power to prosecute or punish. Usually, the report of the legislature should form a competent source of information which should be the basis of public prosecution before a competent jurisdiction.

The legislature or its Committee possessed a wide power to call for any form of evidence concerning a matter under its investigation. To conduct investigation, the National Assembly could invite any person or the production of any person or material which may be considered helpful in reaching a decision on the matter being investigated. Section 83(1) of the 1979 Constitution states that the Senate or House of Representatives or a Committee, in conducting any investigation shall have the power:

> ***To procure all such evidence, written or oral, direct or circumstantial, as it may think necessary or desirable and to examine all persons as witness whose evidence may be material or relevant to the subject matter.***

> ***To summon any person in Nigeria to give evidence at any place or produce any document or thing in his possession or under his control and to examine him as a witness and require him to produce documents or any other thing in his possession or under his control, subject to all just exceptions and***
>
> ***to issue a warrant to compel the attendance of any person who after having been summoned to attend, fails, refuses or neglects to do so and does not excuse such failure, refusal or neglect to the satisfaction of the House or the Committee in question, and to order him to pay all costs which may have been occasioned in compelling his attendance or by reason of his failure…***

The 1979 Constitution empowered the National Assembly to even impose a fine on any person who fails to respond to it's summon and the fine could be recovered in the same manner as is obtainable in a court of law.

### ***4.5 The Legislature in the 1999 Constitution***

Upon the inauguration of a democratically elected government on 29th May 1999, the Constitution automatically became operational, hence ushering the fourth republic. Accordingly, the 1999 Constitution also provides for a bicameral legislature at the centre and a unicameral arrangement at the state level. Each of the thirty six states (36) of the federation is represented by three (3) Senators, while the House of Representatives draws its members from the Federal Constituencies within the country. These Federal Constituencies are demarcated based on population.

Section 4(1) of the 1999 Constitution vests the legislative powers of the Federal Republic of Nigeria in the National Assembly thus:

> ***The legislative powers of the Federal Republic of Nigeria shall be vested in the National Assembly for the federation which shall consist of a Senate and a House of Representatives.***

The Constitution goes ahead to empower the Assembly to make laws as can be found in section 4 (2) thus:

> ***The National Assembly shall have the power to make laws for the peace, order and good governance of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List…***

Similarly, section 4(4) expands the powers of the Assembly in the law making process thus:

> ***In addition and without prejudice to the powers conferred by subsection (2) of this section, the National Assembly shall have power to make laws with Respect to the following matters, that is to say***
>
> ***a. any matter in the concurrent legislative list set out in the first column of part ii of the second schedule to this constitution to the extent prescribed in the second column opposite thereto; and***
> ***b. any other matter with respect to which it is empowered to make laws in accordance with the provisions of this constitution***.

The Constitution of the Federal Republic of Nigeria, 1999, has prescribed the duties and responsibilities of the Legislature as follows:

Law Making: This is probably the most important function of the legislature. It therefore has the power to repeal, amend or add to the existing laws of the land with a view towards making it responsive to the present day needs of the society. The powers of the legislature to make laws are wide and unquestionable if properly exercised. Only the constitution can limit it (Liman 2004). A legislature cannot pass a law in flagrant violation of the constitution because it can easily be declared null and void.

Section 79(a) states that the National Assembly has the power to make provisions concerning "persons who may apply to an election tribunal for the determination of any question as to whether; (i) any person has been validly elected as a member of the Senate or House of Representatives; (ii) the term of office of any person has ceased; or (iii) the seat in the Senate or House of Representatives of a member of that house has become vacant."

Section 79(b and c) empower the legislature to make laws indicating "the circumstances and manner in which and the conditions upon which such

application may be made; as well as determine the powers, practice and procedure of the election tribunal in relation to any such application.

Finance: The Constitution of the Federal Republic of Nigeria, 1999, confers the National Assembly with powers to decide the Revenue Allocation formula for the federation account based on some criteria. It establishes the Revenue Allocation and Fiscal Commission that advises the President on the proposals and formula for the revenue allocation and based on that advice, the President sends his proposal to the National Assembly for approval. Such a proposal can be approved, rejected or amended (Liman 2004). The Legislature also has the power to audit public finances. It also has the power to investigate into the affairs of government departments. According to Esebagbon (2005), the legislature can discharge the following functions relating to public funds-

a. Pre and post budget control.
b. Authorisation of expenditure from the Consolidated Revenue Fund.
c. Auditing public accounts.
d. Directing or causing to be directed, investigation into "the conduct of affairs of any person, authority, ministry or government department charged or intended to be charged with the duty of or responsibility for disbursing or administering money appropriated or to be appropriated by the National Assembly."

Rule 93(b) of the Standing Orders of the Senate states that the "statutory annual report of each ministry and of all boards and committees and other agencies reporting to each ministry for the immediate past reporting period shall be presented to the Senate before the consideration of the ministry's estimates, unless sufficient reasons are given to the Senate for non-compliance."

In an effort to enhance the Assembly's power of control over the purse, section 83(1) of the 1999 Constitution empowers the National Assembly to make laws "for the establishment of a Contingency Fund for the federation and for authorising the President if satisfied that there has been an urgent and unforeseen need for expenditure for which no other provision exist, to make advances from the fund to meet the need."
Section 80(3) states thus:

> ***No moneys shall be withdrawn from any public funds of the federation other than the Consolidated Revenue Fund…unless the issue of those moneys has been authorised by an act of the National Assembly***

Investigative Functions: The Legislature has broad range of powers to investigate anything with respect to which they have powers to make laws. This includes the conduct of any person or authority responsible for

executing or administering any laws made by the legislature. Investigation is synonymous with Legislative Oversight. It entails a continuous review by the National Assembly of the way in which the Executive implements its mandate. This is done through testimonies of members of the Executive at hearings of Committees. This is because it cannot be taken for granted that all laws made by the legislature would be implemented in accordance with their real intent. The legislature has to follow up and monitor such implementation (Liman, 2004). Investigative powers of the legislature can be used to call for the examination of all documents, instruments and other things in possession of the Executive. The powers of investigation are intended to assist the legislature to;

a. Make laws with respect to any matter within its legislative competence and correct any defects in existing laws.
b. Expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it.

Section 89(i)a empowers the legislature to procure all such evidence, written or oral, direct or circumstantial, as they may think necessary or desirable and to examine all persons, witnesses whose evidence may be material or relevant to the subject matter. The legislature can summon any Nigerian or inhabitant to appear before it to provide information. It

can order the arrest and incarceration of any such person who impedes its constitutional responsibility.

There is however the fear that the power of investigation may be misused by the legislature. The Constitution Drafting Committee commenting on this subject in 1978 observes as follows:

> ***The investigatory powers of the legislature must, we believe, be couched in such terms as to avoid the invasion of the field of the judicature. These powers are intended to be ancillary to their legislative functions. We think that …the constitution ensures that there will be no possibility of any conflict between the legislature and the judiciary. We also bore in mind the liberty and freedom of the individuals and the need to see that the powers of investigation conferred on the legislature are not exercised in such a way as to contrive fundamental rights or for oppressive purpose.***

Notwithstanding the results of any investigation by the legislature, it is not a judgement. The legislature therefore cannot punish any person found guilty for corrupt practices or misconduct in the discharge of his official duties. It can only make recommendations to the Executive for the appropriate action to be taken. Inspite of that, recommendations resulting from investigations by the house or its Committee are very important. Section 13 of the Legislative Houses (Powers and Privileges) states as follows:

> ***The proceedings before a committee of a legislative House authorised by standing orders or resolution of the house to send for persons, papers and records shall be deemed to be a judicial proceeding for the purposes section 121, 122 and 123 of the Criminal Code.***

Investigation remains a potent source of control over the conduct of government, particularly control over public funds by the legislature. It can make persons dealing directly with public funds aware that their conduct can be called to question any time (Esebagbon, 2005).

Impeachment: This is by far the greatest weapon at the disposal of the legislature as a check against the executive. The 1999 Constitution gives the legislature the power to remove from office the President, the Vice President, a Governor and a Deputy Governor for gross misconduct. Section 143(5) states that within seven (7) days of the passing of a motion that the allegations against the President be investigated, the Chief Justice of Nigeria shall, at the request of the President of the Senate appoint a panel of seven (7) persons to investigate the allegations. No Court of the land can question the validity of the proceedings or determination of the panel or of the legislature in the exercise of this power (sections 143(10) and 188(10) of the 1999 Constitution). What constitutes 'gross misconduct' is left at the latitude of the legislature. Thus section 143(ii) states as follows:

> ***A grave violation or breach of the provisions of this Constitution or a misconduct of such nature as amounts in the opinion of the National Assembly to gross misconduct***.

Approval Function: The 1999 Constitution empowers the National Assembly to scrutinise and confirm major appointments of the Executive. All appointments by the President into the offices of Ministers (section 147), Ambassadors and High Commissioners (section 171F), Membership of bodies like the Independent National Electoral Commission (section 153), Chief Justice of Nigeria (section 231) and the Federal Civil Service Commission (section 153) must all be confirmed by the Senate. The legislature in exercising these powers is complementing the efforts of the Executive in ensuring that only competent persons with proven integrity are appointed into high positions of government. The idea is to ensure that such appointments are not occupied by political faithful, who may lack the necessary skills, experience and integrity. The power of the legislature in terms of appointment is only confirmatory. It does not have the power to substitute a nominee for another (Esebagbon, 2005).

Proclamation of a state of emergency: Section 305(i) of the 1999 constitution empowers the National Assembly to approve the request of

the President to declare a state of emergency, whenever there is a breakdown of public order and safety. Such proclamation is to be published in the official gazette of the federation. Usually, the President can declare the state of emergency, but for the proclamation to continue for a few days, it must be approved by the National Assembly. The National Assembly is to collaborate with the Executive in the handling of emergency situations and also check abuse of power of proclamation by the President.

Ratification of Treaties and Pacts: The National Assembly is also to participate in pursuing Foreign Policy objectives of the country. Before any treaty between Nigeria and any other country can have the force of law, such a treaty must have been enacted into law by the National Assembly (section 12(i) of the 1999 Constitution). Bills on the treaty are debated and passed into acts of the National Assembly and then given presidential assent. The essence of legislative intervention in treaty making is to ensure that the country is not allowed to enter into International Agreements that may run counter to the interest of the nation as well as to ensure that treaties donot derogate the constitutional provisions (Esebagbon, 2005).

Troop Deployment: Section 5(4)b of the 1999 constitution states that the president cannot declare a state of war between Nigeria and another country except with the approval of the National Assembly. Prior approval of the Senate must be obtained before the deployment of the armed forces outside Nigeria.

Power to Alter the Constitution: Only the Legislature can amend the constitution. Section 9 of the 1999 constitution states that a bill for amendment or alteration of the constitution shall be passed in either the Senate or the House of Representatives and shall be supported by votes of not less than 2/3 majority of all members of the Senate and the House of Representatives and approved by a resolution of the Houses of Assembly of not less than 2/3 of all states.

Other functions of the legislature include the power to fix salaries and allowances of certain key political office holders. This function is specified in section 84(i)a of the 1999 constitution. The key office holders falling within this category are the President, the Vice President, the Chief Justice of Nigeria etc, in line with the recommendation of the Revenue Mobilisation Allocation and Fiscal Commission. Furthermore, the legislature also discharges the function of interest articulation and aggregation by providing a forum where demands coming from different

constituencies are received, deliberated, harmonised and where necessary acted upon jointly. The Legislature is also regarded as a symbol of sovereign will of the people. It represents the interest of the various constituencies that make up the society. It is the voice of the people (Liman, 2004). The legislature also has the power to regulate its internal procedure. Section 60 empowers the legislature to control and regulate its own activities by itself and its states that "subject to the provisions of this constitution, the Senate or the House of Representatives shall have power to regulate its own procedure; including the procedure for summoning and recess of the house."

Notwithstanding the functions of the legislature as identified above, it is important to state that its primary function still remains that of lawmaking. It would therefore not be out of place if we attempt to discuss the process through which a bill becomes law, as provided for in the 1999 constitution.

### ***4.6 The Legislative Process***

The general practice in legislation is that a law or an act of parliament is initiated through the introduction of a bill. A bill is regarded as the draft of a proposed law to be discussed in parliament (Esebagbon, 2005). A bill therefore is;

a. A proposed legislation.
b. Must be in a draft form.
c. Ready to be presented or indeed presented by the legislative assembly, constitutionally empowered to make laws.

Bills are the raw materials that are processed to become law. All legislative processes are required to come before the legislature in the form of bills. Presentation of the bill before the assembly is the first stage of the law making process. It sets out the chain of activities that happen until the bill finally becomes law (Esebagbon, 2005). Bills donot simply emanate without thorough research by its initiators to ensure that there exist a linkage between proposed laws and the needs of the society. In 1978, the then Constitution Drafting Committee had this to say on the legislature and the law making process:

> ***The legislature under a democratic system of government has an important role to play in sustaining the democratic system. Its primary function is to make laws but in exercising those functions it must keep itself informed of the needs of society and of the way in which the laws it enacts are executed. The legislative process would be incomplete if all that the legislature has to do were to examine bills placed before them without going any further…Legislature must inform themselves of how existing laws are administered and what defects show up on the administration of the law.***

The source of a bill may originate from;

a. The Legislature- the idea may originate from the legislator's election campaign or the promotion of a party's electoral platforms or legislative agenda. Such a bill is called 'member bill'.
b. Private Individual and Interest Groups- this may include professionals, trade unions and non-governmental organisations and they may propose bills through members of the legislature.
c. Executive- most frequently the source of the legislative process, the President, Ministers, Departmental officials etc usually proposed bills to be enacted into law. The Executive is primarily responsible for the general policy framework of the government.

Section 58(I and ii) of the 1999 constitution provide as follows:

> ***The power of the National Assembly to make laws shall be exercised by bills passed by both the Senate and the House of Representatives and except as otherwise provided in subsection 5 of this section, assented to by the President.***
>
> ***A bill may originate in either the Senate or the House of Representatives and shall not become law unless it has been passed and except as otherwise provided by this section…***

A bill is introduced to the house but it has to be received and approved by the legislature. The legislature must have the opportunity to consider all bills both in general principle and details. Every bill has a title which is normally the same as the eventual title of the act. A bill also has a preamble which sets out the reason for introducing the bill. The main body of a bill is laid down in parts or chapters, each chapter containing a number of clauses numbered consecutively. After enactment, the word 'clause' is replaced by 'section' (Jimoh, 1999). Bills vary in length depending on the content they address. The name or names of sponsors of the bill are contained on the back of the bill (Erskine, 1989).

The 'First Reading' entails the introduction of the bill to the whole house. This is formal and no debate is entertained. The Clerk of the house reads the short title and the bill is then presumed to have been read for the first time. After reading, the bill is ordered to be printed and a day is appointed by the member presenting it for the second reading. The bill is recorded in the house journal as having been read for the first time and copies are distributed to all members to study (Jimoh, 1999).

The 'Second Reading' is done on an appointed date. The Clerk reads the order of the day for the second reading of the bill. The Member in charge moves for the bill to be read for the second time. This leads to wide

debate on the principles and purpose of the bill as well as the particular interest the bill will affect. The opposition can present its opposition to the bill at this stage and probably call for its amendment. At the end of the second reading, the house must take a decision. If a bill passes a second reading, it moves to the committee stage. But if the bill is defeated that is the end (Jimoh, 1999).

The next stage of processing a bill is the Committee stage, where the bill is referred to the Committee responsible. The house can pass a bill without referring it to any committee. It may also refer it to a Committee who acts with the full powers on behalf of the house. Upon referral to a Committee, the bill is examined in very close detail. The Committee scrutinises the bill clause by clause, line by line and even word by word. According to Jimoh (1999), the Committee has the power to make amendments on the bill, but such amendments are ruled out of order when

a. They are irrelevant to the subject matter or beyond the scope and coverage of the bills.
b. They are similarly irrelevant to or beyond the scope of a clause of a bill.
c. They depend on amendments already negatived.

d. They conflict with amendments or with parts of the bill already agreed to.
e. Necessary consequential amendments have not been tabled or where the amendments are otherwise incomplete.
f. They conflict with the decision of the house to approve the principles of the bill on second reading.
g. They are vague, trifling and frivolous or tendered in a spirit of mockery.

The rules of debate at the Committee stage are usually more relaxed that a member may air his views more than once.

The Committee formally presents a report to the house with all amendments to the original bill and reprinted. This will attract further debate on the floor. If a bill has not been amended at the Committee level, then the third reading is heard. But if it has been amended, the amendments are considered before the third reading. At the stage the bill is either accepted or rejected by the house. Usually, no debate is entertained on the bill at this stage and when allowed, the debate is normally short. Acceptance of the bill at this stage means that subject to presidential assent, it has become law (Jimoh, 1999).

When agreement is reached by both houses on the text of a bill, it is then prepared and presented to the President for his assent. The signature of the President on a bill automatically makes it a law. Sometimes the President requests the legislature to reconsider the bill, meaning that it has been vetoed. This gives the legislature a second opportunity to examine the measures it may have passed without considering the consequences. The bill passes through the legislative machinery once again and at the end it takes a decisive stand to pass the bill into law with the required majority with or without the assent of the President (Jimoh, 1999). Section 58(iii, iv and v) state thus:

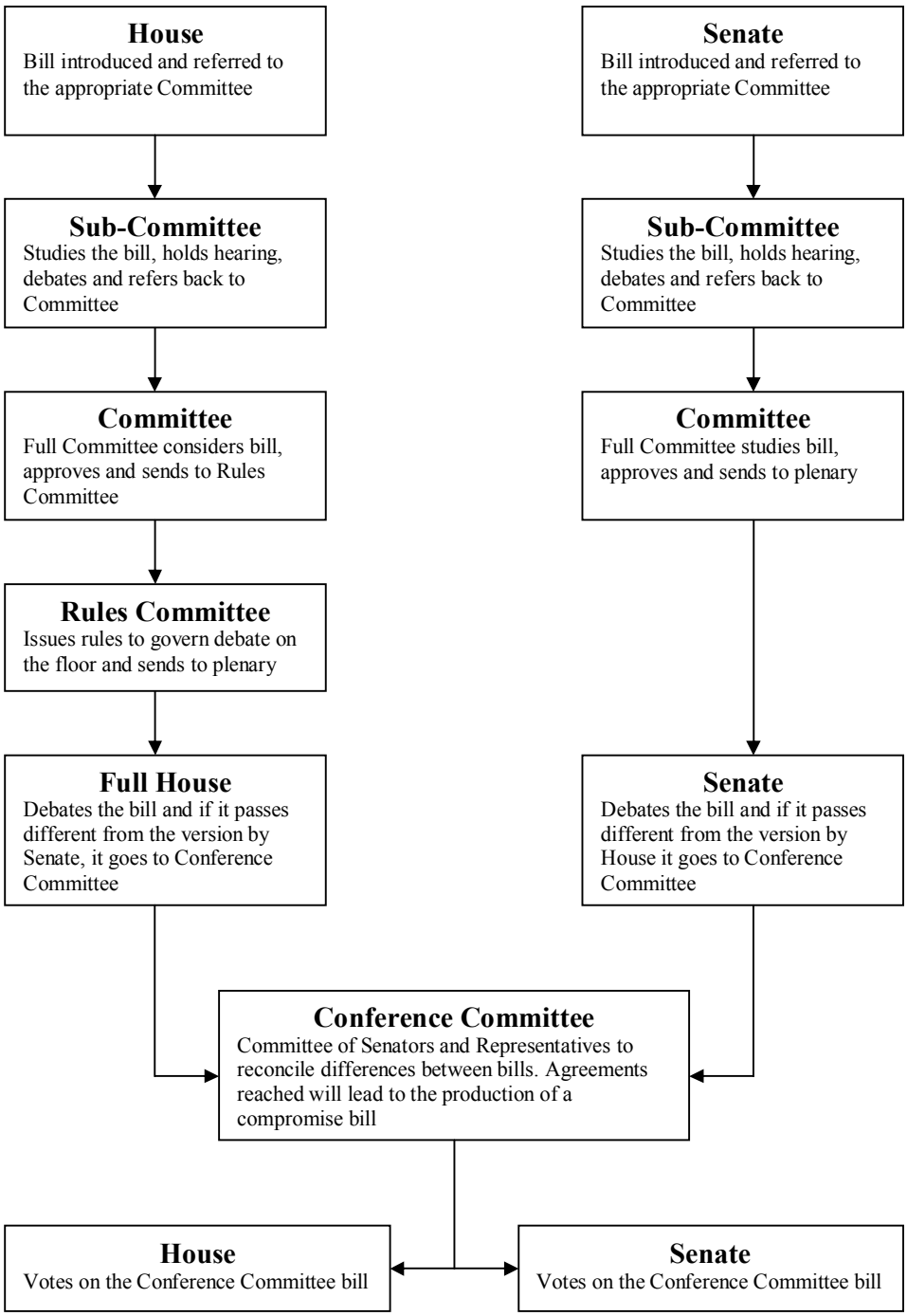
> ***Where a bill has been passed by the House in which it originated, it shall be sent to the other house, and it shall be presented to the President for assent when it has been passed by that other house and agreement has been reached between the two houses on any amendment made on it.***
>
> ***Where a bill is presented to the President for assent, he shall within thirty days thereof signify that he assents or that he withholds assent.***
>
> ***Where the President withholds his assent and the bill is again passed by each house by two-thirds majority, the bill shall become law and the assent of the President shall not be required***.

In passing an Appropriations bill, the National Assembly shall after the second reading; each standing committee of the two houses becomes a sub-committee of the Appropriations Committee for the purpose of the

appropriation exercise. Each head of estimate is allotted to the Committee overseeing the appropriation of the ministry. Each Committee deals with its estimates and reports back to the Appropriations Committee, which in turn reports to the entire house. Amendments from each of the sub-committees are in the form of resolutions (Egos, 2004). The Chairman of the Appropriations Committee moves for the third reading, after which the bill is sent to the second house for a repeat of the process. Should the two houses pass the bill with differences, then a Joint Committee is appointed. The advantage of forming the Joint Committee is to avoid double or dual consideration of bills as well as avoid friction and misunderstanding. Joint Committee is usually adhoc and is created to adjust differences between the chambers. Bills or Resolutions cannot be transmitted to the Executive unless they have been passed through both houses in an identical form (Egos, 2004).

Membership to the Joint Committee is equal from each of the houses and varies from three to nine. Majority of the members representing each of the houses must agree to the conference and reports are sent to their respective chambers. The conference is expected to resolve only areas of differences and not to tamper with areas already agreed to by both houses before the conference (Gary, 2004).

**Table 4.1: The workings of the Joint Committee.**




(Source: Adeyemi, "House Committee, Consultants and Legislative Aides: Roles and Relevance in the Process of Legislation", Proceedings of a Retreat by the House of Representatives, Abuja, 2004)

If the Joint Committee fails to resolve the differences, the bill shall be presented to the Joint sitting of the National Assembly. It is however

unusual for the Joint Committee to fail to resolve the differences. Indeed there are reservations expressed as to the procedure of resolving such differences by the Joint Committees, where some scholars regard the power of the Joint Committee as near final in passing an Appropriations bill. Nwabueze observes thus:

> ***But assuming the differences to have resolved in any sense in which the words may be interpreted, the crucial question is whether the bill may, on strength of that, be regarded as having been passed by the National Assembly, and be sent directly to the President for his assent, or whether it needs still to be referred back to the two houses for formal adoption… The fact that the approval of the two houses is not expressed as being subject to the provision of section 59 empowering the Joint Committee to resolve differences between the houses is conclusive that no bill, including a money bill, can become law unless it has been passed by the two houses in separate or joint sittings***…

(cited in Esebagbon, 2005).

Before we commence a discussion on the meaning of oversight, which will form the basis of the discussions in this research, it may be pertinent to discuss in greater details Parliamentary Committees. This is because in evaluating Parliamentary Oversight of the Defence Sector, we intend to examine the activities of the Committees in charge of the sector.

### *4.7 Parliamentary Committees*

Parliaments all over the world function mostly through committees. In the case of the Defence Sector both chambers of the Nigerian Parliament rely on their Standing Committees to address issues relating to the sector. The Senate has the Defence Committee, while the House of Representatives has the Defence Committee, the Committee on Army, the Committee on Airforce and the Committee on Navy.

A Committee is a miniature representative of the parent body. Committees are legislative Working Groups created by the Parliament to enhance it legislative businesses. Whenever a legislative matter requires detailed examination, elaborate process of information gathering or even confidential conduct of inquiry, a small panel of members instead of the whole house is assigned to look thoroughly into the matter and report back to the house (Esebagbon, 2005). Committees are set up so that the parent body will achieve a number of set objectives in the shortest possible time. Committees perform tasks much quickly and more effectively than a whole body. The time for deliberation by the plenary is reduced by setting up committees to handle various work of the plenary (Gary, 2004).

According to Griffith-Traversy (2002) Permanent Parliamentary Committees as the major instruments for embarking on oversight will require stable memberships and access to independent resources. Their efficiency will further be enhanced if they have the following features viz:

- Small Size- A small committee will be more apt, less partisan and in a better position to arrive at common grounds. There will be fewer Members of Parliament (MPs) to speak on every issue; hence more can be achieved within a shorter period. Similarly, Members get to know each other better and negotiations are easier to achieve.
- Permanence- To build expertise, it is necessary to establish committees at the beginning of a Parliament and keep them functioning through the session. There is also the need to have an informed membership. This can best be determined by the previous experience or study in particular fields of specialisation by the members concerned. By emphasising on expertise, the credibility of the reports and recommendations by the committee are greatly enhanced.
- Department Parallels- All permanent committees in Parliament should reflect as much as possible Government Ministries and Departments. This is essential in determining which group of MPs

have the jurisdiction to embark on the oversight of which Ministry or Department. Similarly, officials from the Ministry/Department can easily identify those MPs they need to establish good working relationships with. Associated to this is the establishment of exclusive jurisdiction on every issue. Being solely responsible for pursuing as issue, each set of MPs forming a Committee will ensure greater vigilance.

- Clear Mandate- Each committee should have a permanent order of reference so that it can investigate any matter within its area of competence. Part of the mandate of a committee include the power to amend any legislation under its scrutiny and should be empowered to invite witnesses, hear testimony and table reports.
- Research Support- Committees are to be supported by adequate research personnel and facilities, which should be independent of government. There are two options here; the conduct of research through parliamentary library, research office or by giving each committee a reasonable budget to hire independent researchers.

Committees are set up to carry out assigned tasks and report back to the house. Without Committee system, it would be impossible to achieve much on time in details and with a high degree of thoroughness and professionalism. In both the Senate and the House of Representatives,

Committees' names and number reflect the Executive department over which they have legislative jurisdiction (Gary, 2004).

Rule X of the Standing Orders of the House of Representatives provides the number and task of each of the Standing Committees. Each shall have jurisdiction and related functions assigned to it by this clause and clauses 2, 3 4 and all bills, resolutions and other matters relating to subjects within the jurisdiction of the standing committees.

Standing Committees are established essentially in relation to and for the purpose of monitoring and overseeing the Executive Department. There is however provision for the establishment of Joint/Conference Committees (see details in 4.6 above).

In presidential system of government, committees are more relevant and enjoy wider powers because ministers are not members of Parliament. They are not present to explain. In Parliamentary system, both the Prime Minister and his Ministers are in parliament to explain. Clem (1989) explains further:

> ***Congressional Committees are notably more significant in the American Legislative process than are the committees in the British House of Commons. In London, Legislative Committees***

> ***are more transient and short-lived. Bills are referred to committees after the house has voted its general agreement with their major features and the work of the committees merely to write the perfecting details. The central cabinet arranges the parliamentary agenda in the British system, a process that in the United States involves the positive input of Committees and party leaders.***

Consequently, having realised the importance of committees, the Constitution of the Federal Republic of Nigeria, 1999, section 62(1) states as follows:

> ***The Senate and the House of Representatives may appoint a committee of its members for such special and general purpose, as in its opinion would be better regulated and managed by means of such a committee, and may by resolution, regulation or otherwise, as it thinks fit, delegate any functions exercisable by it to any such committee***.

Committees function by embarking on regular reviews and study on a continuing basis, the application, administration, execution and effectiveness of laws dealing with the subject matter over which the committee has jurisdiction and the organisation and operation of federal agencies and entities having responsibility for the administration and the evaluation of those laws. The purpose of review and study is to determine whether laws and programmes created by Parliament are being implemented and determine whether the programmes should be

continued, curtailed or eliminated. Each committee having oversight responsibility is required to review and study conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of the committee (Anyanwu, 2003).

According to Esebagbon (2005), the rationale for the formation of a Committee is:

a. Need for detailed examination- modern legislatures have recorded tremendous growth in size and volume of legislative business, such that every legislative business may be difficult to be fully and effectively addressed at plenary sessions. Matters have to be referred to committees for detailed consideration.
b. Experts' Consideration- bills, motions, reports and other legislative matters may be so complex and technical that they may require expert consideration and inputs. Referring them to the relevant committees for detailed and professional analysis may achieve that. The house in its ordinary plenary sessions may not be able to effectively handle it.
c. People's participation- a more balanced participation by the people can be achieved. There may be several bills requiring input from stake holders and the general public. Committee system offers a

more relaxed platform for any interested stake holder or member of the public to make contributions to the issue. This may take the form of public hearing.

d. Save Parliamentary Time- the legislature is faced with many functions on a daily basis. The plenary may not have the time to consider details of every legislation in view of other challenges. It therefore becomes imperative to refer matters to committees so as to save the time of the plenary.
e. Committee system encourages law makers to develop special interests and expertise in particular aspects of public policy.
f. Committee system produces abundant channels of communication through which organisations, interest groups and individuals make representation to the legislature to have their views placed on public record which can be aggregated and processed into necessary input for natural policy formulation.
g. Committee system assists to ensure overseeing the results of the implementation of laws.

Lending his voice to the importance of Committees in the functioning of the legislature, former President Woodrow Wilson of the United States described Committees as 'little legislatures'. In his view, "the house sits, not for serious discussion, but to sanction the conclusions of committees

as rapidly as possible. It legislates in its committee rooms; not by the resolution of specially commissioned minorities; so that it is not far from the truth to say that Congress in session is Congress on public exhibition, whilst Congress in its committees-rooms is Congress at work." (quoted in Esebagbon, 2005).

The role of Committees in the legislative process is such that when a bill has been read the second time, it shall stand committed to a standing committee, unless the house, through a motion commits it to the Committee of the whole. Committees to which bills have been committed shall report to the house after consideration of the bill with amendments. Usually because standing committees take after the names of the minor Executive Departments whose legislative affairs they oversee, all bills, reports, papers and other matters relating to or involving ministry or extra ministerial departments are referred to the Appropriations Standing Committee (Gary, 2004). A common function of all standing committees is annual budget estimates. During annual budget deliberation, when the budget has come to the Committees stage, after the second reading, all Executive departments and ministries' budgets are passed to the relevant committee for their input. At the level of committees, people or witnesses from the Executive agencies, individuals and interest groups as well as other stake holders are allowed to testify for or against the bill. Once a

piece of legislation is referred to a committee, its first action is to seek for a report from the relevant Executive agency. The Committee also makes its own relevant researches and investigations through the hiring of consultants (Gary, 2004).

According to Esebagbon (2005), Parliamentary Committees are classified thus:

a. The Committee of Selection- This Committee selects and appoints members into other Committees including adhoc Committees, delegations of the house and Parliamentary missions of the whole house.
b. Rules and Business Committee- This Committee determines matters that are presented for deliberation in the house and when such matters should be presented.
c. Ethics/Public Petitions Committee- This Committee handles matters affecting breaches of privileges, ethical code for legislators and public petitions.
d. Services Committee- This Committee oversees matters affecting the welfare of members and other operational requirements of the legislature.
e. Public Accounts Committee- This Committee is responsible for examining public accounts as regards implications of all sums

appropriated by the legislature. It reports to the house the appropriate implementation of the report of the Auditor General of the Federation.

f. Standing Committees- These are Committees created under the standing rules of the legislature and constituted at the commencement of each assembly. At the moment the Senate has fifty four (54) and the House of Representatives has seventy one (71) Standing Committees.

g. Committee of the Whole- This comprises the entire membership of the house, presided over by a Chairman, instead of a presiding Officer. The principal function is deliberative not enquiry. The Committee treats all matters which in the opinion of the assembly are better treated by the whole. The Committee of the whole has no power to adjourn its own sitting or to adjourn its consideration of any matter to a future sitting. If the consideration of a matter is not concluded or if all matters referred to have not been considered, the Chairman is directed to report progress and ask leave to sit again. Should a member wish to bring to close, deliberations on legislation in a Committee of the Whole, he will move "that the Chairman do leave the chair". An affirmation of the motion implies that the bill disappears from the order paper. The Committee of the Whole cannot suspend any standing rules, because it is a creation

of the house and therefore has no power to vary the decisions of a superior body.

Functioning of Committees, particularly the perceived enormous powers they enjoy have been criticised in several quarters. It is generally believed that Committees' powers, if not properly checked, may gradually usurp the powers of the Assembly. Joye and Igweike (1982) observe thus:

> ***It is necessary to point out that this same device which facilitates the work of the legislature also embodies the potential for dilution of the legislature's impact for it is possible for a particular committee to become responsive to selected interests. If allowed to operate with virtual autonomy, the committee system could become a fragmenting force for the members may not be united by any common vision of national policy goals.***

Similar contingency arrangements to check possible overbearing influence of the Committee system has been provided in section 62(4) of the 1999 Constitution thus:

> ***Nothing in this section shall be misconstrued as authorising such house to delegate to a committee the power to decide whether a bill shall be passed into law or to determine any matter which it is empowered to determine by resolution under the provisions of the constitution, but the committee may be authorised to make recommendations to the house on any such matter.***

We shall now turn our intellectual attention to an in depth understanding of the concept of oversight.

### ***4.8 Parliamentary Oversight***

As earlier stated, Parliament has several functions. Primarily, Parliament serves as the representative of the people; it also makes laws and performs oversight functions to ensure good governance and effective delivery. While representing the people and making laws, exercising oversight functions enables a law maker to be a proper representative of his people. Oversight is one of the traditional functions of the legislature to formulate a process of deciding who gets what of the public spending in any financial year as well as maintaining surveillance and exercise controlling power over the approval of expenditure (O'Donnell, 1998). The power of oversight is informed by the political and constitutional imperatives of good governance. Its ultimate goal as defined by Socorro Reyes "is to ensure that every public policy enacted into law and implemented by government serves the public interest" (cited in Anyanwu, 2003). Parliamentary Oversight can be said to exist when an individual legislator observes closely and becomes familiar with the organisation and policy implementation of an executive establishment or when a legislative committee, by contact, observation or investigation, places itself in the posture of a watch dog over executive activities

(Adejokun, 2004). In the case of Nigeria, oversight will entail asking the question; are the various ministries operating the appropriations act as passed by the National Assembly? If the answer is positive, then the National Assembly has the power to ask questions on how these moneys are being administered (Zilani, 2004). Legislative oversight is the power to touch lives for what lawmaking and governance are all about is touching lives positively, the lives of the people or voters. Oversight entails the extent to which policies are implemented and intended and the efficiency and effectiveness of the administration (Anyanwu, 2003).

Viscount Bolinbroke (1987), sees the aim of the theory of Parliamentary control of public spending as emanating from the power of Parliament to meet every year to vote the supply of funds to government. He states thus:

> ***Parliaments are not only what they always were, essential part of our constitution, but essential part of our administration too. They donot claim the executive power… but the executive power cannot be exercised without their annual concurrence.***

(quoted in Anyanwu, 2003)

According to Anyanwu (2003) Parliamentary Oversight happens through

a. A review, study and evaluation on a continuing basis of how laws are being carried out and whether they are being carried out in accordance with the intent of the law making process.
b. A review, study and evaluation of the execution of programmes created by law to establish whether they should be continued, curtailed or eliminated.
c. A review, study and evaluation of the organisation and operation of federal agencies and entities whose responsibility it is to execute laws and administrative programmes using funds approved by the legislature to establish if there is a necessity to enact new or additional laws.

Funds are very important to government and the legislature cannot watch while hard earned resources of the taxpayers are being wasted by any government. The legislature may withdraw funding from government by refusing to vote on supply of funds rather than give their concurrence for a wasteful spending. This therefore means that the executive must avoid presenting extravagant monetary bills to the legislature. The executive must undertake a thorough research bearing in mind the macroeconomic and monetary policies already put in place (Jimoh, 1999).

Government spending plans must conform to the expectations of the legislature, with the setting of priorities and considering various sectors and segments of the political economy, reflecting geographical, strategic and demographic imperatives. Where the legislature rejects any particular expenditure, a reformulation has to be made in compliance with its directives. This reformulation forms the basis of democratic control over spending of taxpayers' money. This provides the ultimate checks and controls the efficacy which strengthens constitutional practice (Jimoh, 1999).

Although exercising power and control over public funds is a formal legislative function guaranteed by the constitution, the executive may manipulate the budgetary process that members of the legislature may not be able to thoroughly examine details of the proposal. In reality, the legislature alone may not be the only body that can determine who gets what. Several other factors come into play; pressure groups may exert considerable influence to direct public spending plans and policies in its favour. The legislature therefore has the dual role of ensuring the efficacy and prudence in controlling public funds, while at the same time assisting the executive in achieving specific goals (Jimoh, 1999). Consequently, Legislators are therefore right to challenge programmes implemented and

delivery not consistent with the legislative intent and purposes and unlikely to achieve stated outcomes (Anyanwu, 2003).

Oversight is a continual activity. It is an ongoing process that requires constant monitoring, inquiry and communication. It is however not a licence to blackmail or an excuse to harass the executive branch. Oversight may be carried out by the National Assembly, a Committee of the National Assembly or even a member of staff of the Assembly. Oversight links policy to reality. It serves as a mechanism for feedback on policy results. It indirectly aids policy designs since information gathered through monitoring and evaluation could be fed into all phases of the policy cycle. Oversight is most effective when it results in concrete politically feasible, administratively workable suggestions for addressing the problem being exposed through an oversight process (Anyanwu, 2003).

In embarking on oversight, the legislature has several mechanisms. According to Anyanwu (2003), they include the following:

Committees- This study has already identified and discussed Committees as central in discharging the oversight function (see our discussion on

Committee in 4.7 above). Section 62 of the 1999 Constitution empowers the National Assembly to set up Committees thus:

> ***The Senate or the House of Representatives may appoint a committee of its members for such special or general purpose as in its opinion would be better regulated and managed by means of such a committee and may by resolution, regulation or otherwise, as it thinks fit, delegate any functions exercisable by it to any such committee***.

Hearings are an effective mechanism for oversight. Executive agencies get in contact with legislators, where they present their plans and programmes and request for money they need to carry out such programmes. Legislators get the opportunity of questioning them on the money approved in the past and what they accomplished with it.

Sometimes the legislature may decide to insert in the budget bill a language that places conditions or restrictions on an agency's expenditure. Being part of an enacted bill, the language has the force of law.

The legislature may choose to use resolutions to request the executive to study a problem or recommend that a specific action be taken or an agency refrains from taking a specific action. This is part of oversight.

Another mechanism is reporting requirement, compelling government agencies to issue periodic reports. Such reports give legislators the opportunity to be informed of executive activities. Usually an update report would be referred to the appropriate committee that holds a hearing where the agency would take more inquiries. Site visits are powerful mechanisms of oversight, giving lawmakers the opportunities for first hand assessment of how laws passed or budgets approved are working out in the field.

Constituent Inquiries are yet another mechanism for oversight. Legislators are constantly approached by constituents for intervention on issues concerning actions of government. This keeps legislators in constant touch with the executive.

By far the most potent and effective mechanism for oversight is impeachment. The legislature has the power to impeach the President or the Vice President. It can also censure ministers for gross misconduct.

The mainly used mechanism for oversight is investigation. Section 88(i) empower each house of the National Assembly "to direct or cause to be directed an investigation into (a) any matter or thing with respect to which it has power to make laws and (b) the conduct of affairs of any

person, authority, ministry or government department charged or intended to be charged with the duty of or responsibility for executing or administering laws enacted by the National Assembly and disbursement or administering money appropriated or to be appropriated by the National Assembly."

The purpose of the power of investigation is to make laws with respect to any matter within its legislative competence and correct any defects in existing laws. Similarly, investigation is meant to expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated to it (Anyanwu, 2003).

Notwithstanding the above mechanisms, Parliament as an oversight body will require the existence of an enabling environment. According to Ball and Kayode (2004), the following may be considered as forming the checklist:

- Independence- Parliament as an oversight body must be able to operate independently as a way of promoting and protecting transparency, accountability, integrity and free and fair dispensation of justice and administration. The effectiveness of Parliament and indeed other oversight bodies is their ability to

carry out their tasks without any interference from the executive. Parliament/Parliamentary Committees must have quality leadership that can promote oversight by not attempting to use it to further their own political and personal agendas. They must also not show favouritism to one or more groups in the society at the expense of the society as a whole.

- Accountability- Parliament/Parliamentary Committees charged with the responsibility of conducting oversight must be accountable to the people. Reports on oversight activities can best be accountable when they are made public. Although some aspects of the report will indeed require protection for the purpose of national security, other aspects should be publicised. By so doing, the report can make vital contributions to public debate on fundamental issues of democratic governance.
- Access to Resources- For effective oversight, there must be guaranteed access to adequate resources, in terms of information, human resources and funds. Sources of funding should be independent of those bodies being overseen. This will help Parliament and any oversight body fulfil its mandate without being denied the necessary funds.
- Knowledge of Security Issues- There is generally a shortage of individuals knowledgeable in security matters. In Parliament, such

knowledge is very important though the lack of it cannot pose any significant barrier towards conducting oversight functions. In conducting auditing for instance, such knowledge is not essential because auditors can make appreciable progress in identifying problems with financial management. They however require some technical knowledge to effectively assessing value for money.

- Knowledge of Governing Bodies- Oversight may also be limited by inadequate knowledge of governing processes. In most cases Legislators donot understand how to use the committee system effectively and they are also uncertain about the role and functioning of legislative oversight bodies.
- Confidence Building- Oversight is further enhanced when the personnel assisting MPs in performing oversight functions succeed in building a relationship of trust with security body personnel. Such relationship however depends on both the capacity of the oversight personnel to behave responsibly and on the ability of the security body personnel to respect and accept decisions by the oversight bodies.

In discharging its powers of oversight, the legislature faces several problems, which may be addressed in the course of discussing our next chapter. It is however important that we pin point some of them:

a. Image problem- in exercising oversight, the legislature faces the problem of accusation of corruption by the executive.

b. Similarly, the legislature is faced with technical constraints which include the following:

- Lack of mechanism to enforce oversight decisions once the executive ignores them.
- Poor library, research assistance, inadequate information and research sources.
- Poor access to information from the government sources.
- Lack of technical capacity among legislators and staff.
- Lack of budget expertise among committee staff and legislators to conduct oversight.
- Lack of specialisation and expertise among the available staff.
- Poor understanding of oversight among legislators.
- There is also the problem of politicisation of the oversight process. Politics in Nigeria is based on personal relationships and patronage. Since the wealth of a country is in the hands of the executive, few lawmakers are prepared to be on the wrong side of the executive.

Having discussed the nature and function of the legislature in Nigeria, this study intends to begin an evaluation of the opportunities and challenges in the Parliamentary oversight of the defence sector in Nigeria, as it focuses attention on the next chapter.

# CHAPTER FIVE

An Examination of Parliamentary Oversight of the Defence Sector in Nigeria
1999 to 2004

## ***5.1 Reforms in Nigeria's Defence Sector***

It is essential for us to begin this discussion by emphasising on the importance of defence in the scheme of activities in any society. There are several other fields of human endeavour which are equally considered important but defence stands out. This is because in the absence of adequate defence it is most unlikely that any society can have the necessary atmosphere to operate and achieve anything meaningful in the other sectors. The provision of adequate security creates confidence and enables a society to pursue other lofty ideals with courage and confidence. It may therefore not be an exaggeration to state that no human activity can be conducted unless there is provision for adequate security.

Defence should naturally attract the right calibre of personnel to ensure the protection and survival of the state. Any serious mistake by a state on issues relating to defence can cost it part of its territory and even the lives of its citizens. Thus defence business is the total gamut of policies, programmes, activities, structures and functions of protecting a country from external aggression and internal disintegration. Furthermore,

Defence is very costly because survival or self defence is the first law of nature. The military sector is very much capital intensive because the army for instance uses equipments such as tanks, armoured personnel carriers; the navy uses warships and sub-marines; while the airforce uses jets, helicopters etc. In serious conflicts any such weapons can easily be wasted hence requiring replacement (Toun, 2005).

Since the return to democratic rule in May 1999, the Federal Government of Nigeria has embarked on several steps aimed at ensuring reforms in the security and defence sectors. The Nigeria Defence Policy (2004), identifies four principles of civil control to serve as the guiding principle of the operations and activities of the military in the present civilian dispensation. These principles are:

- Supremacy of the Constitution- In conducting CMR, there is the realisation that the Constitution is supreme. Section 1(2) of the Constitution of the Federal Republic of Nigeria, 1999, states that no person or persons shall take control of the government of the Federal Republic of Nigeria, or any part of it except in accordance with the provisions of the Constitution.
- Democratic Imperatives- That the society is better served under democratic governance. Every individual and institution in the state shall unconditionally accept and adhere to the principles of

democracy. The role of the military in a democracy is not only to defend the government of the day but also to defend democracy itself.

- Civil Control of the Military- There shall be strict adherence to the doctrine of civil control of the military. The President is empowered to authorise the use of the military, subject to the laws enacted by the NASS.
- Military Professionalism- The society is to ensure that the military is given the needed support to discharge its functions. Members of the armed forces are specialists in the art of warfare, thus they shall uphold the provisions of the constitution and refrain from acts that can undermine the democratic system and government of the day. By training they shall be made to accept that intervention in politics is against the ethics of military profession.

From the inception of the present administration the military was considered the major institution that required immediate reform as a result of its past antecedent of politicisation, low level of professionalism and poor human rights records. Indeed this author believes that the present democratic setting in Nigeria can only succeed if the Nigerian Military was adequately reformed. In explaining the administration's

Grand Strategy for National Security, the President Chief Olusegun Obasanjo states as follows:

> ***The armed forces are the bastion of our national defence. They provide deterrence against physical aggression. They are also to provide aid to civil authority in the event of national emergencies and internal crisis. We shall continue to pursue the strategy of adequate defence…I have directed the infusion of fresh funds for the rehabilitation of the armed services and the upgrading of their equipments, training and readiness up to the standard demanded by our national, regional and international commitments and territorial defence needs. The armed forces is challenged by the need for modernisation and transformation from an institution for dictatorial rule to an effective, efficient defence machinery.***

(quoted in Obasanjo, 2000)

In his analysis of the President's Grand Strategy for National Security, the then National Security Adviser (NSA) Lt General Aliyu Mohammed explained that defence will continue to demand attention, but the emphasis in a democratic Nigeria is the welfare of the people and not the purchase of tanks and bullets. According to him, although security is not cheap, the Grand Strategy will endeavour to balance the critical requirements of national security, the competing national priorities vis-à-vis the limits of available resources. The developmental needs of civil society will take precedence over the needs of the services. The restructuring of the services is to be based on the concept of adequate but lean and effective security organisations, enhanced by modern operational

methods and technology (Mohammed, 2000). However it is important to point out that the need for a very mobile military force equipped with modern communication gadgets means that the sector requires a larger budget (Toun, 2005).

The identifiable reforms in the Nigeria Armed Forces since 1999 can be categorised in twofold. They include the Re-positioning and Re – professionalisation of the armed forces. By the latter it is meant that the military is to be made to understand and approach its military duties from the perspective of the constitution. To that end the military is to be made to concentrate on its constitutional duty of protecting the territorial integrity of the country as well as support for the civil authority. Furthermore, by Repositioning, the military is to be fully modernised, with prompt training and full participation in International peace keeping operations (Interview, Director Army Affairs, MOD, 6th June, 2006).

With the attainment of democracy, the military has been geared towards skill development. Training is very essential in the defence business both at home and abroad. In this era of Information Technology (IT), digital education and computerisation, training and re-training of military personnel is very crucial (Toun, 2005). All foreign courses that were hitherto suspended were restored and officers benefit from such courses

in turns. There is indeed attitudinal change in the military, with servicemen now realising the need to concentrate on their primary responsibility of protecting the territorial integrity of the country. There is also an effort towards technical modernisation with the purchase of new and sophisticated equipments and the refurbishing of old ones (Interview, Director Army Affairs, MOD, 6th June 2006). It is certain that more officers benefit from internal and external training, most of the beneficiaries are within the officers' corps and not the Non Commissioned Officers (NCOs) who form the bulk of the country's fighting force. While it can be said that the Re-Professionalisation efforts of the administration towards the military may be said to have attained some level of success, since it is very clear that the Nigeria Armed Forces appears to have adjusted to its primary responsibility of protecting the territorial integrity of the country, the same cannot be said of the Re-positioning phase of the reform (Interview, Director Army Affairs, MOD, 6th June 2006).

The military cannot be said to have been modernised for although there has been deliberate efforts to purchase new machinery and equipments, the modernisation effort is still far from being underway. For instance, whereas the Nigerian armed forces is participating in several International peace keeping operations particularly in Liberia, the equipments used by

the Nigerian Contingent at the United Nations Mission in Liberia, (UNMIL), are ancient, archaic and mostly unserviceable. While other contingents, particularly the South Korean and Chinese have modern, up to date military equipments which they rent out to the UN for use by other contingents, the Nigerian contingent transferred unserviceable equipments from their previous operation under the auspices of ECOMOG (Interview, A Member of the Nigerian Contingent in Liberia, 8th October, 2005). This implies that the reform programme of the Nigeria Armed Forces in terms of modernisation of equipment has not been taken seriously.

The military is to be accountable to civil authorities and in particular, it is essential to point out that the budget of the military has to be defended before and approved by the National Assembly. Similarly, defence expenditures are not hidden. They are public documents which having been passed through the instrument of the Appropriations process, hence they are easily accessible (Interview, Director Army Affairs, MOD, 6th June 2006). It is however important to point out that details of expenditure in such budgets are still not made public because of the need to maintain confidentiality and protect government secrets. These so called secret military expenditures are protected to avoid criticism from the United Nations and the North Atlantic Treaty Organisation (NATO),

both of whom are interested in ensuring that defence spending are brought down to a bearest minimum (Interview, Confidential Source at MOD, 18th July 2006). The practice of embarking on secret expenditure for the military outside the provisions of the appropriations bill was further testified to, when a Confidential Source at NASS cited the example of the recent purchase of twenty-two (22) fighter aircrafts at thirty seven billion naira (N37b), without the knowledge of NASS (Interview, Confidential Source at NASS, 15th August, 2006). By hiding the details of such military expenditures and avoiding possible Parliamentary scrutiny, there are chances that the military may embark on extra budgetary expenditure in the name of protecting official government secrets and this has the capacity to lead to corruption and inflationary effects in other sectors of the economy. It is however to the credit of the present civilian administration that military budget is lower than other sectors like Agriculture, Works and Housing, Health and Education. By so doing, the administration has indicated its readiness to ensure that other priority areas also receive attention (Interview, Director, Army Affairs, MOD, 6th June 2006).

The table below shows Defence Expenditure from 1999 to 2003.

**Table 5.1 Defence Budget from 1999 – 2003:**

| YEAR | ₦ | $ (million) |
|---|---|---|
| 1999 | 27,328,422,170 | 214 |
| 2000 | 39,157,779,509 | 306 |
| 2001 | 58,565,511,944 | 458 |
| 2002 | 61,908,031,039 | 484 |
| 2003 | 62,578,874,451 | 489 |

Source: Federal Republic Nigeria Appropriations Act, 1999, 2000, 2001, 2002, 2003. The dollar component was composed by the Author using the N128 to a dollar benchmark.

**Table 5.2 Defence Budget from 1999 – 2003 broken down into Recurrent and Capital Expenditure:**

| YEAR | RECURRENT / ₦ | CAPITAL / ₦ |
|---|---|---|
| 1999 | 22,672,083,170 | 4,656,339,000 |
| 2000 | 32,212,272,249 | 6,945,507,260 |
| 2001 | 38,065,511,944 | 20,500,000,000 |
| 2002 | 50,408,031,039 | 11,500,000,000 |
| 2003 | 54,575,292,206 | 8,003,602,245 |

It is necessary to point out that although military budgets have been made lower than other sectors since the inception of the present democratic dispensation, tables 5.1 and 5.2 above have indicated increases from 1999 to 2003. These increases were due to increases recorded in remunerations in the public service which was also extended to the military. Other reasons include additional recruitments by each of the three services since 1999, requiring the provision of barrack accommodation and the rehabilitation of existing ones, as well as training of new recruits (Interview, Chairman, Senate Committee on Defence, 26th September 2006).

The military under the new democratic dispensation relates very closely with the media. In particular, it permits the media to cover its activities except those considered strategic and may compromise state security. This is evident in view of the existence of Defence Correspondents representing several media outfits in the MOD. Indeed, there are more Defence Correspondents since the emergence of democracy in 1999, that virtually most media houses are represented (Interview, Defence Correspondent, NNN, 1st September 2006). The present situation is such that as a result of the large number of media houses, not all are accredited by the Director of Defence Information (DDI) at the MOD. Only nationally based media houses are accredited (Interview, Defence Correspondent, NNN, 1st September 2006). Despite the seeming openness of the MOD in permitting all nationally based media houses to be represented, there exist restrictions, because information can only be acquired by journalists through the DDI for the DHQ, Director of Public Relations Information (DOPRI) for the Nigeria Air Force (NAF), Director of Army Public Relations for the Nigeria Army (NA) and Director of Information for the Nigeria Navy (NN). Military Officers are not permitted to speak to journalists except the above designated officers and they also must seek for clearance from the relevant Service Chief before releasing any information (Interview, Defence Correspondent, NNN, 1st September 2006). While information on other issues may be

released subject to clearance from the relevant Service Chief, the military still restricts information on operational matters.

But the experience of this author while at the data collection stage of this research was that information concerning the military is still very difficult to come by. In most cases, one can only get information when there exists a personal friend or acquaintance. Similarly there is no evidence that the military relates closely with the civil society in Nigeria.

This may not only be because of the prevailing gap between the military and other democratic institutions including the civil society, but also because the latter may find it difficult to penetrate military establishments, analyse their internal workings and make a critique of it. Generally the Civil Society finds military institutions highly secretive. They donot encourage them to embark on advocacy programmes (Interview, Programme Administrator, ActionAid, 15th June 2006). Also since the inception of the present administration the military has become less visible in the activities of civilians.

Most Civil Society Organisations have not embarked on concerted efforts to relate with the Military in Nigeria. Thus they have no access to information on the military merely because they have not designed any

programme to make them deal directly with the military (Interview, Secretary General, WACSOF, 25th September, 2006). It is largely believed that although the military remains a closed society, Civil Society Organisations can be able to have dealings with the armed forces provided they can be tactical. This is best achieved if interactions can be initiated in other fields that the military may consider less sensitive. This will help build confidence and lead to interaction in other fields which may be considered more sensitive to the military but more relevant to the civil society, for instance military budgets, military human rights records etc (Interview, Secretary General, WACSOF, 25th September 2006).

Notwithstanding the emergence of democracy, the military is still engaged in the control of internal crises mostly involving the civil populace. Section 217 (2c) of the Constitution of the Federal Republic of Nigeria, 1999, empowers the armed forces to be involve in the control of civil disturbances when called upon to do so by the President. The relevant section states that the armed forces shall be involved in "suppressing insurrection and acting in aid of civil authorities to restore order when called upon to do so by the President, but subject to such conditions as may be prescribed by an act of the National Assembly…" (Author's emphasis). Similarly, the Nigeria Defence Policy (2004) states that although internal security is the responsibility of the Nigeria Police

Force (NPF) and other para military forces, where these forces have difficulties in handling civil disturbances, the armed forces have additional responsibility to assist the NPF in times of civil disorder. It is however important to point out that the involvement of the military in controlling such internal disturbances, though constitutional, had in the recent past paved the way for the military violating the rights of the civilian population, hence a deterioration in CMR. Three case studies will be examined albeit briefly.

**Odi (1999)**

Early in the life of the present administration there were complaints in Odi town, Bayelsa State, that youths were engaged in criminal activities, extorting money from market traders, mounting illegal roadblocks, stealing food, commandeering vehicles and assaulting all those who resisted. There were complaints that the youths had made Odi their operational base.

On 4th November 1999, an armed gang allegedly killed seven (7) Nigerian Policemen in Odi. Five (5) others were killed in subsequent days. These murders were committed by a group that has no apparent political agenda, but at a time when there were calls for resource control. The President, Chief Olusegun Obasanjo threatened to declare a state of

emergency in the whole of Bayelsa State if those responsible for the crime were not found. He gave a two weeks ultimatum. But the responsibility for policing is a federal job (Human Rights Watch, 2000).

On 20th November 1999, Soldiers transported in twenty (20) vehicles, including several armoured personnel carriers mounted with machine guns arrived Odi town. Unconfirmed sources revealed that about Two thousand (2000) soldiers were deployed to the town, using three 81mm mortars and two 105mm howitzers (Human Rights Watch, 2000). With the approach of the soldiers, several residents fled. The soldiers began destruction in ernest and for ten days they continued, unabated. They were allegedly guided by a reconnaissance aircraft that flew over the town daily. Meanwhile, the Federal Government denied ordering any military action in the town, insisting it was an action embarked upon to avert a total breakdown of law and order. Subsequently, soldiers allegedly mounted roadblocks leading to Odi, assaulting and killing those they found with traditional markings (Human Rights Watch, 2000).

The troops demolished every single building and killed several unarmed civilians. In his reaction, Government Spokesman, Doyin Okupe defended the administration thus:

> ***I wish to make it categorically clear that government, by this action, has not violated any internationally acceptable human rights provisions as practiced elsewhere in the developed world…How can it be said that a carefully planned and cautiously executed exercise to rid the society of these criminals is a violation of human rights***

(Okupe in Punch, 2nd December 1999).

**Choba (1999)**

Choba, a town located in Rivers State is the seat of the Nigerian Headquarters of Willbros Nigeria Limited, a pipeline construction business and subsidiary of Willbros Group Incorporated of the United States. The people of Choba have had discontent with the company. Specifically, they were unhappy with Willbros for employing only a handful of their indigenes.

The people of Choba accused Willbros managers who were non indigenes, of giving preference in employing their fellow community applicants than applicants from Choba (Human Rights Watch, 2000). There were therefore periodic demonstrations at the Willbros gate over the years. But by the middle of 1999, Choba residents became highly disillusioned with Willbros that they organised a sit-in to block the entrance into the company's premises.

On 17th September 1999, a Memorandum of Understanding (MOU) was signed between Choba Community represented by thirty-four (34) individuals and Willbros, represented by two of the company's managers. In the agreement, Willbros agreed to build a secondary school on a land to be provided by the community; to employ an administrative assistant from Choba responsible for general staff recruitment and to periodically review the number of Willbros staff from Choba with a view to increasing the number; to repair damaged sections of roads near the plant and provide equipment for construction of new road; to provide for water distribution (Human Rights Watch, 2000).

Implementation of MOU became a problem because on 7th October 1999, some Youths demanded for the immediate sacking of six hundred (600) Willbros employees to be replaced by Choba indigenes. A day later, the youths, dissatisfied with the speed of the implementation of the agreement blocked the gate into the company, preventing anyone from entering or exiting. In its response, Willbros accused the Youths of invading the company premises, destroying property and severely beating up several expatriates. The Youths also allegedly held eighty-five (85) hostages for an undefined period. Furthermore, the company also claimed that many Nigerian staff had disappeared and were feared dead.

Community Leaders however claimed that the demonstrators were unarmed, though noisy.

On 28th October 1999, Soldiers and Mobile Policemen went to Choba to disperse the demonstrators at the Willbros gate. Four (4) people were killed and several others injured. One of the victim's arm was amputated and at least sixty-seven (67) women were raped. Similarly, twenty-one (21) youths were detained (Human Rights Watch, 2000). Photographs of men in uniform raping and beating women were made public (Punch, 7th November, 1999).

However in a letter to the Bayelsa State Governor dated 10th November 1999, President Olusegun Obasanjo (who mistakenly thought that Choba was in Bayelsa not Rivers) states thus:

> ***I note with utter disgust and shock the reported incident of rape in your state by military personnel, which from indication is said to have been staged managed and orchestrated to malign and discredit the military and I know that no soldier would be so beastly as to commit such a criminal act in the full glare of a cameraman.***

(President Obasanjo cited in Human Rights Watch, 2000)

**Zaki Biam (2001)**

The militia of the Tiv ethnic group abducted and murdered nineteen (19) soldiers whose mutilated bodies were found in Zaki Biam on 12th October 2001. The Soldiers were deployed to the area to restore law and order following clashes between Tiv and Jukun ethnic groups. Benue and Taraba states have been scenes of long standing disputes between the two groups who had been fighting over land since 1990s (Human Rights Watch, 2001).

Military operations began on 22nd October, 2001 when soldiers of the 23rd Armoured Brigade of the 3rd Armoured Division of the Nigeria Army rounded up residents in Gbeji village, made them sit on the ground, separated the men from the women and opened fire on the men indiscriminately. Other killings took place as soldiers invaded the villages of Vasae, Anyiin Iorja, Ugba, Sankera and Zaki Biam all located in Logo and Zaki Biam Local Government Areas. This was followed by the destruction of properties and buildings in these villages. The total number of victims was never ascertained at about one hundred (100) to two hundred (200) people were believed to have died (Human Rights Watch, 2001).

The killing of the nineteen (19) soldiers was roundly condemned by the Federal Government. At their funeral on 22nd October 2001, President Obasanjo publicly urged the security forces to spare no effort in tracking down those responsible. According to presidential spokesman Tunji Oseni, the President ordered the operation to go on until those responsible for the killing of the nineteen (19) soldiers were found. The Human Rights Watch (2001) observes that after the incident many expected that the military was going to retaliate, but no steps were taken by the Federal Government to prevent such possibility.

Based on the forgoing case studies, it is obvious that the involvement of the military in quelling internal crises can be detrimental to the interest of the civil populace. In the three scenario the administration came out very openly in support of the activities of the soldiers against the civilians. While it can be appreciated that the Government has a duty to protect lives and properties of innocent citizens and must not tolerate lawlessness, the Rule of Law must prevail if Nigeria's democracy is to survive. All the three cases seemingly had the blessing of the Presidency. In Odi, the President gave an ultimatum to the then Executive Governor of Bayelsa State to produce the culprits, failure of which led to the deployment of troops to kill and destroy the town. In Choba, soldiers were accused of raping women and plausible evidence was produced

through the presentation of photographs, yet the President discredited the evidence by insisting that no soldier would commit that act under the full glare of cameramen. In Zaki Biam, the President openly and publicly directed the security forces to "spare no effort in tracking down those responsible." These cases of violation of human rights were never thoroughly investigated for the purpose of punishing offenders.

To enhance and strengthen the country's democracy, there is the need for the NASS to immediately promulgate the necessary legislation to create the circumstances in which the military may be called upon to render assistance to the police and other security agencies in quelling civil disturbances, in line with the provisions of section 217(2c) of the constitution as cited earlier. Such circumstance may include but not limited to general unrest, communal clashes, religious conflicts, students' unrest, man made and natural disasters. It is also important to strictly observe the principles guiding such deployments, which according to Shiyanbade (2000) include:

- Ensuring that every action taken by the soldiers during such operations is justified by law;
- Ensuring that their actions do not lead to the escalation of the crisis situation;

- Ensuring that only such force as is necessary to restore order is applied;
- Conducting themselves in such a manner as to assure the people of Government's goodwill and not alienate them from the authorities;
- Safeguarding the lives and properties of loyal and law abiding citizens; and
- Ensuring that all items seized, persons arrested, etc are properly documented and accounted for at the end of the operation.

However it may not be totally correct to say that the military is into the violation of the rights of ordinary citizens, not withstanding these cases cited above. There are remarkable improvements in the attitudes of the military as an institution towards the civil populace. As a result of the attainment of democracy, soldiers now report their cases to civil police, contrary to the situation obtainable in the past where they punish offenders in their barracks regardless of whether they were military personnel or civilians. A recent case was cited in 2004, when some civilian staff of the Ministry of Defence were accused of theft at the Ministry's headquarters. They were merely rounded up and handed over to the police for further investigation (Interview, Director Army Affairs, MOD, 6th June 2006). Similarly, the military respects civil court decisions and several ex-service men who felt wrongfully retired had taken their

cases to court and those who succeeded in establishing a credible case where the courts ruled in their favour, were returned to their duty posts (Interview, Director Army Affairs, MOD, 6th June 2006).

The size of the Nigerian Military has remained unchanged. Since the inception of the present administration there has not been any demobilisation of servicemen, except regular retirements based on age, normal years of service etc. Meanwhile there is the urge by the military to attain a mobile and compact fighting force (Interview, Director Army Affairs, MOD, 6th June 2006). A compact force here does not mean demobilisation but implies an ideal force where every officer must have a role to play. This can certainly not be achieved with the present size and composition of the Nigerian Armed Forces. During the several years of military rule, there were unguarded recruitments into the armed forces to satisfy the political interest of the then ruling military elite. That misnomer needs to be corrected if the military is to be made to respond adequately to the present day international challenges. There is still redundancy in the barracks with several servicemen not having specific jobs to do.

The welfare of servicemen has been increased slightly in consonance with increases effected in the welfare of civil servants since the inception of

the present administration. However there is yet to be any major increase in the conditions of service of the military. Government has also embarked on the renovation of barracks and the re-equipping of hospitals in most military formations nationwide. At present the government has set up a committee under the chairmanship of former Head of State, Chief Ernest Shonekan to make necessary recommendations on the improvement in emoluments of service personnel and other welfare packages (Interview, Director Army Affairs, MOD, 6th June 2006). While it is appreciated that the welfare of servicemen needs to be improved, it is highly doubtful if any meaningful improvement can be achieved with the present size of the military. Chances are that a lot of resources will be expended on an over bloated military force in the effort at improving its welfare.

According to Toun (2005) with democratisation there are several implications for the MOD. It is important to stress the following:

a. The militaryman/Head of State is no longer the Minister of Defence. A civilian now occupies the office and is responsible to the President and Commander-in-Chief.
b. There will always be due process even in the dismissal or disciplining of staff.

c. Funds of the ministry will come from its budget as approved by the NASS.

d. The staff of the MOD are accountable to the Permanent Secretary who in turn accounts to the minister as the political head.

The Nigerian Defence Policy (2004) stipulates the organisation of the MOD thus:

- Political Control- The Honourable Minister of Defence (HMOD)-a civilian- is the political head of the Ministry, which comprises the civil and political components. There are two principal advisers to the HMOD; the Permanent Secretary-a career civil servant- and the Chief of Defence Staff (CDS)-a military officer.
- Civil Component- This component is headed by the Permanent Secretary, who is charged with the responsibility for providing managerial support and policy initiation of the military. He heads the civil component of the MOD and provides secretariat for the Ministry, the Armed Forces Council, the Army Council, Navy Board and the Air Force Council. All civilian employees report to the Permanent Secretary. The Permanent Secretary performs other duties and functions as may be necessary for the management, legislative and executive control of the armed forces. He is

the Chief Accounting Officer of the Ministry and conducts inter departmental liaison.

- The Military Component- This is made up of the armed forces, comprising the Defence Headquarters (DHQ) and the three services. DHQ deploys, employs and sustains forces deployed within and outside the country. The CDS is the principal military adviser to the government and the professional head of the armed forces. In organising any operation, the chain of command for planning and conduct of military operations flow from the National Defence Council (NDC) to the HMOD to the CDS and then to the Service Chiefs.

Civilians in the Defence Sector play a major role in its daily activities. From 1999 to 2003, there was a Civilian Minister of Defence, though a retired General. Under him there were three junior Ministers, each in charge of the army, airforce and the navy. All the three were civilians without any military background. In 2003, after the presidential election, the re-composition of the cabinet led to the appointment of a purely civilian Minister of Defence who had no military background whatsoever. In fact the incumbent Minister of Defence is a prominent member of the Nigerian political class as he was at different times a Deputy Speaker of

the House of Representatives (1991 to 1993) and the Executive Governor of Kano State (1999 to 2003). There is also a Permanent Secretary in the MOD who is a civil servant. There are no special requirements for a Permanent Secretary of the Ministry, except that one has to be a civil servant that has attained the necessary years of experience and seniority level to occupy the position. Under the Permanent Secretary, there are various Directors, for the various departments of the Ministry, including the three services of army, airforce and navy. These Directors are civilians and civil servants who donot require any special affiliation with the military to occupy their positions.

Civilians are relevant because they have total control over policy issues in the Ministry, the only exception being operational issues which are handled by the military. Civilians are also involved in the development of military doctrines as well as the preparation of annual budgets, which is normally a joint exercise with the military (Interview, Director Army Affairs, MOD, 6th June 2006). The role of the civilian cell of the MOD under the present democratic arrangement according to Toun (2005) can best be summed up thus:

a. Ensuring and contributing to strategic planning and effective policy formulation.

b. Advancing accepted mode of CMR and working to promote and improve on it. This includes the principle of military subordination to civil authority.
c. Encouraging the military to stick to its constitutional duties and keeping away from politics, serving the civilian government, obeying the tenets of might, bowing to law and providing security for all Nigerians.
d. Contributing to making the defence sector accountable and subjected to the law making body of elected civilian rulers.
e. Ensuring that civilian control is made to blossom and grow.
f. Proper scrutiny of the country's defence programmes within the MOD before submission to the appropriate authority for approval.
g. Helping to link the defence sector with civilian factories so that experts in the military can be sent to civilian industries to catalyse production of military needs for internal needs and exports.

Despite the above, there still exist some level of dichotomy between the civilian staff of the MOD and the service personnel. Most civilian staff serving in the ministry do not believe that they have any fundamental role to play in the defence sector. Indeed, they regard themselves as inferior to their military counterparts. For instance, this author had reason to visit the MOD as well as the DHQ in the course of conducting this research and

realised that the civilian staff are made to always hang their identification cards during working hours. This policy is generally disliked by them because the absence of their identification cards denies them access to certain offices where they are not known.

As part of understanding the ongoing reforms in the military, it is important to study the process of the passage of the defence budget in both the military and the present democratic era. While there was arbitrariness in allocating money to the defence sector under military regimes, same cannot be said to be the case under a civilian dispensation.

### ***5.2 Procedure for the Passage of Budget***

In view of the centrality of finance in conducting any governmental activity, particularly in the field of defence, it is important for us to examine the procedure for the passage of the defence budget, especially under the present civilian dispensation, as another index for ascertaining the ongoing reforms in the sector.

The government allocates resources based on adopted programmes and performances. Every stratum of the defence establishment is provided with an operating budget to support and maintain the forces under its command. The services are responsible for setting and operating budget

priorities to meet their assigned tasks (The Nigeria Defence Policy, 2004).

It is important to reiterate that the procedure for the passage of defence budget under the present civilian dispensation is almost similar to that obtainable under the military. The most important point of departure is the involvement of the National Assembly, which remains the final approving body, subject to presidential assent.

Budget procedure begins with the issuance of a Call Circular from the MOF to all Ministries and Extra Ministerial department. The Call Circular, normally issued between June and August, requests the Ministries and Extra Ministerial departments to make submissions/proposals on their budgets based on the ministry's envelope (or limits). The Call Circular is further addressed to the departments and parastatal of the ministry, in the case the MOD, the various services and the DHQ (Interview, AD formerly at MOF, 13th September 2006).

The MOD puts together submissions from each of its segments; the DHQ, the three services and the civilian component, on revenue and expenditure as well as recurrent and capital expenditure. This gives a total of the budget proposal from the Ministry. Although it is necessary to add that

the three services present and defend the budgets separately from one another and from the MOD and DHQ. The MOD, like other Ministries will then proceed to the Ministry of Finance for the purpose of budget defence (Interview, AD formerly at MOF, 13th September 2006).

After this stage, there exist a point of departure between the military era and the present civilian dispensation. Under the military era, the MOD's budget proposals, alongside proposals from other ministries were passed to the Armed Forces Ruling Council (AFRC) for consideration and approval. Subsequently, the Military Head of State will make a nationwide broadcast, while the MOF provides details of the budget. Under the present civilian dispensation, the budget proposals will be packaged by the MOF, while an Appropriations bill is prepared by the Ministry of Justice. The President presents the budget proposals/Appropriations bill to a joint session of the NASS (Interview, AD formerly at MOF, 13th September 2006). Accordingly, the bill passes through the first and second reading and then referred to the Appropriations Committees of each of the two chambers of the Assembly. The Appropriations Committees will in turn refer each sectoral budget proposal to the relevant committees. In the case of the defence budget, the Senate Committee on defence examines analyses and invites relevant bodies of the MOD, DHQ and the three services for

defence (Interview, Deputy House Whip, 12th October, 2006). In the case of the House of Representatives, the Committees on Defence, Army, Navy and Airforce will examine, analyse and invite relevant bodies of the MOD, DHQ and the three services to defend their proposals before the relevant committees that is Army budget gets treated by the Committee on Army, Navy by the Committee on Navy, Airforce by the Committee on Airforce and MOD and DHQ by the House Defence Committee. Each committee then reports back to the Appropriations Committee (Interview, Deputy House Whip, 12th October 2006).

The Appropriations Committees of the two chambers report back to the plenary, presenting amendments to the original Executive sponsored Appropriations bill for consideration and passage. Where the two chambers fail to have identical proposals, a joint select committee is assigned the task of reconciling the proposals as presented in table 4.1 above. Finally, a fresh Appropriations bill is presented for presidential assent (Interview, AD formerly at MOF, 13th September 2006).

### ***5.3 Financial Management in the Nigerian Armed Forces***

Another yardstick for measuring reforms in the security/defence sector is the control over money. In Nigeria, the Parliament has the prerogative of allocating money to various sectors of the government, including the

security/defence sector. No authority can change Parliament's decision in this regard (Interview, Director Army Affairs, MOD, 6th June 2006). Aside from Parliamentary control of the purse, a major indicator is the procedure for financial and budgetary transactions in the defence sector which should be uniform with procedures in the civil sector. The MOF has to assess the appropriateness of the budget from the MOD. The legislature needs to have time to study the proposals. Ideally there should be public input into the allocation process, which should help in generating public support for the budget. This however does not take place in Nigeria. In most cases the institutional capacity for military budgeting is weak in both the legislature and even the executive. Ball (2002) observes thus:

> ***Financial management and oversight within the armed forces are correspondingly inadequate. The military sector holds a highly privileged position vis-à-vis other sectors. Procurement requests are neither justified nor fully costed. The legislature receives even less information on the military budget than on budgets from non-security activities and input from the public on spending priorities is actively discouraged or ignored.***

Despite the above reality, it however remains pertinent to state that the MOD has its own internal outfit working effectively and efficiently. The Military units and formations also have accounts and audit units to ensure

proper accounting of incomes and expenditures with regular reports and up to date books open at anytime for scrutiny. The AGF audits Defence Accounts on a regular basis (Nwolise, 2005).

The military observes similar pattern of accounting procedures as is obtainable in the civil sector. According to Agba-Attah (2005), the following procedures are in place in the military, similar to the civil sectors:

a. Opening of Imprest Accounts- The application for opening imprest account is sent to the Director of Administration and Finance, by formations and units. The application is processed through the MOD and the MOF for approval. Accounts are opened in viable banks. For capital expenditure, the account is maintained with approved commercial banks or the Central Bank of Nigeria.
b. Authorised Signatures- Usually authorised signatures are provided by the Commander who is the Accounting Officer, the Finance Officer who is the account holder and the civilian Chief Accountant. In the Division Headquarters, the Director of Administration and Finance and the Cashier are permanent signatories with the civilian accountant, while the General Officer Commanding (GOC) authorises payments. In similar units like the Battalion, the Commanding Officer and the Adjutant may sign

while the Finance Clerk advises and renders the accounts. In any formation, the Finance Officer advises the Commander on judicious use of government funds and need to comply fully with financial regulations.

c. Opening Accounting Books- Units and formations are expected to open books of account for the recording of daily transactions. Main book of accounts include departmental vote books and cash books. Departmental Vote Book is meant for controlling expenditure. Funds to formations/units are entered into it from releases. Payments made are deducted and running balances made. The Vote Book is updated from time to time. The Cash Book has the receipt and payment side and each side has the bank and cash columns. Receipt and payment vouchers are debited and credited to the cash book respectively while they are at the same time voted into the vote book either to increase or reduce the vote balance.

d. Requisition of Funds- Funds required for any unit or formation are requested through form AFN 1487(R) and forwarded for cross checking at headquarters. The form is required to be signed by the Accounting Officer or anybody delegated to do so.

e. Disbursement of Funds- Authority to Incur Expenditure by any department or personnel must be made to the Accounting Officer who has the right to approve money from the vote. Where approval

is met, the request is forwarded to the bills office where a voucher is raised. Every month end, all vouchers paid are reconciled with the entries in the vote book and necessary adjustments made to correct any miscalculation and wrong scheduling. Vouchers are raised on the appropriate treasury form and backed with supporting documents. The particulars on the supporting documents must agree with the information on the voucher. This may include the name of the payee and the amount to be paid, to whom it is paid and evidence that the work or service has been done satisfactorily.

f. Internal Control- Usually one person complements the work of another and it helps in minimising errors and ensures the detection of fraud. It also involves checking the work of one person by another to ensure that the rules and guidelines are complied. No one person starts and completes the same process in the finance office.

g. Supporting documents- For any request for funds to be approved and payment effected, the voucher must be supported with relevant documents. The documents are to prove that the request was authorised by the appropriate officer designated to do so. That the expenditure is necessary for the running of the formation and the transaction conforms with government financial regulations and guidelines of the Nigeria Army regarding the use of government

funds. Supporting documents also determine the nature of the transaction. Such documents include invoices, delivery notes, Local Purchase Order and minutes of authorising expenditure.

h. Bank Reconciliation- To guard against fraud every organisation requests for bank reconciliation statements at regular intervals. Bank reconciliation statements of units are handled by competent financial personnel. It is prepared to reconcile the bank column of the cash book with the statement of the bank account received from the bank for a particular month. Documents required for bank reconciliation are the cheque summary register, cash book, the cheque stub and monthly bank statement.

i. Tender Board- Procurement of works and services is done through direct labour or by contract. A tender board is normally constituted with powers to award jobs by the Accounting Officer. According to Ball and Kayode (2004), there should be little or no difference between public expenditure management in general and public expenditure management in defence. Defence procurement should therefore adhere to the same principles that guide public sector procurement. These include fairness, impartiality, transparency, cost effectiveness and openness to competition.

j. Closure of Accounts- At the end of the year, imprest account is closed and balances left are remitted back to the treasury. This is

normally applicable to the recurrent account. Balances in the capital account can be carried forward to the succeeding accounting period.

The above discussion is a proof that the military's accounting procedure is no different from the accounting procedures in the civil sector.

It can therefore be said that there indeed exist some form of reforms in the defence sector since the inception of the present administration but the reforms are really inadequate because they fall short of the expectations that can fully transform the military into a professional fighting force. We shall now turn our intellectual attention to the reforms as they concern Parliamentary control.

### ***5.4 Parliament and the Defence Sector in Nigeria***

Generally parliamentary oversight of the defence sector according to Borns (2002) is grouped into:

a. General Powers: Powers that are in principle applicable to all fields of government. They include the right to initiate or amend laws, to raise questions, to summon members of the executive and their staff to testify, to summon members of the civil society, to obtain

desired information from the executive, to carry out parliamentary inquiries and the right to hold public hearings.

b. Budget Control: The Parliament has a right to allocate and amend defence budget funds usually at the level of programmes, projects and separate line items; the right to approve or disapprove any supplementary defence budget proposals and having access to all relevant defence budget documents.

c. Peace Support Operations: The Parliament has the right to approve or disapprove sending of troops abroad, the mandate, the budget, risks to the military personnel involved, rules of engagement, command/control, duration of mission and the right to visit troops on mission abroad.

d. Defence Procurement: This entails the involvement of Parliament in the government's decision concerning contracts, specifying needs for new equipments, selection of manufacturers and assessing offers for compensation and off sets.

e. Security Policy and Planning Documents: This entails the right of Parliament to amend or to approve or disapprove security policy concepts, defence concepts, crisis management concept, force structure/planning and the military strategy.

f. Military Personnel: This refers to the power of parliament to approve or disapprove the defence human resources management

plan, maximum number of personnel employed by the MOD and the military, approval of high ranking Military Commanders and the right to be consulted by the MOD over high ranking military appointments.

Parliamentary Oversight is dependent on the willingness to hold the executive accountable. This refers to the duty of Parliaments to hold government accountable regardless of the partisan/coalition politics.

Table 5.3 below shows indicators for Parliamentary Oversight of the Defence Sector.

**Table 5.3: Parliamentary Oversight of the Defence Sector**

***Good practices : Legislative instruments to maximise Oversight of Security Sector***

***The following list is not intended to be exhaustive. Rather, it is intended to illustrate the range of instruments that may be available to legislatures in order to oversee the security sector***

***General Powers***

- ***Initiate legislation***
- ***Amend or rewrite laws***
- ***Question members of the executive***
- ***Hold hearings***
- ***Summon members of executive to testify at legislative hearings***
- ***Summon military staff and civil servants to testify at legislative hearings***
- ***Summon civil experts to testify at legislative hearings***
- ***Obtain documents from executive***
- ***Carry out legislative inquiries***

***Budget Control***

- ***Obtain access to all budget documents***
- ***Review and amend defence and security budgets***

- ***Exercise budget control at the level of programmes, projects and line items***
- ***Approve/reject supplementary security sector budget proposals***

***Peace Missions/other foreign deployments***

- ***Participate in decision-making before troops are committed abroad, including mission mandate.***
- ***Review, amend, approve/reject mission budget***
- ***Approve/reject rules of engagement***
- ***Approve/reject risks of military personnel deployed***
- ***Approve/reject chain of command and control***
- ***Approve/reject duration of mission***
- ***Visit deployed troops***

***Procurement***

- ***Right to be fully informed by executive of procurement decisions***
- ***Approve/reject procurement contracts***
- ***Review :a) need for new equipment; b) selection of suppliers; c) offers of compensation/off-sets.***

***General Security Policy***

- ***Approve/reject policy concept***
- ***Approve/reject crisis management concept***
- ***Approve/reject force structure***
- ***Approve/reject strategy/doctrine***

***Personnel Issues***

- ***Approve/reject personnel plan***
- ***Fix ceiling for manpower***
- ***Approve/reject or be consulted on highest military appointments (such as chief of staff)***

Source: DCAF and IPU- Principles, Mechanisms and Practices; Handbook for Parliamentarians No 5, 2003.

In embarking on the task of an assessment of Parliamentary Oversight of the Defence Sector in Nigeria, the main yardstick for the task is to examine Parliament's Authority, Ability and Attitude.

By Authority is meant the legal powers granted to Parliament to embark on the task of oversight (Ebo 2005). Such legal powers may be provided in the country's constitution or in the Standing Orders of Parliament. It is however worth mentioning that the constitutional provision for oversight is more central in justifying Parliament's power to undertake oversight functions.

By Ability is meant the capacity of Parliament to hold the government accountable over the security sector. Usually this is a function of the resources available to Parliament in terms of human, financial and technical resources. Parliaments need to have the necessary resources to be effective in scrutinising defence and security budgets, employ technical support staff, visit troops abroad and obtain the necessary objective information for legislation (Ebo, 2005).

Attitude here refers to the political will of parliament towards the whole idea of oversight (Ebo, 2005). This may be determined by party loyalty, personal needs of individual MPs from the Executive. In most cases because the Executive controls a state's resources, MPs who for selfish reasons are interested in getting favours, hardly have the political will to embark on effective and thorough oversight. This is because oversight will entail regular checks on the activities of the executive and proposing sanctions where necessary.

***5.5 Authority for Oversight***

Under the constitution, legislative competence is divided into three parts namely the Exclusive Legislative List, the Concurrent Legislative List and the Residual List. The Exclusive Legislative List is the prerogative of the Federal Legislature while the Concurrent Legislative List can be legislated by both the Federal and State Legislatures.

Items included in the Exclusive Legislative List including the Military (item 38) and arms, ammunition and explosives (item 2).

Apart from the powers to make laws as provided for in the 1999 Constitution, the NASS also has oversight functions on all matters within its competence to make laws. Section 88 of the constitution of the Federal Republic of Nigeria, 1999, makes provision for such oversight powers viz:

> ***Subject to the provisions of this Constitution, Each House of the National Assembly shall have Power by resolution…to direct or cause to be directed an investigation into:***
>
> ***any matter or thing with respect to which it has power to make laws; and***
>
> ***a. the conduct of affairs of any person, authority, ministry or government department charged or***
>
> ***intended to be charged with the duty of or responsibility***

***for-***

***i. executing or administering laws enacted by the National Assembly; and***

***ii. disbursing or administering moneys appropriated by the National Assembly.***

Oversight is therefore an important function of any modern day legislature representing the people. Since by law, the Executive is to implement policies for the day to day running of a state, it behoves on Parliament to exercise the necessary checks and balances on the Executive. Where oversight is weak, there are strong chances of dictatorship. The idea of exercising oversight functions by the Legislative arm of Government should not stop only at administering the expenditure of funds appropriated but should include a total supervision of the entire activities of the Government department concerned. This may include a frequent analysis of the set targets in relation to its daily performance. The fundamental issue is whether its activities are geared towards achieving its statutory mandate.

At the inception of the present civilian government, the initial attempt at stabilising the democratic experiment was the decision by the President to purge the military by retiring officers that were considered politicised. This decision was announced on 10th June 1999 and ninety three (93)

officers were affected. This action was both widely welcomed as well as criticised depending on individual perception and political sympathy. It remains arguable however whether the present political stability being enjoyed without any reasonable threat at military intervention is not attributed to the "cleansing" of the rank and file of the military through the exercise of 10th June 1999. But opponents of the decision regard it as an attempt to dislocate the so-called hold allegedly enjoyed over the military by a section of the country. Retirements of this magnitude should ordinarily require an act of the National Assembly to regulate the powers exercisable by the President as is provided for in section 218 sub section 4, which states as follows:

> ***The National Assembly shall have power to make laws for the regulation of-***
>
> ***a. the powers exercisable by the President as Commander-in-Chief of the Armed Forces of the federation***
>
> b. ***the appointment, promotion and disciplinary control of members of the armed forces of the federation.***

There is however no law existing in either chambers of the NASS to regulate the powers exercisable by the President in the appointment, promotion and discipline of the armed forces as provided for in the 1999 Constitution (Interview, Secretary, Senate Committee on Defence, 2nd June, 2006).

Section 5(4) a and b of the 1999 Constitution gives the National Assembly the power to approve the declaration of war and stipulates thus:

> ***The president shall not declare a state of war between the federation and another country except with the sanction of a resolution of both houses of the National Assembly sitting in joint session; and***
>
> ***except with the prior approval of the Senate, no member of the armed forces of the federation shall be deployed on combat duty outside Nigeria.***

So far Nigeria has never been in a state of war, so this provision has never been tested.

Furthermore, Section 12(1) of the Constitution of the Federal Republic of Nigeria 1999, gives the NASS the power to approve treaties entered into between Nigeria and other countries. It stipulates thus:

> ***No Treaty between the federation and any other Country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly***

As part of its reform agenda of the Nigerian military, the present administration had earlier at its inception entered into an agreement with a US based organisation, the Military Professional Resource Incorporated (MPRI), believed to have very close ties with the US Government, to help provide technical assistance to a post military rule Nigerian Armed Forces. The major task was to help re-professionalise the military by making it subordinate to civil institutions and learn the art of peace keeping in West Africa (Fayemi, 2004). This step was taken without proper evaluation of the actual needs of the Armed Forces. In addition, the NASS was never consulted over the task given to the MPRI. Although the agreement between the Federal Government and MPRI is not a treaty between two states, the fact that there is an agreement on a task to be performed by a foreign company with very close ties with the US Government meant that Parliament should have been carried along. Critics argued that the foreign military experts had unrestricted access to the country's military secrets. In fact, the then Chief of Army Staff, General Victor Malu, lamenting the discretion exercised by the Americans in securing information about the Nigerian military was quoted as publicly saying that ***"a friend today could be an enemy tomorrow".*** The argument that the American military experts cannot teach the Nigerian military the subject of peace keeping is very valid and germaine, when one considers that the Nigerian military has had a long

period of involvement in peace keeping both within Africa and even beyond. Earlier in the 1960s, during the immediate post Independence period, the Nigerian Armed Forces was involved in the United Nations peace keeping operation in the Congo (later Zaire). Subsequently Nigeria had participated in many other operations including Lebanon and other warring zones in West Africa.

The issue of re-professionalising the Armed Forces and making it subordinate to civil institutions is not a task that a private American military organisation can do, because it is not a project that is closed ended and can be achieved in just a couple of months. Several scholars have argued that to achieve the needed subordination, civil control must be seen as part of the complex democratic struggle that goes beyond election but involving other oversight institutions. In other words, the processes are expressions of institutional relationships that are psychological (Fayemi, 2004). Consequently, even the then Chief of Defence Staff, Rear Admiral Patrick Ogohi was said to have informed a visiting American delegation that what the Nigerian military needed was logistic support and not training. This view was supported by the erstwhile Chief of Army Staff, General Victor Malu who states thus;

> ***Having come out of very many years of neglect***
> ***Because of mismanagement, we expect that the***

> ***Civilian government was going to address issues … unfortunately from June 1999 to date, we haven't got anything meaningful to assist us in the process of professionalisation. Our training Institutions have not improved, the training aids…have not been provided; the situation in the barracks has not changed; as a matter of fact it is deteriorating… We did not get anything done last year by way of Capital projects and we thought these were the things We were supposed to do if we are going to improve on our…act of re-professionasing…***
> (cited in Fayemi, 2004)

In my opinion, the involvement of MPRI in the attempt to re-professionalise the Nigerian military, though advantageous in terms of gaining exposure for the military, merely exposes the much needed confidentiality required for the operations of the armed forces. As observed by the former Chief of Army Staff, General Victor Malu, it is not safe to expose the military secret of a country to another, in view of the fact that inter state relations are dynamic and that "a friend today may be a foe tomorrow". I therefore regard the present involvement of American experts under the auspices of the MPRI as an unfortunate development in the history of the modern Nigerian military. Indeed this trend tends to erode rather than strengthen the powers of the Parliament towards enhancing oversight of the defence sector.

The powers of the NASS over the purse or control of funds and compulsory approval of budget has been provided in Section 80 (1 to 4)

of the Constitution of the Federal Republic of Nigeria which stipulates thus:

> ***All revenues or other moneys raised or received by the Federation…shall be paid into and form one Consolidated Revenue Fund of the Federation***
>
> ***No money shall be withdrawn from the Consolidated Revenue Fund of the Federation except to meet expenditure that is charged upon the fund by this Constitution or where the issue of the money has been authorised by an Appropriation Act, Supplementary Appropriation Act…***
>
> ***No money shall be withdrawn from any public Fund of the Federation other than the Consolidated Revenue Fund of the Federation, unless the issue of those moneys has been authorised by an act of the National Assembly***
>
> ***No money shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Federation except in a manner prescribed by the National Assembly***

Apart from the establishment of the Consolidated Revenue Fund and the powers vested in the NASS for its control, the constitution also provides for the authorisation of annual budgets by the Assembly. This is provided for in section 81 (1 to 2) thus:

> ***The President shall cause to be prepared and laid before each House of the National Assembly at any time in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year.***
>
> ***The heads of expenditure contained in the estimates… shall be included in a bill, to be known as an Appropriations bill.***

Further Authority is given to the NASS in the control and allocation of funds through the provisions contained in the Standing Orders of both chambers of the Assembly. Article 97 (4) 1 (a) of the Standing Rules of the Senate provides for the establishment and functions of the Public Accounts Committee as a special committee. The provision states thus:

> ***There shall be a committee to be known as Public Accounts …The jurisdiction of the committee shall include;***
> ***to examine the accounts showing the appropriation of sums granted by the Senate to meet public expenditure***
> ***The Committee shall, for the purposes of discharging that duty, have power to send for any person. Papers and records, to report from time to time to the Senate…***
> ***The Committee shall have power to examine any accounts or report of statutory Corporation and Board…***
> ***The Committee shall have power to enquire the report of the Auditor-General of the Federation…***

Furthermore, article 98 (8a) of the Standing Rules of the Senate provides for the establishment and functions of the Appropriations Committee. The relevant provision states thus:

> ***There shall be a committee to be known as Committee on Appropriation…The jurisdiction of the Committee shall include***
> - ***Appropriation of revenue for the support of the government***
> - ***Issuance of call letters/circulars on Appropriation***
> - ***Annual Appropriation bill***
> - ***Supplementary Appropriation bill***
> - ***Revenue Profile of government***
> - ***All matters related to Appropriation***

Similar provisions exist in the Standing Orders of the House of Representatives as can be found in article 91 (E) 1 to 4, which states thus:

> ***There shall be a committee to be known as the Public Accounts Committee…***
> ***It shall be the duty of the Committee to examine the accounts showing the appropriation of sums granted by the House to meet public expenditure, together with the auditor's report thereon. The Committee shall for the purpose of discharging that duty, have power to send for persons, papers and records to report to the House from time to time …***
> ***The Auditor General shall bring to the attention of the Committee any pre-payment audit queries raised by the Internal Auditors of the Ministry…***
>
> ***The Public Accounts Committee shall have the power to examine any accounts or reports of statutory corporations and Boards…***

Furthermore article 93 (B) 1 of the Standing Orders of the House of Representatives provides for the establishment and functions of the House Appropriations Committee. The Standing Orders states as follows:

> ***There shall be a Committee known as the Committee on Appropriations…***
>
> ***The Committee's jurisdiction shall cover***
> - ***Appropriation of the revenues for the support of the government***
> - ***Examination of bills for imposition of or increase In any tax, duty or fee or any reduction…***
>
> ***The Committee on Appropriation shall…hold Hearings on the budget as a whole with particular reference to:***
> ***the basic recommendations and budgetary policies***

> ***of the President in the presentation of the budget the fiscal, financial and economic assumptions used as bases in arriving at total estimated expenditure and receipts.***

The Nigerian Constitution 1999 also empowers the NASS to approve key government appointments particularly Federal Ministers. Section 147 (2) states thus:

> ***Any appointment to the office of Minister of the Government of the Federation shall, if the nomination Of any person to such office is confirmed by the senate, Be made by the President***.

In practical terms, the two chambers of the NASS through the various standing committees on defence and the services of the military, exercise some level of authority over the defence sector. Parliament as earlier pointed out, has absolute powers over finance and appropriation. Its decision on monetary issues in the defence sector is final. It is assumed that there is no executive interference and the military also abides by Parliament's decision in that regard (Interviews, Secretary, Senate Committee on Defence, 2nd June 2006 and Secretary, House Committee on Army, 9th June, 2006). Parliament however does not decide on the procurements to be done by the military. Normally the military submits its budget for approval without input from Parliament as to what to buy and who the vendor for such purchase will be. Although sometimes retired military personnel on the defence committee do ask questions on

the choice of equipments to be procured, such questions come in the form of advice which is normally not binding (Interviews, Chairman, Senate Committee on Defence, 26th September 2006 and Chairman House Committee on Defence, 12th October, 2006). In terms of training needs, the military solely decides. Parliament does not have the authority to make any input in that regard (Interviews, Chairman, Senate Committee on Defence 26th September 2006 and Chairman, House Committee on Defence, 12th October, 2006). Similarly, Parliament does not have the authority to decide on the improvement of the welfare needs of the military, in terms of initiating and approving an increase in the salaries, allowances and other fringe benefits of service personnel. The initiative to do so is the prerogative of the executive, through the instrument of the Conditions and Terms of Service. Parliament's role is merely to approve any such increases (Interview, Chairman, House Committee on Defence, 12th October 2006 and Secretary, Senate Committee on Defence, 2nd June 2006). On the recruitment of service personnel, the NASS is not in any way involved. In fact in 2004, the House Committee on Army attempted being involved in the recruitment of NCOs at the Army Depot in Zaria, but authorities in the school politely declined, stating that they had not been directed by the Army Headquarters in Abuja to give any information on the recruitment to the lawmakers (Interview, Secretary House Committee on Army, 9th June 2006). The Assembly however is

authorised to receive petitions from service personnel both serving and retired and act on same. In particular, both the Senate and the House Committees on Defence receive petitions, investigate same and make necessary recommendations to the military. So far no such recommendations have been turned down (Interviews, Chairman, House Committee on Defence, 12th October 2006, Secretary Senate Committee on Defence, 2nd June 2006 and Secretary, House Committee on Army, 9th June 2006).

## *5.6 Analysis of Legislative Authority for Oversight*

In an attempt to examine the existence or otherwise of legislative instruments for oversight in Nigeria, the items as provided for in figure 5.1 will be used as case studies.

### General Powers

Parliament in Nigeria has the power to initiate legislation, in line with its primary functions as provided for in the section 4 of the Constitution of the Federal Republic of Nigeria, 1999. In the same vain, the constitution also empowers Parliament to amend or re-write the laws as it deems fit, in so far as the procedure for doing so as provided for in section 9(2) of the constitution is adhered to. Section 89(ia) of the Constitution of the Federal Republic of Nigeria, 1999, empowers the NASS to summon and question members of the executive arm of government. They may be

invited to testify before a legislative hearing. Indeed military officers can also be invited to answer questions at legislative hearings. This provision also empowers the NASS to conduct legislative inquiries and obtain oral or written evidence and documents as the case may be (Interviews, Chairman, House Committee on Defence and Secretary, Senate Committee on Defence, 2nd June 2006). Consequently, as far as General Powers are concerned, the Nigerian Parliament can be said to be adequately empowered to conduct effective oversight.

**Budget Control**

Section 80(1 to 4) of the Constitution of the Federal Republic of Nigeria, 1999, empowers the NASS to control the budget of the federation by approving all budget estimates before they become law. To that end, Parliament has the power to obtain and access budget documents at any time. Parliament can also review and amend defence and security budgets as well as approve or reject supplementary defence budget proposals (Interviews, Chairman, Senate Committee on Defence, 26th September, 2006 and Chairman, House Committee on Defence, 12th October, 2006).

A clear demonstration of the powers of the NASS over military budget was demonstrated when on 7th October 2002, probably aware of the impending outcome of the judgement by the ICJ over the disputed

Bakassi peninsula, the Presidency withdrew a supplementary appropriations bills then under consideration by the NASS. On 10th October, 2002, the ICJ passed a judgement in favour of Cameroon. While re-presenting the supplementary appropriations bill on 29th October, 2002, the Presidency proposed a large appropriation for defence viz; N47,924,182,812 for purchase of ammunition and military equipments, N118, 000,000 for upgrading of ammunition depot and N750,000,000 for barrack rehabilitation (Daily Trust Newspaper, 30th October, 2002). While passing the bill, NASS simply approved the last two votes and appropriated the sum of N868m to Defence. It totally declined to make any appropriations for the purchase of ammunition and military equipments (Daily Trust Newspaper, 17th November, 2002). This action was taken by the NASS in an apparent attempt to stop the Executive from any possible plans to go to war with Cameroon over the Bakassi peninsula.

**Power over Peace Missions/Troop Deployment**

Parliament participates actively in the decision making prior to the deployment of troops abroad. Indeed, the Senate of the NASS takes the final decision in that regard. Section 5(4) a and b of the Constitution of the Federal Republic of Nigeria, 1999, empowers the NASS to approve any presidential declaration of war by Nigeria against another country.

Similarly it requires Parliamentary approval before any member of the Nigerian military is deployed outside the country. This therefore implies that the NASS has adequate powers to review/ amend its position on any existing mission and by so doing make the executive withdraw from such mission. Members of the Parliamentary Committee also have the powers to visit troops serving abroad (Interviews, Chairman, House Committee on Defence, 12th October 2006, Secretary, Senate Committee on Defence, 2nd June 2006 and Secretary, House Committee on Army, 9th June 2006).

However, the Nigerian Parliament does not have powers to approve or reject the military's Rules of Engagement or the Order of Battle. This is regarded as the purview of the military authorities, particularly the CDS and other Service Chiefs. Similarly, the NASS in Nigeria does not have any role in determining the chain of command and control. It also cannot approve or reject the level of risk of the military personnel deployed, as this area again is regarded as purely military (Interview, Chairman, House Committee on Defence, 12th October 2006, Secretary, Senate Committee on Defence, 2nd June 2006 and Secretary, House Committee on Army, 9th June 2006).

**Power over Procurements**

Although Parliament has been empowered to approve budget estimates, which also include budgetary provisions for procurements, there is no legal instrument that obliges the executive or the military authorities to consult Parliament on procurement decisions. Indeed, as earlier pointed out, there are several defence spendings that are regarded as exclusive and confidential that Members of Parliament do not also get to know about. This is related to expenditure on Operations Fund (Interview, Confidential Source at NASS, 15th August 2006). Therefore, Parliament does not award contracts on defence procurements in Nigeria. It also does not get involved in any way in determining the choice of suppliers (Interviews, Chairman, Senate Committee on Defence, 26th September 2006 and Chairman House Committee on Defence, 12th October, 2006).

**Power over General Security Policy**

There is no legal instrument that empowers the Parliament to approve or reject policy and crisis management concepts for the military in Nigeria. The same applies to the approval or rejection of military strategy and doctrines. Usually such documents are sent to Parliament for its information, for instance the Nigeria Defence Policy (2004) document, which after its adoption by the Federal Executive Council was sent to Parliament for information. These are areas reserved for the military and

as earlier pointed out, at present these areas have been contracted out to the MPRI, without informing the NASS (Interview, Chairman, Senate Committee on Defence, 26th September, 2006).

**Powers over Personnel Issues**

Although Rule 98(10c) of the Standing Rules of the Senate provides for the Senate Committee on Defence to oversee the size and composition of the armed forces (similar provision is also obtainable in the Standing Rules of the House of Representatives), Parliament is clearly not involved in the actual recruitment of service personnel. It only provides a manpower ceiling through the instrument of budget approval (Interviews, Chairman, Senate Committee on Defence, 26th September 2006 and Chairman, House Committee on Defence, 12th October 2006). In terms of high level military appointments like those of the Service Chiefs, Parliament is not consulted (Interview, Chairman, Senate Committee on Defence, 26th September 2006 and Chairman House Committee on Defence, 12th October, 2006). Even the provisions contained in section 218(4) do not empower the Parliament to be consulted; it merely tasks Parliament to make laws to regulate the powers "exercisable by the

President…in appointments…" As earlier pointed out, such a law is yet to be enacted.

### ***5.7 Ability for Oversight***

Having examined the legal provisions that empower Parliament to undertake effective oversight, it is important to examine Parliament's ability to effectively oversee the activities of the defence sector, considering that it is a technical area.

In selecting Senators and Honourable Members of the House of Representatives to constitute Parliamentary Committees, due cognisance is given to backgrounds of the Members. In this case all the Committees dealing with defence issues have a sizeable percentage of their membership with military/security backgrounds. In the Senate for instance, four (4) of the ten (10) Senators constituting the Committee on Defence have had military/paramilitary experience including the Committee Chairman. Almost all members of the Committee are university graduates and about 85% have had public sector experience (Interview, Secretary, Senate Committee on Defence, 2nd June 2006). In the House of Representatives the Committee on Defence has a membership of thirty-five (35) out of which seven (7) have had

military/paramilitary experience. Not less than twenty (20) are university graduates and about 50% have pubic service experience (Interview, 12th October, 2006). Similarly, the Committee on Army of the House of Representatives has thirty (30) Members, out of which three (3) have had military/paramilitary experience. About 90% are university graduates (Interview, Secretary, House Committee on Army, 9th June 2006). These members contribute particularly in dealing with technical issues which most Committee members donot have prior knowledge on. In both chambers a deliberate attempt has been made to ensure that there exist continuity of Senators and Members serving on the Committees.

In the Senate, the Defence Committee has eleven (11) staff, with five graduates who are middle level civil servants. None of the staff has military background and although one of them is an Accountant, he is however not tasked to assist the committee in analysing military budgets because he does not have the necessary skill to do so. The committee has no library and does not have internet connection (Interview, Secretary, Senate Committee on Defence 2nd June 2006).

In the House of Representatives, the Defence Committee has seven (7) staff, out of which three (3) are graduates. They are however considered

not adequately trained. There is no retired military/paramilitary officer among the staff. The staff donot embark on independent research for the committee. It also has no Committee library and no independent budget analyst. The Committee Chairman who happens to be a Chartered Accountant undertakes that job (Interview, Chairman, House Committee on Defence, 12th October, 2006).

The House Committee on Army has ten (10) staff, out of which four (4) are graduates. Like the House Defence Committee, the Committee on Army has no staff with military or paramilitary background. The committee has no library and is also not connected to the internet. Its staff donot undertake independent research on military issues. The committee relies on the expertise from the army to analyse budgets estimates submitted to it before approval (Interview, Secretary, House Committee on Army, 9th June 2006). This is a misnomer because what the committee needs is a staff or an independent Consultant to do the analysis and guide the committee members in taking a position on budgetary issues.

The Staff of the Defence Committee in both chambers of the Nigeria National Assembly donot have the opportunity to attend courses whether within the country or outside with the aim of improving their capabilities

on their jobs. They have never been on attachment in the committee secretariat of any Parliament to observe the workings of a Defence Committee (Interviews, Chairman, House Committee on Defence, 12th October 2006, Secretary, Senate Committee on Defence, 2nd June, 2006 and Secretary, House Committee on Army, 9th June 2006). The Secretary of the Senate Committee on Defence had however attended conferences, seminars and symposia (Interview, Secretary, Senate Committee on Defence, 2nd June 2006), but there is no evidence that such seminars were meant to add value in serving the committee.

The committees visit military formations both within the country and outside. The Senate Committee on Defence visited Liberia in December 2005 (Interview, Secretary Senate Committee on Defence, 2nd June 2006). The House Committee on Army embarked on a visit to Liberia and Sierra Leone in 2004. The House Defence Committee also embarked on such visits. A major reason hindering any further visits by the committees is the lack of autonomous budgets for committees since 2003 (Interview, Secretary, House Committee on Army, 9th June 2006). The Senate Committee's visit in 2005 and the House Army Committee's visit in 2004 were both sponsored by the military. This development is a mockery of oversight, if the overseers are to be sponsored by those to be

overseen, then an objective assessment may not be guaranteed, the end result is to permit the military to do what it deems fit without the needed parliamentary control.

The NASS complex has a Library, though it is temporary as the substantive one is under construction. The Library is headed by a Deputy Director, with two (2) Assistant Directors and twelve (12) senior staff, all of them being specialists in the field of Library Science. The Library has internet connection since 2002, but not all readers have access to it as its use is limited to a few staff (Interview, Library Assistant, 9th June 2006). There are however no defence materials available in the library. Members of Parliament and Parliamentary Staff serving the Defence Committees may hardly find any useful materials at the NASS library. Similarly, there are no international magazines available in the library, while the indexing is not automated thereby making it difficult for readers to easily trace the materials they want to consult (Interview, Library Assistant, 9th June 2006).

Although the NASS has a Research Unit also headed by a Deputy Director, the Researchers recruited to work donot have research skills

(Interview, Library Assistant, 9th June 2006). They are civil servants on regular deployment but without any prior training in research.

As a result of this limitation, the Assembly in collaboration with the African Capacity Building Foundation in September 2003 established the Policy Analysis and Research Project (PARP). PARP sets up to articulate, distil, disseminate and document the perspectives and positions of the National Assembly on relevant policy issues. It is designed to operate not only as a think tank of the NASS but also as a capacity builder (Interview, PARP Research Fellow, 19th June 2006). PARP is positioned to enhance the capacity of the NASS through research and deployment of highly rated technical and professional resources in all legislative processes and particularly development and evaluation. According to the responses from my interviewee (Interview PARP Research Fellow, 19th June 2006) the project has the following objectives:

a. Assist the National Assembly in the task of conception, drafting and passage of bills.
b. Play a central role in the design, analysis and evaluation of development policies.

c. Build and consolidate database on relevant development issues for utilisation in drafting of and deliberation on bills and the community functions of the Assembly.

d. Stock and improve the quality of library information for in house and public uses.

e. Design and coordinate short term training courses for members of staff of the National Assembly.

As well organised as this arrangement appears, PARP does not focus on defence issues in its capacity building efforts. It has only six experts out of which none is a defence expert. Since its inception PARP is yet to organise a capacity building course for MPs and their staff serving on the Defence Committees. Similarly, PARP is yet to establish any formal working relationship with the defence sector in Nigeria. It has also not done any work with the defence committee (Interview, PARP Research Fellow, 19th June 2006).

**Public Accounts Committee and Oversight**

In its control and regulation over public expenditure, the NASS relies on its special committee, the Public Accounts Committee. As earlier stated,

the Public Accounts Committee (PAC), is charged with the responsibility of monitoring all matters relating to the use of public funds. The committee however has few members and lacks the technical expertise to carry out the auditing of all government establishments and present a report to the Assembly. Section 85 (1 and 2) of the Constitution of the Federal Republic of Nigeria, 1999, provides for the position of the Auditor General of the Federation. The provision states thus:

***There shall be an Auditor General for the Federation…The Public accounts of the federation…shall be audited and reported on by the Auditor General who shall submit a report to the National Assembly…***

According to Ajiboye (2005) the AGF provides government ministries and bodies with the following:

a. A list of Auditors qualified to be appointed by them as External Auditors and from which bodies shall appoint their External Auditors.

b. Guidelines on the level of fees to be paid to External Auditors

c. Comment on their annual accounts and Auditor's reports.

Section 86 of the Constitution of the Federal Republic of Nigeria, 1999, provides the office of the AGF with autonomy. It provides that the appointment of the AGF shall be made by the President upon the

recommendation of the Federal Civil Service Commission but subject to confirmation by the Senate. Similarly, the AGF shall not be removed from office before his retiring age as prescribed by law, His removal can only be effected by the President acting on advice supported by 2/3 majority of the Senate.

The Public Accounts Committee (PAC) and the Office of the Auditor General of the Federation (OAGF) work together. The committee gives support and more bite to the efforts of the AGF. The two work hand in hand to maintain accountability, probity and transparency in the public sector. The main function of the PAC is to discuss the annual report on the accounts of the Government of the Federation as presented by the Office of the OAGF. After making comments on the financial report submitted to the Government by the Accountant General of the Federation (ACGF), the AGF will send his comments to the plenary of NASS. The plenary will refer the report to PAC for comment. Each Ministry and extra Ministerial department has a file at the PAC division of the OAGF, containing observations made by PAC on Audit reports (Interview, PAC Chairman, Senate, 12th September 2006). PAC has the powers to invite the Auditor in charge of any given ministry to explain and the eventual decision of PAC prevails.

In the Senate, PAC has ten members of staff, headed by a Deputy Director, who is not an Accountant. Other staff serving PAC are sourced from the NASS, OAGF, OACGF, the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices Commission (ICPC). The staff from the ICPC and EFCC are Accountants and together they embark on the auditing exercise of government ministries and extra ministerial departments, after every dissatisfactory public hearing on the finances of such ministries and extra ministerial departments (Interview, PAC Chairman, Senate, 12th September 2006). Although PAC relies on staff from the executive branch to conduct its oversight functions of auditing accounts, it does not regard that as a limitation, since the three arms of government are expected to cooperate (Interview, PAC Chairman, Senate, 12th September 2006).

It however remains doubtful if PAC can have the absolute loyalty of the other staff from the OAGF, OACGF, ICPC and EFCC. In the case of the AGF, though appointed based on confirmation by the Senate, may still give his loyalty more to the executive than to Parliament. For instance, in January 2003, the then AGF, Mr Vincent Azie submitted a 300-page annual report to the NASS, covering the 2001 financial year. In the report

the AGF pin pointed various acts of corruption, particularly in the presidency, involving a number of suspicious payments of honouraria to politicians. The following month, the President relieved him of his position (Global Integrity, 2004). With an incident like that it may be very difficult for any future AGF to perform his task objectively and cooperate fully with the Assembly, where the interest of the executive is at stake. Parliament therefore requires yet another independent method to conduct effective oversight on government expenditure.

The major difficulty in PAC's operations is the inability on the part of the Ministries and Parastatals to get themselves disengaged from the mentality of deemphasising issues of transparency and accountability that was in vogue during the military era. It took time for PAC to succeed in sensitising the ministries and Parastatals to realise their statutory responsibility. It is pertinent to state that the military appears to respond to PAC timelier than other institutions (Interview, PAC Chairman, Senate, 12th September 2006).

To enhance checks and balances, PAC in both the Senate and the House of Representatives is headed by Members of the opposition party; the All Nigeria Peoples Party (ANPP) in the Senate and the Alliance for

Democracy (AD) in the House of Representatives (Interview, PAC Chairman, Senate, 12th September 2006).

Having discussed ability, we shall now focus attention on attitude.

### ***5.8 Attitude towards Oversight***

Basically the Nigerian Parliament performs oversight functions. This can be understood when one views the commitment of the Honourable Parliamentarians towards conducting public hearings on virtually most issues that are regarded as vital to the interest of the electorates. It is however necessary to point out that the major constraint towards effective oversight is the culture of corruption that has become endemic in the relations between the Executive (especially Cabinet Ministers) and the MPs.

Corruption is regarded as a form of behaviour which includes conflict of interest, embezzlement, fraud, bribery, political corruption, nepotism and extortion. It is a complex social, political and economic phenomenon that impacts on every aspects of society. It ignores the rule of law and human rights and many include the intimidation of the judiciary, the subversion of due process, the manipulation of existing laws and regulations, the

suffocation of civil society and containment of democratic values and institutions. The above processes revolve around bribery, money laundering, abuse of power, embezzlement, nepotism and other forms of corrupt practices (Onakuse, 2004).

In his definition, Brooks (1910) describes corruption as the intentional mis-performance or neglect of a recognised duty or the unwarranted exercise of power, with the motive of gaining some advantage which is directly personal. This description is relevant to corruption among officials and government personnel.

Simple as Corruption may appear, its definition has remained difficult, since it is defined by different scholars in varying ways, depending on their focus of the various facets of the phenomenon.

Senturia (1931) regards corruption as the misuse of public power for private gains. Furthermore, he describes Bureaucratic corruption as efforts by the political coalition to capture the apparatus of the state or maintain monopoly of power. Political corruption on the other hand refers to activities by public servants to enrich themselves through illegal means.

Anthony (2003) refers to corruption as the use of public office for private gains, where an official entrusted with carrying out a task by the public engages in some sort of malfeasance for private gains.

Onakuse (2004) describes corruption as the giving of something to someone with power so that he will abuse his power and act in favour of the giver. It may also refer to the giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person.

This author however wishes to associate more with the definition of corruption as presented by the Council of Europe Inter Disciplinary Group, which regards it as bribery and any other conduct of person who is entrusted with certain duties in public and private sector that leads to breach of those duties imposed on them by their status of public official, private sector employee, independent agent etc, with the aim of obtaining illegal benefits for himself or for others (Onakuse, 2004).

From its inception in 1999, the Assembly began on a wrong footing in terms of corruption. Early in its life there was a controversy over the payment of N3.5m to each lawmaker as furniture allowance. The Nigeria Labour Congress (NLC) argued then that it was unfair for the

Parliamentarians to collect that amount of money when the government could not even pay the little salary it was paying workers (Global Integrity, 2004). The Honourable Law Makers were however of the opinion that there was a deliberate attempt to sensationalise the issue. In the first place, the furniture allowance given to them in 1999 was N2.6m, which if properly analysed was not enough to purchase and meaningfully furnish an average residence, given the current prices of furniture in Nigeria (Interview, Deputy House Whip, 12th October 2006). The sum collected by Honourable Members fell short of the quotation by the Federal Capital Development Authority (FCDA) for the same purpose. The latter quoted the sum of N5.8m for each residence (Interview, Deputy House Whip, 12th October 2006).

The allegation of corruption particularly that labelled against Nigerian MPs remains very difficult to prove. The rules of natural justice demand that as long as there is no proof to any accusation, then it remains mere speculation (Interview, Immediate past Senate Committee Chairman on Ethics, 18th October, 2006). The major issue is that the legislature is very much misunderstood and because of that there is the general tendency to misconstrue the actions and deeds of lawmakers, while ignoring the activities of Ministers who are not elected but mere appointees

(Interview, Immediate past Senate Committee Chairman on Ethics, 18th October, 2006).

Not withstanding the above arguments by the MPs themselves, the general impression by average Nigerian remains that MPs are corrupt. This belief was further buttressed when not long after the inauguration of the Assembly, The News Magazine published a story titled "the face of a lair", where it accused the then Speaker of the House of Representatives, Alhaji Ibrahim Salisu Buhari of forgery through his claim of obtaining a certificate from the Kings College Lagos, while in reality he did not attend the school. The magazine also disputed his claim of obtaining a Bachelors degree from the University of Toronto, in Canada, stating that the former Speaker was never at any point in time a student of that university. Furthermore, he was accused of falsifying his age by forging a birth certificate to meet the thirty (30) years requirement to contest, while in reality he was twenty-nine (29), but he claimed to be thirty-five (35) years of age (Global Integrity, 2004). The Speaker was made to resign and subsequently arraigned before the court, but was given a light punishment.

Further allegation of corruption continued against the Assembly with the controversy over the distribution of Peugeot 504 cars, where it was alleged that some money representing the balance of Peugeot 505 was given to Members of the House of Representatives to balance them with what was given to Senators (Peugeot 505). The money was allegedly given to them in the boot of their official cars hence the "jack-in-the-boot scandal" (Global Integrity, 2000).

As the Legislative/Executive feud became more severe, particularly between the House of Representatives and the Presidency, allegations of bribery to Honourable Members became open. In August 2000, Honourable Adams Jagaba, Chairman, House Committee on Anti Corruption dramatically displayed the sum of N4m on the floor of the house, alleging that it was money given to him and eight other Members as bribe by some officials of the presidency to oust the then Speaker of the house, Alhaji Ghali Umar Naabba. Although the house resolved to investigate the matter, some Honourable Members succeeded in getting a court injunction restraining the house from undertaking such an investigation (Global Integrity, 2000).

The senate had its own share of allegations of corruption. There were allegations that in 1999 at the inaugural sitting of the Senate to elect its President, the Executive paid some Senators the sum of N850,000 to ensure that Senator Evans Enwerem was elected President (Global Integrity, 2000). Following the ouster of Senate President Evans Enwerem and the election of his successor Senator Chuba Okadigbo as Senate President, the Legislative/Executive feud gained so much momentum in the Senate. In July 2000, a government investigation uncovered what was described as inflated procurement contracts in the NASS where it was alleged that some of the contracts were awarded to companies in which the legislators had financial interest. Both the Senate President and his Deputy were implicated in the deal (Global Integrity, 2000). Eventually Senator Okadigbo was impeached as Senate President in August 2000 for corruption and misappropriation of funds. He was indicted for spending public money on cars and car furnishing (Global Integrity, 2000). The impeachment of Senate President Okadigbo was however not only on allegations of corruption against him. A notable Senator confessed in the senate chamber that he personally distributed money as bribe to a number of Senators for the purpose of impeaching Senator Okadigbo as Senate President (Daily Champion, 19th May 2006).

In 2003, the Minister of the Federal Capital Territory, Mallam Nasir El Rufai alleged that some Senators, two of whom he named, solicited for sums ranging from N10m to N54m to confirm him as Minister. There were reports of the existence of a clique in the Senate whose stock in trade was the collection of bribery from prospective Ministers in exchange for clearance. In particular Minister El-Rufai claimed that the Senators told him that because he was the head of the Bureau for Public Enterprises (BPE), the body charged with the responsibility of privatising public companies and Parastatals, they expected him to have acquired enough money from such sales that he needed to pay more. (Daily Champion, 19th May 2006). The matter was referred to the Senate Committee on Ethics, Code of Conduct and Public Petitions for investigation. After several sessions of questioning all parties concerned, the Distinguished Senators mentioned were cleared on the grounds that the accuser could not provide enough evidence to prove his case, thus there was clear want of evidence. The Senate under such circumstances had to act cautiously to avoid a miscarriage of justice (Interview, Immediate past Senate Committee Chairman on Ethics, 18th October 2006).

The most recent being the case of the former Nigerian Minister of Education who confessed that he had given the sum of N50m to some Senators and Honourable Members of the House of Representatives on the Education Committees. The aim was to have the 2005 budget proposal of his Ministry approved in Parliament (This Day Newspaper, 23rd March 2005). This phenomenon, popularly referred to as the "bribe for budget" syndrome, had created so much interest that the then President of the Nigerian Senate was forced to relinquish his position because of his alleged complicity. Infact the Minister himself was relieved of his position by Nigeria's President. In a Nationwide broadcast over the incident, President Olusegun Obasanjo challenged the NASS to cleanse itself. He further states as follows:

> ***…National Assembly… to show Nigerians that it deserves their respect, to rebuild public confidence and to flush out those Members who continue to derogate and degrade its integrity and status.***
>
> (cited in This Day Newspaper, 23rd March 2005)

The President went further to remind the Law Makers of their responsibility thus:

> ***Membership of the National Assembly, I believe is a sacred trust and responsibility reposed in a Legislator by the electorates. Such trust and responsibility Must not be violated, abused or compromised through the Sale of this sacred mandate for personal material gains***
>
> (cited in This Day Newspaper, 23rd March 2005)

It is therefore important to state that the attitude of the Nigerian Parliament towards oversight needs to tremendously improve if Parliament's leading role in the sustenance of democracy is to be achieved.

As earlier stated, the view by average Nigerian is that Senators and Members of the House of Representatives are corrupt. As earlier stated, corruption is very difficult to prove, but it is obvious from the life style of the lawmakers that they are getting some money over and above their legitimate income. The monthly emolument of a Senator is about N220,000, while that of a Member of the House of Representatives is about N170, 000 (Interview, House Table Officer, 12th June 2006). Where then do they get the money to maintain the expensive life style for which they are known for? The general belief is that MPs in Nigeria use the power of oversight to win lucrative contracts and blackmail the Executive particularly Ministers and other Government Appointees to make money.

In an attempt counter the above argument, the MPs believed that their so-called high standard of living is not peculiar to Nigeria alone. That all over the world, MPs live in affluence and own houses in high brow areas.

The fact that they are MPs does not mean they are not expected to pursue legitimate profit making business ventures. The ethics of their job as law makers does not make them contractors taking advantage of their oversight functions (Interview, Deputy House Whip, 12th October 2006). Further argument by the MPs is that there is nothing extra ordinary about their life style. The instances cited where MPs are accused of owning properties and riding expensive cars is only because the public has focussed to much of its attention on the Legislature. Owning one good car by a Member of Parliament will only facilitate his work as a Representative (Interview, Immediate past Senate Committee Chairman on Ethics, 18th October, 2006). Notwithstanding the above defence, there were a few instances of accusations against Committee Chairmen and Members by Ministers, where the former allegedly took advantage of their oversight functions to gain patronage. Under such circumstance the Honourable Speaker of the House normally refers such complaints to the relevant House Leader for investigation. Where the Committee Leadership is found culpable, disciplinary action is taken, including relieving the Chairman from his position (Interview, Deputy House Whip, 12th October 2006).

The attitude of the MPs towards oversight in the defence sector is not too impressive. Section 217 (2)C provides the Assembly with powers to prescribe through an act, the conditions under which the military can be assigned by the President to aid civil authorities in the case of sectarian crises that the police cannot quell. No such conditions have been prescribed by the Assembly hence leaving the Executive unchecked to use its discretion, leading to the killings, maiming and raping of women in Choba, Odi and Zaki Biam. The Senate only passed a resolution on 25th November 1999, that government should withdraw all troops from Odi. The then Senate President Chuba Okadigbo also led a delegation from Abuja to visit Odi on 30th November 1999, where he commented that "the facts speak for themselves. No need for speech as there is nobody to speak to." (Human Rights Watch, 2000). Similarly, the then Speaker of the House of Representatives Alhaji Ghali Na'abba, led another delegation of the house to Odi. The House passed a resolution requesting the President to obtain the permission of the Assembly before deploying troops to quell internal crises in future (Human Rights Watch, 2000). That was not respected by the Executive and the Assembly has done nothing in response.

Further evidence that the NASS has the problem of controlling the Executive over defence issues is the resolution passed by the House in 1999 to take away all military formations from the three arm zone. The reason being that those military formations were close to the seat of power (the Presidential Villa and National Assembly), now occupied by civilians. They saw that as a security threat, arguing that the military formations were built by the military to secure its tenure. This motion was passed but was never implemented (Global Integrity, 2000). Yet the Parliament has not been able to contain these excesses of the executive.

The attitude of most MPs towards their duties in relation to attendance at daily parliamentary business is negative. Most sittings of both chambers are conducted with less number of the lawmakers present. In the Senate, high attendance is usually recorded when there is an important issue for discussion (Interview, Immediate past Senate Committee Chairman on Ethics, 18th October 2006). The Senate has a membership of one hundred and seven (107). The only instance when an attendance of about that number was attained was during its inauguration in 1999 and 2003. Similar high attendance was recorded only when there was a crisis leading to the removal of Principal Officers like the case of the impeachment of Senate Presidents Chuba Okadigbo and Adolphus

Wabara (Interview, Senate Sergeant-at-arms, 10th June 2006). In most cases although quorum was obtained (thirty six Senators form the mandatory 1/3 quorum), attendance does not exceed between sixty (60) to seventy (70) Senators (Interview, Senate Sergeant-at-arms, 10th June 2006).

This situation is replicated in the House of Representatives, which has a membership of three hundred and sixty (360). It normally gets the mandatory 1/3 quorum of one hundred and twenty (120), but like the Senate, only when there is a sensitive matter on the Order Paper of the business of the House that a two hundred (200) member attendance may be attained (Interview, Deputy House Whip, 12th October 2006). The House hardly forms a quorum and on several occasions, sittings have to be delayed to await the arrival of a handful of Honourable Members. Infact the House Rule on quorum is not being observed; otherwise hardly can any sittings take place (Interview, Deputy House Whip, 12th October, 2006). Several MPs use the official working days in Parliament to attend to their personal programmes both within and outside the country. This hardly provides them with the time to take their job seriously. The attitude of MPs towards the business of the Parliament is so negative that it can be said that since its inception in 1999, it cannot be said to have

achieved up to 30% of its objectives. (Interview, Confidential Source at NASS 15th August, 2006). Most MPs are uncommitted to their primary assignments because their selection process is faulty. The leadership of the political parties is highly corrupt hence the screening candidates is not properly conducted, as money exchanges hands in the exercise (Interview, Confidential Source at NASS, 15th August, 2006). Furthermore, although there is a small library at the Assembly complex, hardly do MPs use the facilities there. In most cases they rely on their aides for such duties (Interview, NASS Library Assistant, 9th June 2006). But Legislative aides donot directly participate in the business of Parliament and may therefore not be in position to provide the needed data to help promote the quality of legislation.

Meanwhile section 68(f) of the Constitution of the Federal Republic of Nigeria, 1999, provides for sanctions for MPs who without any just cause absent themselves from the business of Parliament. The section inter alia states thus:

> ***A member of the Senate or of the house of Representatives shall vacate his seat in the House of which he is a member if…without just cause he is absent from meetings of the House of which he is a member for a period amounting in the aggregate to more than one-third of the total number of days during***

***which the House meets in any one year.***

Should this provision be adhered to strictly, many Senators and Honourable Members of the Nigerian Legislature would have loss their seats a long time ago. The truth is that the provision of section 68(f) has never been implemented. The difficulty arises from identifying the competent authority that should implement the provision. The Leadership of the Assembly may find it difficult to do so because they are merely first among equals. Thus attendance at parliamentary functions is for now left in the hands of the MPs themselves, who should allow maturity, commitment and their deep sense of responsibility to prevail. The people that elected the representatives also have a role to play. They must take interest in the activities of the representatives and device the means of cautioning those that have erred (Interview, Immediate past Senate Committee Chairman on Ethics, 18th October, 2006).

This study has also discovered that MPs donot really understand the technicalities associated with defence issues. They donot appreciate the enormous role they have of possessing the authority to fully scrutinise all aspects of defence, including deciding on items/weapons to be procured. In the present circumstances, members see their role as limited simply to budget approval and monitoring budget implementation. They donot

venture into technical areas to guide the military in its decisions. This may probably be because they lack the necessary technical knowledge to do so (Interview, Confidential Source at NASS, 15th August, 2006). This is a major set back towards oversight.

Indeed the negative attitude of Nigerian MPs towards oversight in particular and their primary responsibilities in Parliament in general, has created a window of opportunity for possible executive interference, especially in dealing with defence issues. A case in point was an occasion in which the House Committee on Defence received a petition from soldiers serving in peace keeping missions abroad, where they complained of non payment of their allowances. Accordingly, the committee requested the MOF to furnish it with records of all payments made to DHQ on that vote. Upon receipt of the figures, the committee made similar request to the DHQ and realised that the figures from the two sources donot tally. The committee therefore sought for an explanation from the DHQ over a discrepancy in the figures, amounting to about N2.2b (Interview, Confidential Source at NASS, 15th August, 2006). But the President of the Federal Republic responded by inviting the leadership of the two Defence Committees in both chambers, where he reportedly asked them to stop probing professionals at the DHQ and

concentrate only on the technocrats. He further threatened that if the MPs donot stop, he would ask the professionals to start ignoring such probes (Interview, Confidential Source at NASS, 15th August, 2006).

Another case of Executive interference, apparently taking advantage of the negative attitude of MPs towards their Parliamentary duties was the case of lack of proper accountability in administering funds/ reimbursements from the UN on foreign peace keeping operations. Infact, the UN reimburses Nigeria and other countries that participate in foreign peace keeping operations over expenses incurred on transportation for the movement of personnel and equipments. Such refunds for expenses incurred by the Federal Government of Nigeria are not returned to the Consolidated Revenue Fund, but to a dedicated account in New York, which the NASS does not have access to and has no knowledge of how much it contains and what use the money will be put into. The leadership of NASS is aware but very reluctant (or weary) of investigating it (Interview, Confidential Source at NASS, 15th August, 2006).

Before concluding this study, there is a need to identify and discuss the challenges facing Parliamentary Oversight in Nigeria as a prelude towards making recommendations for improvement.

## ***5.9 Challenges in Parliamentary Oversight***

In view of the fact that the practice of Parliamentary democracy is new in Nigeria, due to the prolonged period of military rule, there are several challenges confronting oversight, particularly of the security sector. The following have been identified:

***Secrecy/Confidentiality-*** Most issues concerning the defence sector are generally regarded as secret. It is common knowledge that the military keeps its activities secret because of its role as defenders of a country's national interest. It is therefore difficult to determine where their oversight functions stop for the state secret to commence. Although, some degree of confidentiality is necessary, the need for confidentiality must however not be used to justify a reduction in scrutiny by the appropriate management and the general populace at large (Ball and Kayode, 2004). A high degree of confidentiality can be retained without compromising the principle of public accountability. For instance, while war plans are to be held in confidence; but in a situation where the armed forces is exceeding its budget allocation, purchasing expensive military equipments and hardly pay attention in maintaining such equipments or engaging in illegal, off budget activities, these must not be held in confidence (Ball and Kayode, 2004)

Confidentiality versus Secrecy remains an area which only the Parliamentarians and other major stake holders in the sector can jointly try to settle. A Member of Parliament, elected by the people to represent them cannot be considered as an outsider where discussions and decisions of vital national interest are concerned. This is because under an ideal setting, National Interest should be the collective interest of the people and only their Representatives can determine it. Being entrusted with the enormous task of representing the interests of the people, means that the Legislator can be entrusted with the task of defining what they want.

A major factor promoting secrecy in public service is the Official Secrets Act of 1962 which states interalia that a person "who transmits any classified matter to a person to whom he is not authorised on behalf of the government to transmit it or obtains, reproduces or retains any classified matter which he is not authorised on behalf of the government to obtain, reproduce or retain…shall be guilty of an offence."(Laws of the Federation of Nigeria, 1990). The provision of this act affects oversight as several government officials regard Parliament as alien to government.

Commenting on secrecy and confidentiality as it affects effective oversight, Nicole Ball (2002) states as follows:

***There appears to be a tendency to conflate the concepts of 'sensitivity' and confidentiality and to use the need for confidentiality in some areas of the military sector to reduce opportunities for scrutiny by oversight bodies… It is possible to retain a high degree of confidentiality in high sensitive areas without compromising the principles of public accountability. It is also important to be clear about what is being held in confidence and why it is considered sensitive. War plans should be held in confidence.***

***That the armed forces are regularly exceeding their budget allocations, are purchasing expensive military equipments with scant attention to needs or ability to maintain this equipment or are engaged in illegal, off-budget activities are clearly sensitive matters but should not be held in confidence.***

***Corruption-*** As discussed earlier, corruption has remained a hindrance to effective Parliamentary oversight, because it compromises the integrity of the Honourable Representatives. It is a phenomenon that remains difficult to prove except in instances like the case of the current Minister of the Federal Capital Territory and the former Minister of Education, where specific mention was made. It however remains a subject associated with top government functionaries in Nigeria including MPs. There is a general stigma attached to MPs as corrupt public officials, probably because they are closely watched by the public/electorates for any slight

positive changes in their life styles as evidence of corruption. Also because so far the accusation is that the Executive branch settles them to get things done. For an effective oversight by Parliaments in Nigeria, there is the need to overcome the menace of corruption. It is important to state that corruption is not only common to Members of Parliament rather to the entire society.

***Security Vote-*** As a hangover from the many years of military rule, the Executive arm of Government at all levels in Nigeria still continues with the practice of appropriating money meant to be spent by the President or the Chief Executives Officer of a States. The money referred to as the "Security Vote" is not accounted for and is normally a huge amount. While the need to make provision for unforeseen eventuality is understandable, the idea of making the money non accountable does not give an effective image of a country that practices democracy, with transparency and accountability as the watch words. The Public Accounts Committee of the two chambers of Parliament must be properly informed of all expenditures in this vote.

***Secretariat Staff-*** As earlier pointed out, all committees dealing with the defence sector have a complement of staff that provide technical and administrative assistance. But because Parliamentary practice in Nigeria

is still at its embryonic stages, the staff are mostly civil servants from various ministries of the Executive branch of Government. They have not had the opportunity to benefit from adequate training in the fields for which they are assisting Parliament. Meanwhile, MPs have a short tenure of four years, therefore it behoves on the technical and administrative staff to have enormous expertise to assist the Members and ensure continuity. If this feat is achieved, the need to ensure that the Membership of security related Committees is tilted in favour of MPs with military and paramilitary background may not be so necessary.

***Budget Implementation-*** By far, one of the greatest challenges to oversight is the issue of non implementation of budgets as approved by the NASS and assented to by the President. This phenomenon has affected many programmes expected to be carried out by security sector, since non availability of funds will naturally affect anticipated programmes. Although section 81(1) of the Constitution of the Federal Republic of Nigeria, 1999, empowers the executive to prepare the annual budget estimates, such estimates are expected to be thoroughly scrutinised by the legislature before any approval is given. Since the advent of the fourth republic in 1999, budget implementation has remained one of the contending issues in executive-legislative relations.

The NASS has always altered the budget by reviewing figures upwards and the President has always refused his assent, arguing that there is material differences between the expenditure proposal and the bill returned for assent. Even where there was legislative override, the President reluctantly implements the budget, leaving many aspects of it unimplemented (Essiet and Onyekpere, 2004). A school of thought holds that the legislature can reduce but not increase the total amount of the budget, because an increase partakes of the nature of initiation as regards the excess amount over and above the total figures in the appropriations bill (Nwabueze, 2002). It is pertinent to state that the constitution is silent thereby creating a vacuum, which can only be filled when there exists perfect understanding between the two arms of government.

***Powers of the Assembly over Appointees-*** Although Section 147 of the 1999 Constitution of the Federal Republic of Nigeria has granted powers to the NASS to approve the appointment of Ministers, it however does not grant powers for sanctioning such ministers even when upon conducting an investigation, the Assembly finds them guilty of any wrong doing. For instance, no Minister gets appointed without confirmation by the Senate and the latter has been empowered by the 1999 Constitution to clear such nominees prior to confirmation in all

aspects of their lives including qualification and records of previous services in both the public and private sectors. In other words, although the Parliament has the power of oversight, its powers are limited to merely reporting its findings and making recommendations to the President, which may or may not be accepted. This is a serious limitation to effective oversight because an erring appointee knows that the Assembly does not have powers of sanction. On the other hand, if the Assembly had been given powers of sanction, chances would have been that the level of corruption would have been higher.

***Non State Actors :Ethnic Malitia-*** It is necessary in any discourse of the nature to also highlight the role of the non formal security sector as obtainable in Nigeria. The activities and even the very existence of non state actors points to some deficits in the activities of the formal sector. According to Ball and Kayode (2004), the reasons for the emergence of non state actors in the security sector include the following:

- Armed conflict- If there is the absence of safe and secure environment necessary to enhance human security development, due to the emergence of armed opposition groups, other informal organisations will have to emerge to counter them.

- Ineffective State Security Organisation- Domestically, the inability of the state to protect its population or segments of the population against violence, may create room for the rise of a variety of local militia. Private enterprises, wealthy citizens and the International Community are likely to arrange for private protection.

- Growth in Crime Rate- A situation where criminals are becoming more sophisticated, while the state remains less ready and committed towards combating such crimes.

The poor performance of the Nigeria Police along side its poor equipments and lean personnel has led to various interest groups, particularly the divergent ethnic groups to form their vigilante groups. The primary idea was to make up for the inadequacies of the Nigeria Police. But they were later used to fulfil political ends, one of which was the call for a state controlled Police Force, an idea that was championed by several State Governors. The phenomenon of ethnic militia became even stronger when certain ethnic groups felt marginalised and unprotected in the present federal arrangement.

In particular, the example of the Odua Peoples Congress (OPC), which was formed at the wake of the political crisis that engulfed the country resulting from the annulment of the 12th June 1993 Presidential election, largely believed to have been won by Chief MKO Abiola. In the words of its Leader Dr Frederick Fasehun, the OPC is formed to "defend the rights of Yoruba persons on earth" (Babawale, 2001). In its fight to achieve its set objective, the OPC has had to meet so much resistance from the Nigerian State, but the Congress has proved to be much more organised than the Nigeria Police Force, particularly in terms of weapons. There were several clashes with casualties on both sides.

The ethnic militia based in the East, the Bakassi boys, started as an organisation to protect traders against the menace of armed bandits. With its numerical strength and its determination to stamp out the activities of bandits, the various Eastern States Governments became interested and started funding the organisation. In Anambra State for instance, the former Governor, Chief Chinwoke Mbadiniju legalised the activities of the Bakassi boys through the State House of Assembly and renamed it the Anambra Vigilante Services (Babawale, 2001). Its members were however accused of extra judicial killings, even though its actions succeeded in reducing crime rate in the south east. The services it

provides have grown to include adjudication on civil matters like marital and family issues, unpaid debts etc. Indeed, there is no accountability in its activities (Ball and Kayode, 2004).

The Ijaws of the Niger Delta have the Egbesu boys of Africa as the prominent ethnic militia movement. In view of the abundance of proven reserves of crude oil in the area, the Egbesu have severally attacked oil fields to expel personnel of the multi nationals and stop further exploitation of the resource. Their frustration is based on their belief that the Nigerian state has not been fair to them in the sharing of the revenues accruing from oil, mostly found in their area.

In the North, particularly among shariah practising states of Kano, Sokoto, Zamfara, Katsina and some parts of Kaduna, there is the hisba group, representing the local police that is expected to implement the Islamic shariah. Like the OPC in the South West, the Bakassi boys in the South East and the Egbesu in the Niger delta, the hisba in the North does not come under effective scrutiny by the relevant Parliamentary Committee on defence or security, hence posing a great challenge towards effective Parliamentary Oversight.

With the above facts as presented, it has undoubtedly become clear that the informal security sector in Nigeria is becoming relevant and powerful and may, if left unchecked surpass the formal security sector. The Nigerian National Assembly may therefore need to promulgate a law to control the preponderance of ethnic/religious militia groups so as to check their excesses. One major way of doing so is to assist the formal sector, particularly the Nigeria Police Force to discharge its functions effectively.

# CHAPTER SIX

## Summary, Conclusion and Recommendation

### *6.1 Summary*

The study on Parliamentary oversight of the Defence Sector in Nigeria is undertaken based on the principles of democracy and separation of powers between the three arms of government, particularly in this case the Principles of checks and balances between the legislature and the executive. The study examines the existing pattern of CMR in Nigeria particularly in the period preceding the emergence of a democratic administration. It establishes that there existed poor CMR, thereby necessitating the need to have a rapid SSR. The study examines the concept of SSR as a panacea for bringing the Nigerian military under civil and parliamentary control as is international obtainable in modern democratic states.

In an attempt to relate the functioning of Parliament, the study examines the historical development of Parliaments in Nigeria, since the colonial period, with emphasis on the functions of parliament which is not only representational but also as an agent for exercising oversight on the executive and its functions.

The study examines the level of security sector reforms in Nigeria, where it reveals that there indeed exist some level of reforms but it has fallen far short of the requirements because the fundamental areas that will lead to genuine reform, particular role re-orientation, is still just partially satisfied. There is yet to be any genuine demobilisation of servicemen despite the effort at establishing compact armed forces that is highly mobile.

In terms of Parliamentary oversight, the study examines the Authority, Ability and Attitude of Parliament towards oversight. By Authority the study examines the legal powers provided in the Nigerian constitution for the Parliament to embark on oversight. By Ability, the study examines the capacity of Parliament to undertake oversight, particularly the nature and functioning of the various parliamentary committees, their staffing, the facilities available to the staff including opportunities for them to attend relevant courses to boost their service delivery to the committees and their capacity to undertake research in the field of defence. By Attitude, the study examines the political will of the MPs to undertake oversight, particularly their party loyalty and their desire to satisfy their personal desires at the expense of their oversight functions.

## *6.2 Conclusion*

The study of the Parliamentary oversight of the Defence Sector is part of the general study on Civil-Military Relations leading to Security Sector Reforms, preached in modern democratic states. Adequate Parliamentary Oversight can be achieved through strict adherence to the principles of Separation of Powers and Checks and Balances. So far this study reveals that there are concerted efforts by the present administration in Nigeria towards ensuring that there is meaningful SSR particularly in the armed forces. But certain areas that remained unreformed have made the effort less successful. The fact that there still exists some level of secrecy in some aspects of the defence budget means that Nigeria's military reform agenda is still far away from succeeding. In modern democracies with meaningful SSR, there is nothing secretive about defence budgets. Similarly, the reluctance of the administration to demobilise, while at the same time hoping to achieve a modern and compact military force implies that the reform agenda is in a deficit. There is poor literacy rate within the armed forces, particularly with the NCOs. Several of them still regard the military's role as that of terrorising the society it is living with than protecting it. Such elements still have the tendency to violate the rights of innocent Nigerians if given a chance.

By and large, it is essential to state that the Nigerian National Assembly has significant but not total authority to be deeply involved in military issues, considering that it has no role to play in appointment, promotion and discipline of the military. The provision in section 218 of the 1999 Constitution which empowers the Assembly to make laws to regulate the excesses of the executive in this regard has not been exercised. Parliament also lacks power to be involved in deciding military procurements. It only vets the budget for procurement and approves or disapproves but it is not fully involved in deciding military procurements. The study also reveals that Parliament in Nigeria does not have a say in the development of military doctrines, including the power to vet the Defence Policy of the Government. Neither does it have any role in the concept of crisis management. Parliament does not get involved in training and recruitment policies of the military. It therefore cannot establish a bench mark regarding the number of military personnel to recruit at any given point in time, except through the power of approving appropriations. Similarly, with the practice by the executive to maintain a secret defence budget outside what NASS has approved means that MPs donot have total control over defence expenditure. By so doing, Parliament is more of a rubber stamp. It is pertinent to note that after an examination of the powers of the NASS, it is clear that it is not merely a policy influencing Parliament but has powers for policy initiation as well.

One wonders why the MPs have so far failed to initiate a legislation that will provide them with adequate powers to be more involved in the country's defence management, particularly in the areas of recruitment of service personnel, defence procurement, development of defence doctrines, promotions, appointments and discipline in the military etc. It is vital for Parliament to be involved to ensure the protection of the interest of the electorates in this key area, which determines life and death.

In the area of ability of Parliament to undertake oversight, while the composition of the Parliamentary Committees on Defence is adequate, the facilities available, including the staffing of the committees, is grossly inadequate. There are no longer standing budgets for the committees, which makes them rely on the military to embark on foreign missions to visit troops serving outside the country. There are poor facilities, poor office accommodation, less competent staff to assist the committees particularly because defence is a complex area requiring expertise. By these it implies that the Nigerian National Assembly lacks the ability for effective oversight.

But the attitude of the Parliament towards oversight is believed to have been marred by corruption, which has significantly affected effective

oversight. From its inception in 1999, the general view by the populace is that the Assembly is the home of corruption; hence its oversight functions are seen in that light. The MPs have so far not done much to correct this impression, which is widely held among the populace. It is therefore important to point out that the present situation in which elected Representatives of the people collaborate with the executive to gain patronage and corruptly enrich themselves, leading to deficit oversight can best be described as a general conspiracy against the people of Nigeria, who during elections freely gave their mandate to the present crop of legislators to represent their interest and save them from executive tyranny. It is certainly not in any doubt that what happens in Nigeria is executive tyranny, which thrives with Ministers acting with impunity against the people. The Honourable Representatives have remained helpless in the light of highly unpopular and anti people policies, whose effects have rendered the people more impoverished, with poverty being the order of the day. The inability of MPs to effectively represent the people and embark on genuine oversight is because they have compromised their positions and sold their integrity for personal gains, hence Nigerian workers and peasants will have to pay for the omissions and commissions of their elected Representatives.

Similarly, the Assembly itself has not been able to provide the necessary checks against the Executive on all areas of defence. Indeed, this study has been able to reveal instances of executive interference, with no effort on the part of the law makers to entrench their constitutionally guaranteed independence. At the level of financial appropriation the Assembly is effective, but a follow up to ensure that what is appropriated is not misused is lacking. The much needed reform of the armed forces to reposition it from a force that was highly politicised and corrupt, into a professional force to meet the challenges of modern day Nigeria, has not been properly focused and so far the NASS that should have taken the lead has not done so. Most MPs who are involved in defence matters do not seemingly understand the dynamics in the area. It appears that in view of the technical nature of defence, they have decided to restrict themselves to issues that are much easier to comprehend. The Parliament therefore has poor attitude towards oversight.

Generally the oversight of the defence sector in Nigeria is very weak and significantly ineffective.

To cap up, it is important to point out that this study, though not totally exhaustive, has made a significant contribution in intellectualism, by providing an insight into the nature and pattern of parliamentary oversight

of the defence sector in contemporary Nigeria. **The study's contribution is that; although there exists adequate authority to undertake oversight, there are limits in terms of the ability to undertake this essential assignment. Similarly, the study has been able to establish that there is poor attitude on the part of the Members of Parliament towards embarking on oversight of the defence sector in particular and other sectors in general.**

### ***6.3 Recommendations***

To ensure the improvement of oversight in the defence sector in Nigeria, the following are hereby recommended:

a. The need to adhere to the principles of Security Sector Reform so that Nigeria can genuinely become a democratic state. All practices that are contrary to SSR should be avoided.
b. The need to amend the 1999 Constitution of the Federal Republic of Nigeria to grant the Parliament additional powers over the defence sector, in view of its importance. Such powers may include
    - Authorising Parliament to approve defence doctrines.
    - Approve training needs for the armed forces.
    - Power to improve welfare packages for service personnel.

- Power to be involved in recruitment of service personnel even at a supervisory level.
- Parliament may also be granted powers to sanction ministers and other appointees if as a result of any parliamentary enquiry they are found guilty of any wrong doing.

c. There is also the need to improve the ability of the Parliament, particularly the requirements of Parliamentary Staff serving in the Committees. This study recommends the following:

- Provision of adequate office accommodation for Staff of Parliament.
- Provision of other working tools, like internet facilities and telephone lines.
- Adequate facilities for research in defence related fields.
- Recruitment of a budget analyst for the Committees to minimise their dependence on the Executive in analysing budget proposals.
- Provision of adequate books and other materials relating to defence issues in the library of the Nigerian National Assembly.

- Provision of adequate training on defence issues for Parliamentary Staff serving the defence committees of the two chambers.
- Provision of training on defence issues for Members of Parliament to enhance their capacity.
- Provision of adequately trained manpower for the Public Accounts Committee to avoid its present state of reliance on the Auditor-General of the Federation, whose loyalty may be tilted more towards the Executive.

d. The study also recommends improvement in the attitude of Members of Parliament towards oversight functions. The achievement of the following may be essential:
   - The remuneration for Members of Parliament needs to be improved upon to enable them satisfy their personal and constituency needs. This will help in minimising corrupt tendencies. There is the need for MPs to take their legislative and oversight duties very seriously. Where necessary they must be made to realise that their job is full time. This will assist immensely towards improving their attitude.

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# APPENDICES

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Appendix 1

## LIST OF INTERVIEWEES

Interviews were conducted with the following interviewees and the schedules were as follows:

- Chairman, Senate Committee on Defence, NASS, Abuja, 26th September, 2006.
- Chairman, Senate Committee on Public Accounts, NASS, Abuja, 12th September, 2006.
- Deputy Whip of the House of Representatives, NASS, Abuja, 12th October, 2006.
- Chairman, House of Representatives Committee on Defence, NASS, Abuja, 12th October, 2006.
- Director of Army Affairs at the Ministry of Defence, MOD, Abuja, 6th June, 2006.
- Secretary, Senate Committee on Defence, NASS, Abuja, 2nd June, 2006.
- Secretary, House Committee on Army, NASS, Abuja, 9th June, 2006.
- Secretary General, WACSOF, Leopold Sedar Senghor International Airport, Dakar, Senegal, 25th September, 2006.
- PARP Research Fellow, ECOWAS Parliament, International Conference Centre, Abuja, 19th June, 2006.
- Defence Correspondent, New Nigeria Newspapers, NNN office, Garki Abuja, 1st September, 2006.
- Programmes Administrator, Budget Advocacy and Capacity Building, ActionAid International Nigeria, ECOWAS Parliament, International Conference Centre, Abuja, 15th June, 2006.

- Assistant Director, formerly at the Ministry of Finance, but now serving at the Ministry of Petroleum Resources, Federal Secretariat, Abuja, 13th September, 2006.
- Sergeant-at-Arms, Senate, NASS, Abuja, 10th June 2006.

- A Table Officer, House of Representatives, NASS, Abuja, 12th June, 2006.

- Librarian Assistant, NASS Library, NASS, Abuja, 9th June, 2006.

- Non Commissioned Officer (NCO) serving in the Nigerian Contingent in Liberia, Robbersfield International Airport, Monrovia, Liberia, 8th October, 2005.

- Confidential Source at NASS, NASS, Abuja, 15th August, 2006.

- Confidential Source at MOD, MOD, Abuja, 18th July 2006.

- Immediate past Senate Committee Chairman on Ethics, Code of Conduct and Public Petitions, Apo Legislative quarters, Abuja, 18th October, 2006.

Appendix 2

**INTERVIEW QUESTIONS ON POWERS OF THE DEFENCE COMMITTEE AT NASS**

On military budget

- Has there been any reduction in the military budget since the inception of the present democratic dispensation?
- Why has the military budget been rising from 1999 to 2003?
- What explains the high figures in the military budget under recurrent expenditure?

On Military Procurement

- What is the role of the NASS in military procurements?
- Does the Defence Committee decide on the vendor?
- Does the Defence Committee decide on items to be procured?

On Recruitment, Promotions, Appointments etc

- What is the role of the Committee on military recruitments?
- Does the Committee sets ceilings for number of recruits?
- Is the Committee involved in promotions?
- Is the Committee consulted before high level appointments are made?
- Is the Committee consulted before retirements are made?

On Strategic Doctrines

- Does the Committee examine documents on military strategic doctrines?
- Can the Defence Committee reject a strategic doctrine document?

The above questions were responded to by the Chairman, Senate Committee on Defence.

Appendix 3

**INTERVIEW QUESTIONS ON POWERS OF THE PUBLIC ACCOUNTS COMMITTEE IN CONDUCTING OVERSIGHT**

- How long have you been a member of the PAC of the Senate?
- What is the major statutory function of PAC?
- What are the areas of difficulty in discharging that function?
- Would you say the decisions of PAC on any issue relating to public accounts is final?
- What is the staff strength of PAC?
- Are the Staff competent enough to assist the Committee?
- What is the relationship between PAC and the office of the Auditor General of Federation?
- Is it not a contradiction to the concept of separation of power that the Committee relies on an Executive outfit to discharge its statutory functions?
- Why was Mr Vincent Azie, then Auditor General of the Federation sacked in 2003?
- Was the proper procedure observed before his sack?
- What other hindrances has the Committee experienced in discharging its function?

The above questions were responded to by the Chairman, Senate Committee on Public Accounts.

Appendix 4

**INTERVIEW QUESTIONS GENERAL CONDUCT OF OVERSIGHT FUNCTIONS IN THE HOUSE OF REPRESENTATIVES**

- How long have you been a member of the House?
- What is your current position?
- Which of the House Committees are you serving on?
- Do you consider party loyalty as constituting a hindrance towards conducting effective oversight?
- How can you explain the high standard of living of Members of Parliament in Nigeria?
- Do you think Honourable Members use the power of oversight for personal material gains?
- Is there any mechanism put in place by the House Leadership to check the possible misuse of oversight powers by Honourable Members?
- Do you consider the Nigerian Legislature as policy influencing or a policy initiating?

The above questions were responded to by the Deputy House Whip.

Appendix 5

**INTERVIEW QUESTIONS ON OPERATIONS OF THE DEFENCE COMMITTEE**

On the members of the Committee

- What is the composition of the Committee?
- How many Committee members have military background?
- How many Committee members are University graduates?
- How many Committee members had working experience with Government establishments?
- How often do Committee members get substituted?

On the powers of the Committee over Defence

- What is the relationship between the Committee and the Defence Headquarters?
- What are the powers of the Committee in deciding Defence appropriation?
- What are the powers of the Committee on deciding defence procurements?
- What are the powers of the Committee in deciding training for members of the military?
- What are the powers of the Committee in deciding welfare packages for armed forces personnel?
- What are the powers of the Committee in deciding recruitment policy in the armed forces?
- What are the powers of the Committee in promotion and discipline of armed forces personnel?
- What are the powers of the Committee in deciding command appointments for armed forces personnel?
- Does the Committee receive petitions and act on same?
- Where do such petitions emanate from?
- Does the Committee visit military formations?
- Does the Committee visit members of the armed forces serving abroad?
- Can the Committee summon any member of the armed forces?
- How accessible is information on defence issues to members of the Committee?

On the staffing of the Committee

- How many staff serve the Committee?

- What are their grade levels?
- Are they adequately motivated to do the job?
- Do they have military backgrounds?
- Do they attend trainings on defence issues?
- Do the Committee staff engage in research?
- Do the Committee staff have a library?
- Do the Committee staff have access to internet facilities?
- How many Committee staff are finance experts?
- Do the Committee staff have the power to advise members of the Committee?
- How often are Committee staff changed?

On the Members of the Committee

- Do members of the Committee understanding what oversight means?
- Do they regard oversight functions as an essential duty?
- Is their any interference from the Executive regarding oversight of the defence sector?
- If yes, do Committee members accept such interference?

On the Military

- Do the military accept to be subordinate to members of the Committee?
- Do they abide by the decisions of Committee members?

Specific Questions

- Was the Committee consulted before the engagement of experts of MPRI?
- What was the decision of the Committee in view of the explosions at the ammunition dump in Ikeja, Lagos, in 2000?
- What was the Committee's position over the following incidents?
  a. Choba
  b. Odi
  c. Zaki Biam

The above questions were responded to by the Chairman, House of Representatives Committee on Defence, Secretary, Senate Committee on Defence and Secretary, House of Representatives Committee on Army.

Appendix 6

**INTERVIEW QUESTIONS - Concerning Security Sector Reforms in Nigeria**

On the society

- What are the major identifiable reforms in the Nigeria Armed Forces since 1999?
- Is the military accountable to the civil authorities?
- Is information on military expenditure available or hidden?
- How large is military expenditure from 1999 to date?
- What is the relationship between the Nigerian Military and the Civil Society?
- Does the military still perform police functions?
- Does the military violates the rights of the citizens through molestation, detention etc?
- Does the military respect the decisions of civil courts?
- Does the military permit its activities to be covered by the media?

On the Military

- How Professional is the Nigerian Military in terms of
  a. skill development
  b. role orientation
  c. technical modernisation
- What is the current size of the Nigerian Military?
- Has there been any reduction in the size since 1999?
- Has there been any improvement in the welfare of service personnel since 1999?
- How modern are Nigeria's military hardware?
- Has there been any improvement from 1999?
- Has there been any improvement in the quality and frequency of training for service personnel since 1999?

On relations with civilians in the defence sector

- What is the general role of civilians in decision making process in the defence sector?
- How involved are civilians in the development of military doctrines?
- Do civilians prepare annual military budget estimates?
- Are there 'no go areas' for civilians serving in the Ministry of Defence or the Defence headquarters?

The above questions were responded to by the Director, Army Affairs, Ministry of Defence, Abuja.

Appendix 7

**INTERVIEW QUESTIONS ON CIVIL SOCIETY'S INVOLVEMENT IN SSR IN NIGERIA-**

- How long have you been in the Civil Society?
- Which Civil Society Organisation are you working for?
- Do you have any activities relating to the Military?
- If yes in question above, what specific activity do you do with the military?
- Do you have access to information concerning the military?
- Would you consider the Nigerian Military as responding to the tenets of democracy?
- Is the Nigerian Military transparent?

The above questions were responded to by the Secretary General of WACSOF and the Programme Administrator, Budget Advocacy and Capacity Building Unit of ActionAid International, Nigeria.

Appendix 8

**INTERVIEW QUESTIONS ON RESEARCH CAPABILITIES IN NASS**

- What is your status in PARP?
- How long have you been working in PARP?
- What is the staff strength of PARP?
- How many Researchers currently work for PARP?
- What are the objectives of PARP?
- Has PARP conducted any research on defence issues?
- Has PARP assisted the various Committees dealing with defence in organising any activity?
- What is the relationship between PARP and the Military?

The above questions were responded to by a PARP Research Fellow.

Appendix 9

**INTERVIEW QUESTIONS ON RELATIONS BETWEEN THE MEDIA AND DEFENCE SECTOR**

- How long have you covered the Ministry of Defence as a Correspondent?
- Which media outfit do you represent?
- How many media outfits are represented in the Ministry of Defence during the period of military rule?
- How many media outfits are represented in the Ministry of Defence during the present civilian administration?
- What was your level of access to information in the Ministry of Defence during the military era?
- What is your level of access to information under the present civilian administration?
- Would you conclude that there is reform in the military as a result of democracy?
- Given your experience as a Defence Correspondent, would you also conclude that the Nigerian Parliament conducts effective oversight on the military?
- Would you provide any other information concerning the activities of Media Correspondents in the Ministry of Defence?

The above questions were responded to by the Defence Correspondent of the New Nigeria Newspapers (NNN).

Appendix 10

**INTERVIEW QUESTIONS ON THE PROCEDURE FOR THE PASSAGE OF DEFENCE BUDGET**

- How long have you worked with the Ministry of Finance and in what capacities?
- Did you serve in the Ministry of Finance during the Military era?
- Can you narrate the budgetary procedure under the military?
- Have you served in the Ministry of Finance since the inception of the present democratic dispensation?
- Can you narrate the budgetary procedure during the present democratic dispensation?
- Any significant difference in the two procedures?

The above questions were responded to by an Assistant Director who had served in the Ministry of Finance, but currently in the Ministry of Petroleum Resources, Abuja.

Appendix 11

**INTERVIEW QUESTIONS ON ATTENDANCE AT SIITINGS OF THE SENATE.**

- How long have you been on your present position?
- What are your primary responsibilities?
- What is your level of access to the proceedings at the senate chamber?
- What is the total membership of the Senate?
- What number constitutes a quorum?
- What is the usual average number of senators that attend daily proceedings?
- Do you consider the Nigerian Legislature as policy influencing or policy initiating?

The above questions were responded to by the Senate Sergeant-at-Arms.

Appendix 12

**INTERVIEW QUESTIONS ON ATTENDANCE AT SITTINGS OF THE HOUSE OF REPRESENTATIVES**

- How long have you been on your present position?
- What are your primary responsibilities?
- What is your level of access to the proceedings in the chamber of the House of Representatives?
- What is the total membership of the House?
- What number constitutes a quorum?
- What is the usual average number of Honourable Members that attend daily proceedings of the House?

The above questions were responded to by a Table Officer at the Chamber of the House of Representatives.

Appendix 13

**INTERVIEW QUESTIONS ON THE NASS LIBRARY**

- How long have you been working at the National Assembly Library?
- What is your present rank?
- How many staff work in the Library?
- What are their ranks?
- How many of your staff are specialist in library services?
- How equipped is the National Assembly Library?
- Do you have materials on Defence issues?
- How unto date are the materials?
- Do you have adequate facilities for research in the library eg internet and computers?
- Is your indexing automated?
- How often do Members of Parliament use the library?

The above questions were responded to by an Assistant Librarian at the NASS Library.

Appendix 14

**INTERVIEW QUESTIONS ON MODERNISATION IN THE NIGERIAN ARMED FORCES**

- How long have you been on the Nigerian delegation in Liberia?
- How long is your tour of duty?
- How many other Countries are participating in this United Nations Operation?
- What is the level of modern equipment at the disposal of the Nigerian contingent?
- What is the level of modern equipment at the disposal of other contingents?
- Do you consider the Nigerian military as being modernised?
- How well is your welfare catered for in this operation?

The above questions were responded to by a Member of the Nigerian Contingent serving under the aegis of the United Nations in Liberia.

Appendix 15

**INTERVIEW QUESTIONS ON POSSIBLE INTERFERENCE IN THE AFFAIRS OF THE DEFENCE COMMITTEE AT NASS**

- How long have you been associated with any of the Defence Committees at NASS and in what capacity?
- Do you believe you know the internal workings of any of the Defence Committees?
- Do you have enough access to the activities of the Committee?
- Do you think the Defence Committee you are associated with operates independently from influences by the plenary, the presidency or some outside forces, whether domestic or international?
- Do you consider the Committee members as serious in conducting their assignment?

The above questions were responded to by a Confidential Source at NASS that prefers to remain anonymous.

Appendix 16

**INTERVIEW QUESTIONS ON ADHERENCE BY THE MILITARY TO APPROPRIATIONS LAWS PASSED NASS**

- How long have you worked at the Ministry of Defence (MOD) and in what capacity?
- Do you have access to MOD's annual budget as passed by NASS?
- Do you have access to the implementation records of MOD's budget?
- Do you believe that what MOD spends annually is within the provisions of the Appropriations law?

The above questions were responded to by a Confidential Source at the MOD that prefers to remain anonymous.

Appendix 17

**INTERVIEW QUESTIONS ON THE GENERAL ETHICAL CONDUCT OF NIGERIAN MPs**

- How long did you occupy the position of the Chairman of the Senate Committee on Ethics?
- What is the mandate of the Committee?
- Most Nigerians view their elected representatives in the NASS and State Assemblies as corrupt, do you have any comment?
- Do you believe that the Nigerian Senate conducts effective oversight?
- Do you regard party loyalty as an inhibiting factor in the conduct of oversight by Senators?
- Do you believe that Senators use their oversight powers to gain patronage in Government Ministries and Extra Ministerial Departments?
- What are the likely factors explaining the high standard of living by Nigerian Law Makers?
- There is a general belief most Law Makers hardly attend sittings unless there is an important political issue on the Order Paper, kindly react to that?

The above questions were responded to by the immediate past Senate Committee Chairman on Ethics, Code of Conduct and Public Petitions.

Appendix 18

# DRAFT CODE OF CONDUCT FOR ARMED AND SECURITY FORCES IN AFRICA

*.[Drafted at Experts 'workshop on validating the code of conduct for Armed and Security forces in Africa, 27-29 may 2002,Lome'Togo/http; //www.unrec.org/en g/ workshop.htm*]

## CHAPTER I

### REGULATORY FRAMEWORK GOVERNING CIVIL MILITARY RELATIONS

Article 1

The armed and security forces are at the service of the Nation. Their mission shall be to guarantee, if necessary, by force of arms, defence of the Nation and its territorial integrity and ensure the protection of citizen and property.

Article 2

The armed and security force shall be at the disposal of the constitutionally established political authority.

Article 3

The armed and security forces are the cradle of nation unity and cohesion. In this regard, staff recruitment shall be conducted without discrimination as to race, ethnic or religious affinities.

Article 4

The personnel of armed and security force shall receive specific education and training in international humanitarian law, human right, rules, conventions, and instrument that regulate armed conflicts.

Article 5

The personnel of armed and security forces shall assume responsibility for individual acts that violate international humanitarian law and human rights.

Article 6

The personnel of armed and security forces shall be disciplined and loyal to the state at all times and shall show obedience and devotion to the constitutional authority.

Article 7

The personnel of armed and security forces shall be bound by professional secrecy, except where exemption is granted by the appropriate authority.

Article 8

In the exemption of their duties, the personnel of armed and security forces shall enjoy, within the limits of national law, their fundamental rights and freedoms as defined by the Constitution.

Article 9

In the conduct of defence and security affairs, the behaviour of armed and security personnel shall show respect for international humanitarian law, human rights and pertinent national law.

Article 10

In the exercise of command, no order which is at variance with international humanitarian law, human rights and pertinent national law shall be given to or executed by armed and security personnel.

Article 11

The civilian, political and administrative authority shall ensure that the military operations it orders, including operations to maintain internal peace and order, shall be executed in conformity with the relevant provisions of international humanitarian law, human rights, national rights and this code of conduct.

Article 12

It shall be the responsibility of the national political authority to ensure that

adequate financial resource and logistics are made available to armed and security forces to enable them carry out their missions successfully.

Article 13

Under no circumstance shall the civilian, political and administrative authority resort to armed and security forces to restrict the peaceful, legitimate and legal exercise of the individual and collective rights of the citizens as conferred by the constitution.

Article 14

In accordance with the pertinent decisions of the Organisation of African unity / African union [AHG / Dec. 141 [XXXV] adopted in Algiers and AHG / Dec. 150 [XXXIV] adopted in Lome], the OAU Declaration on the frame work for an OAU Response to an Unconstitutional change in Africa, as well as the solemn Declaration of the conference help in Lome on security, stability, Development and co-operations in Africa [SSDCA], any action or behaviour that undermines or seek to overthrow the constitution of the state is illegal and strictly forbidden.

## CHAPTER II

### RELATIONS BETWEEN THE ARMED FORCES AND THE SECURITY FORCES

Article 15

In the execution of their duties, armed and security forces shall co-operate in the context of their respective and complementary responsibilities and maintain permanent and harmonious relationships in times of peace, crisis or social upheavals, and armed conflicts

Article 16

In peace time, the maintenance of law is the responsibility of the police. The other security forces shall co-operate in the exchange of intelligence.

Article 17

In times of crisis or social upheavals, the protection of life and property shall be the primary responsibility of the police, including the gendarmerie, where it exists. In exceptional circumstances, and at the request of the political authority, the armed forces may intervene, as a last resort, to support the police for a limited period.

Article 18

In times of armed conflict, the political authority shall define the rules of engagement for the security forces as well as the scope of their involvement in the defence of national security alongside the armed forces.

Article 19

Armed and security forces shall support humanitarian assistance operations at the national or international levels. In the execution of this mission, they shall respect the independence of decision and action of humanitarian organizations in charge of the operations.

Article 20

Armed forces may, alongside the security force, be involved in combating criminal activities, as established by law and directed by the political authority and relevant international instrument such as illicit trade and proliferation of arm, terrorism, organized crime, drug trafficking, violence against women and children.

## CHAPTER III

## RELATIONS BETWEEN THE ARMED AND SECURITY FORCES AND THE CIVILIAN POPULATION

Article 21

Armed and security forces are to show respect and provide protection and assistance to the civilian population particularly to vulnerable groups, especially in time of armed conflict.

Article 22

The leadership of the armed and security forces shall ensure that relations between their personnel and the civilian population are harmonious and

based on mutual trust. In this regard, the armed and security forces shall, in collaboration with the government, civil society, including non-governmental organizations and the media, endeavour to inform and educate the public on their unclassified programmes and operations.

Article 23

In their relationship with the civilian population, the personnel of armed and security forces shall avoid any act behavior that may bring their institutions into disrepute.

Article 24

The democratic control of the armed and security forces by state and public institutions shall be exercised with transparency and accountability, particularly in the process of security and defence planning, budgeting, and procurement.

Article 25

Armed and security forces contribute within the limits of their competence to the economic and social development of their country without prejudice to the principles of fair competition.

Article 26

Civilian, political and administrative authority, armed and security forces personnel, civil society, including non- governmental organization and the media, shall engage in regular interactions at different level through public for a to promote cordial relationships, enhance respect and mutual confidence between the civilian population and the armed and security forces.

## CHAPTER IV

## ARMED AND SECURITY FORCES, HUMAN RIGHT AND INTERNATIONAL HUMANITARIAN LAW

Article 27

The armed and security forces shall build and strengthen their capacity to response to rapidly changing threats. Consequently, the personnel, in addition to their occupational training, shall be given the appropriate education in constitutional law, human rights, international humanitarian law, and peacekeeping.

Article 28

Civilian and politico-administrative authority, personnel of armed and security forces and their commander, shall be held individually responsible for instructions, orders and / or actions in violation of human right and international humanitarian law.

Article 29

In the exercise of their duties, armed and security personnel shall provide adequate protection, refuge and assistance to all persons in need. They shall ensure that internally displaced persons, refugees, non-nationals, stateless person, minorities, women, children, the elderly, and people with disabilities are not discriminated against. No discrimination shall be perpetrated because of race, identity, religion, political belief, status or condition.

Article 30

During exceptional circumstances, such as state of emergency, state of siege... as defined by the constitution, armed and security forces shall conform with national law and international humanitarian law.

Article 31

Personnel of armed and security forces shall refrain an all circumstances from the following acts; murder, torture, corporal punishment, rape, mutilation, cruel, inhumane and degrading treatment, hostage taking,

collective punishment, and any other act aimed at impairing the physical and psychological well-being of the individual.

Article 32

In enforcing internal law and order, armed and security forces shall use firearm as a last resort with maximum restraint, respecting the principle of minimum force, even in situations of self-defence. After the use of firearms and in events of injuries, the personnel of armed and security forces shall assists the wounded without discrimination. The families of the victims shall be informed. A public enquiry shall be opened. And a report produced.

## CHAPTER V

IMPLEMENTATION

Article 33

The present code of conduct shall be integrated in the training and educational programmes and taught to the armed and security forces of all Member state of the African Union. It shall be widely disseminated through the organization of sensitisation campaigns within the respective territories of these states.

Article 34

Recognizing the importance of this code of conduct and its potential to promote peace, security, stability, and the well-being of the African Nations, periodic meeting shall be convened to assess its implementation at the local, Sub-regional and regional levels. Participants shall including experts, the representative of government, armed and security forces, and civil society, including non-governmental organization and the media.