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The Inter-Parliamentary Forum on Security Sector Governance in Southeast Asia (IPF-SSG)

organized by the Cambodian Institute for Cooperation and Peace (CICP),

in cooperation with

the Geneva Centre for the Democratic Control of Armed Forces (DCAF),

and the Friedrich Ebert Stiftung (FES),

with the support of the Swiss Agency for Development and Cooperation (SDC)

10th Anniversary Workshop

Good Governance of the Security Sector in Southeast Asia: What Role for Parliaments?

WORKSHOP REPORT

15-16 September 2016,

Siem Reap, Cambodia

Executive Summary

The 10th Anniversary Workshop of the Inter-Parliamentary Forum on Security Sector Governance in Southeast Asia (IPF-SSG) took place in Siem Reap, Cambodia, and focused on the role of parliaments in the good governance of the security sector in Southeast Asia. Over 70 participants from Cambodia, Indonesia, Malaysia, Myanmar, Thailand, Philippines, Singapore and the ASEAN Inter-Parliamentary Assembly (AIPA) included members and staff of parliament, the security sector, academia, think tanks and civil society. The exchange of experiences and lessons learned generated by presentations and moderated dialogue among the participants revealed the following:

- While there is no “one size fits all” approach, good security sector governance is based on the idea that the security sector should be held to the same high standards of public service delivery as any other public sector. If the security sector is well governed, it can be characterised as an effective and accountable sector capable of fulfilling its mandate to protect society against internal and external threats while respecting the rule of law and human rights.
- Good governance of the security sector is necessary for building a more secure and prosperous Southeast Asia. In this context, it is important to strengthen the role of parliament in SSG in Southeast Asia by sharing experiences and good practices across the Southeast Asian countries.
- The current status of parliamentary oversight of the security sector is a reflection of the general political situation. Most countries in the region are still subject to the ongoing process of transition to democracy while following different paths and models of democratization.
- In promoting good SSG in Southeast Asia, there are certain challenges, including:
 - Lack of capacities and expertise among members of parliament and parliamentary staffers about SSG;
 - Excessive secrecy misused;
 - Lack of adequate parliamentary committee system and expert staff;
 - Informal rules of patronage, traditional deference to defence officials as well as appointment of (retired, current) security officials to political positions, erode the formal rules of civilian and democratic oversight of the security sector;
 - Impunity of government and security officials (“above the law”).
- The following recommendations were made throughout the workshop:
 - SSG can contribute to democratization, and, in turn, democratization can contribute to SSG. Without democratization, SSG cannot take place and, vice versa, without SSG, democratization can be at best partial;
 - The role of parliament in SSG in Southeast Asia can be enhanced through capacity building and making more resources available to members and staff of parliament;
 - IPF SSG and AIPA can play a role in regional capacity building to strengthen parliamentary oversight of the security sector in Southeast Asia.

The 10th anniversary IPF SSG conference has contributed to experience sharing of best practices at the regional and national level, and as such, the IPF SSG was an experience sharing event with the aim of strengthening the role of parliament in good governance of the security sector in Southeast Asia. In this context, it is considered to continue the IPF SSG workshop series and that the upcoming IPF SSG will be taking place in Myanmar.

Introduction

The 10th Anniversary Workshop of the Inter-Parliamentary Forum on Security Sector Governance in Southeast Asia (IPF-SSG) took place in Siem Reap, Cambodia, on 15-16 September 2016. It focused on the role of parliaments in the good governance of the security sector in Southeast Asia. The workshop began with a speech by H.R.H. Samdech Norodom Sirivudh, Supreme Privy Counselor to His Majesty the King of Cambodia and Founder and Chairman of the Board of Directors, Cambodian Institute for Cooperation and Peace (CICP). H.R.H. affirmed that Cambodia has enjoyed peace and stability since 1992-1991 (Paris Peace Agreement) and especially since 1998 (Prime Minister Hun Sen Win-Win policy with the dismantle and re-integration of the Khmer Rouge). Cambodia has since valued security sector reform (SSR) to enhance the efficiency of Cambodia's security sector. The IPF-SSG workshops, which began in 2006, have been very helpful to Cambodia in this regard. Now, it is has been ten years since these workshops began and SSR remains important. H.R.H. mentioned that we must ensure that the military and the police are adequately monitored to ~~ensure~~ guarantee that civilian control continues uninterrupted. He was very encouraged by the situation in Myanmar, which moved from a military dictatorship to a young democracy. Lastly, he thanked the Geneva Centre for the Democratic Control (DCAF), CICP, the Friedrich Ebert Stiftung (FES) and the Swiss Development Corporation (SDC) for organizing this workshop.

Following H.R.H.'s address, other introductory speakers made opening remarks, these included: Ambassador Pou Sothirak, Executive Director of CICP; Dr. Mario Aguja, Secretary-General of the IPF-SSG, Professor of Sociology at Mindanao State University, and former Member of House of Representatives, Philippines; Simon Junker, a representative of the SDC; Dr. Heiner Hänggi, Assistant Director and Head of Research of DCAF; and Mr. Augustus Cerdana, Programme Coordinator of FES Philippines. Each speaker acknowledged the crucial importance of parliament in the good governance of the security sector in Southeast Asia. They also thanked the participants for coming to the event.

There were two keynote speeches. The first key note speaker was ~~by~~ Hon. Sous Yara, Member of the National Assembly of Cambodia. He stated that the Forum's topic is both important and timely, and remarked that security threats, including non-traditional security threats, are becoming more challenging. Thus, there must be broad and regional cooperation. The IPF-SSG serves as an able forum for ASEAN dialogue partners to develop trust. However, the speaker emphasized that no one size fits all, which is demonstrated by the case of Cambodia. In Cambodia, there was civil war for centuries and the Khmer Rouge was the darkest period. Seeing the tragedy of Pol Pot, the National Front liberated Cambodia in 1979, however, despite the Peace Accord in 1991, the Khmer Rouge continued their war against the Cambodian state. Cambodia maintained hundreds of thousands of soldiers, and it was only Prime Minister Hun Sen who was able to defeat and dismantle the Khmer Rouge with the end of its insurgency in 1998-9. It was only possible after this to pursue SSR. In other words, the case of Cambodia illustrates that SSR cannot take place without peace.

In the early 2000s, after the war ended and with the support from the international community, Cambodia was able to downsize its forces through demobilization. At present, the government has introduced policies to enhance the capacities of soldiers to ensure security for people. The National Assembly of Cambodia is a responsible player and reviews budgetary proposals before the Defense Ministry is allowed to implement the budget. It oversees defense policy and requires bureaucrats to testify before committees, ensuring transparency. Moreover, parliamentary hearings provide a means to clarify the policy of the security sector. In Cambodia, the implementation of SSR needs to be gradual. The speaker argued that he has no doubt that parliament plays a fundamental role in SSR.

The second keynote speaker, Dr. Periowsamy Otharam, Secretary-General of the ASEAN Inter-Parliamentary Assembly (AIPA), stated that AIPA, as the legislative wing of ASEAN, is of the view that security is fundamental for the unity and growth of the region. Hence, since its inception and learning from past political/ideological conflict that led to long civil wars with massive human casualties in Southeast Asia, ASEAN leaders agreed to develop dialogue and engagement to prevent a re-occurrence of such inhumane behavior. Since 1980, AIPA has paid close attention to security through the adoption of resolutions, such as the 1980 and 1992 resolutions on “The Review of the Political Situation in South and Southeast Asia” and “Political and Security Cooperation, Cambodia, Indochinese Asylum Seekers South China Sea, Myanmar.” In 2011, AIPA’s General Assembly adopted the “Resolution on Strengthening ASEAN Political Security Community through Intensifying Regional Cooperation and Integration.” AIPA believes that capacity-development in political security should be considered for members of parliament in Southeast Asia. This desire can be advanced by joint efforts between the IPF-SSG and AIPA. The speaker concluded by stating that strengthening good governance of the security sector in the ASEAN region is a task that needs in-depth consideration by parliamentarians.

Current Status of Security Sector Governance in Southeast Asia

This part of the workshop involved experts on Southeast Asian countries, examining the current status of security sector governance (SSG) in Southeast Asia, with a special emphasis on the role of parliament in holding the security actors accountable.

SSR has been modest in **Cambodia**. While security forces are under civilian rule and constitutional authority, weaknesses remain in the areas of implementation and enforcement of laws. Judicial and independent oversight has been inadequate due to political interference and deficiency in knowledge and capacity. In Cambodia, sufficient checks and balances between the branches of government are lacking. Parliament’s law-making powers can only be applied indirectly at best. Parliamentarians have limited control over defense spending and security activities. To address these challenges, the oversight role of parliament needs to be improved; Members of Parliament should find ways to exercise their authority to debate and enact legislation that supports reforms in the security sector. Laws should clearly allow for parliament to scrutinize security forces. The parliament should be able to act as an effective institution with the system of checks and balances in order to avoid executive monopolization of power in SSG. External donors should work to deliver effective capacity-building and support to Cambodian parliamentarians.

In **Indonesia**, parliament is playing a very strategic role in terms of budgeting, law-making and oversight. Specifically, the Indonesian parliament’s 2015 Code of Conduct regulates the budgeting function, which is comprised of drafting and allocating the state budget, as well as reviewing all reports relating to state finances and government expenditures. Parliament’s oversight function includes supervising the implementation of the constitution, budgeting and government policies. Parliament can perform several forms of audits on the defense sector with the help of parliamentary auxiliary bodies such as the defense commission. There are also public hearing mechanisms in place and parliamentary members can conduct visits to security sector actors to ensure compliance. Nevertheless, there are challenges to parliamentary oversight of the security sector in Indonesia. First, there is a strong tradition of secrecy in the area of national security. The executive often hides behind “national security” to conceal information. Second, each political party in parliament has a parliamentary leadership, and sometimes members of parliament are unable to perform

effective SSG because their party leadership's political considerations demand them not to act. Third, there is often a lack of expertise on defense matters among members of parliament. Fourth, there is often a lack of law enforcement against alleged misuses of defense expenditures. Lastly, the House of Representatives often finds difficulties in performing defense budgeting oversight due to off-budget funds or income sources. Improvements are needed to allow for a more transparent and effective oversight role of parliament on weapons procurement and other related issues to hinder corruption, dissipation and misuse of public funds by security institutions.

In **Malaysia**, security forces operate under a system of parliamentary democracy and that SSG includes five main areas, namely, constitutional and legal, civilian, parliamentary, judicial and public control. The role of Malaysia's parliament in SSG is through its Public Accounts Committee (PAC), which oversees the budget and financial flows of security sector procurement. It works with the National Audit Department and has shown credible reliability in ensuring transparency in the security sector, in particular procurement. Regarding weaknesses of parliamentary oversight in SSG, first, there is only one single case of the PAC ever investigating alleged security sector procurement malfeasance. Second, procurement issues are the only area allowed for parliamentary scrutiny and there are no other issue-areas related to SSG that allow for parliamentary monitoring. Besides the PAC, Malaysia has SSG monitoring agencies under the country's executive branch. Third, there appears to be a lack of interest among most members of parliament in Malaysia to discuss security matters, which gives the executive branch little incentive to seriously consider giving them a security oversight committee and to date, the Parliament of Malaysia has not established a parliamentary committee to deal with effective oversight of the security sector. In particular, more checks and balances for the executive and legislative branches need to be created. This could include the re-introduction of the Parliamentary Services Act (which was repealed earlier). The Act strengthened the institutional separation between the executive and legislative branches while permitting more parliamentary committees. Finally, there need to be more discussions on improving SSG in Malaysia by members of parliament and civil society.

In **Myanmar**, before 2010, when the country began transitioning toward elected civilian rule, SSG was carried out under the auspices of the military. At the same time, all members of the National Defense and Security Council (NDSC), which administers all security issues in the country, were either current or former military officials. In 2016, SSG has changed, but the security forces remain very powerful. 25 percent of each of the lower and upper house of Parliament are composed of active-duty security officials. Moreover, the NDSC remains the highest government body on security issues in the country, and its 11 member-council is composed of five officials selected by the elected government and six officials selected by the military. Parliament may monitor security actors in some areas, possesses budgetary control power, reviews laws drafted by the executive, and works with civil society groups on security issues. The speaker noted that the weakness of parliament in SSG is that it cannot veto the decisions of the majority of the NDSC. Given that the NDSC majority of 6-5 favors the military, this prevents civilian control of the security sector. Moreover, parliament does not want to challenge the military, but rather maintain a trustful relationship with it. Third, members of parliament are often not experts in security matters, making security sector oversight challenging. To enhance parliament's monitoring influence in SSG, amendments need to be made to the constitution, which is currently blocked due to the 25% military appointed representatives in Parliament. There also needs to be more coordination between members of parliament and civil society groups to improve the

knowledge of members of parliament on SSR and to increase public participation in implementing SSR. It would also help if international donors provided more information about SSR and will to support parliament's role in security sector governance. Ultimately, it is hoped that there will be an effective legal framework for the security sector adopted, in order to expand parliament's oversight role.

The **Philippines** has always been a democracy with formal control over security forces. The main challenge for the Philippines is to make a transformation toward meaningful change. The Armed Forces of the Philippines still have significant spheres of autonomy, and laws relating to security sector oversight are often inadequately implemented or enforced. Moreover, informal rules and political culture erode the formal rules of parliamentary oversight of the security sector in the Philippines. In particular, in the domain of national security, promotions are important in terms of proximity to patrons, rather than focusing on SSR-oriented considerations. Another problem is the traditional deference to military officials in defense matters by civilians. Given these challenges, the upgrade in SSR needs to go beyond a simply institutional level. SSR needs to be truly meaningful and recognize the diversity of views. There need to be voices of people with no military background in SSG policy. With regard to parliament, the Philippine parliament has limited oversight powers. The executive branch tends to dominate SSG. The members of parliament belong to political parties that are very weak and often overly loyal to the executive branch, which begs the question how members of the Philippines' Congress can effectively monitor SSG. To improve its monitoring role over SSG, parliament should attempt to maintain more autonomy from the executive branch. Additionally, parliament needs to do its own research instead of relying on the executive branch. Third, parliamentarians need to have better-equipped staff to improve their knowledge and capacity of SSG. Finally, there need to be more links between parliament and civil society.

In the final case, **Thailand** has many problems and weaknesses in SSG. In 2014, Thailand's elected government was overthrown by the military, and, in 2016, the country remains under a military-led authoritarian regime. The new military-supported constitution allows for the high possibility that, once Thailand returns to democracy, political parties can select a non-elected prime ministerial candidate from the military. Furthermore, the current military junta would be indirectly able to appoint a new Senate. This new system could include a strong executive and weak parliament with weak political parties. In this situation, there is little room for SSG and, at best, SSG is a frame of reference for those who want future change. .

Challenges of SSG/SSR (Break-out Groups)

Workshop participants were divided into three break-out groups to discuss the challenges and opportunities of overseeing security institutions: security forces, police and armed forces. The results of their discussions were as follows:

Security Services

1. Intelligence services and its oversight in various countries in Southeast Asia are confronted with various challenges including: potential misuse of the services by political masters, fragmentation of the intelligence functions among government agencies, lack of a legal framework that regulates the special powers of the services, absence of parliamentary structures and committees to oversee intelligence services and interference of intelligence services in elections.

2. To address these and other challenges, it is necessary to adopt a legal framework that regulates the work of intelligence services and its oversight.
3. Parliaments across the Southeast Asian region would need to set up parliamentary (sub-) committees and expert staff in order to conduct meaningful oversight of the intelligence services.
4. The expertise of members of parliament and their staff needs to be developed;
5. Networking with intelligence community is important.
6. There is a need for confidence and trust-building between branches of government and the people.
7. Parliament, independent oversight institutions and civil society need to work closely together in order to conduct effective oversight over intelligence services.
8. Oversight institutions need to consider to what extent intelligence services are accountable to the people since these services are funded by the “taxpayers”.

Police

1. Police forces are highly politicized, especially in the appointments and designations of positions with responsibility as well as the conduct of police operations for the benefit of political party purposes instead of maintaining public order and preventing crime.
2. The public esteem of the police in some countries is very low due to corruption and failure to address crime effectively.
3. Leadership of government and the police must support and encourage police accountability.
4. Some jurisdictions lack an oversight body for the police.
5. If there is no committee mechanism in parliament, there is no opportunity to intervene and a limited sphere to examine issues. In some jurisdictions, the police have refused to accept and institutionalize external and internal accountability mechanisms.
6. There is corruption ranging from the low to high levels.
7. There is a lack of public awareness and trust in police oversight mechanisms, in particular, members of the public are hesitant to go to the police with complaints about the police (“the police cannot police itself”).
8. In order to perform effective oversight, parliament need to set up standing and ad hoc committees to deal with police affairs, set up police-parliament liaison mechanisms as well as independent police oversight and complaints mechanism.

Armed Forces

1. The current status of parliamentary oversight of the armed forces is only a reflection of the general political situation, specifically the climate of civil-military relations of respective countries;
2. Oversight functions of parliament with regard to legislation, the budget and defence policy are equally important. Parliamentary deficiencies in oversight of the armed forces derive from the political condition of the specific country, the implementation of the function of oversight and the lack of capacity and political will by the overseeing body; and
3. As for developing good practices of improving parliamentary civilian oversight of the armed forces, one idea was to establish powerful parliamentary Public Account Committees in each country, with the chair being from the parliamentary opposition.

The participants of the three breakout groups concluded that parliaments in the ASEAN region have three functions, as applied to SSG:

Legislative:	Reviewing, amending and adopting laws determining the mandate and organization of security sector institutions; and initiating laws if the government is not forthcoming.
Budgetary:	Reviewing, amending and approving or rejecting budgets for security sector institutions (including procurement of equipment, maintenance, operations, and personnel).
Oversight:	Monitoring and verifying if security sector institutions act in accordance with laws and policies by standing and ad-hoc parliamentary committees of inquiries.

Meanwhile, in terms of the three qualities of parliament (authority, ability, and attitude), the break-out groups concluded that parliaments must have sufficient legal authority to perform the main functions by which they influence SSG and resources to fulfill their constitutional roles and functions in SSG effectively, and must have a strong commitment to the democratic process and an interest in SSG.

Update on ASEAN Political Security Community (APSC)

ASEAN practitioners and experts provided briefings on the ASEAN Political Security Community (APSC), with an emphasis on AIPA's actual and desired role in the APSC. It was noted that ASEAN realized that it needed to locate ways to find answers to regional security challenges such as trans-border issues in Southeast Asia. ASEAN member states then acknowledged that it was inadequate to consider security without politics. The 2008 ASEAN Charter called for the creation of the APSC. The 2009 APSC blueprint focuses on three key areas related to enhancing political and security cooperation, and the development of regional sustainable relations in an increasingly interdependent world. The objective is the development of a just, tolerant, sustainable and rules-based ASEAN region. It was explained that "rules-based" means first that ASEAN is obligated to observe certain rules, because otherwise world leaders might disregard ASEAN. Second, ASEAN must make deeper traction with ASEAN people. Several ASEAN bodies or agreements were developed that are linked to the APSC, such as: the ASEAN Intergovernmental Commission on Human Rights, the ASEAN Declaration of Human Rights, the ASEAN Agreement on Humanitarian Affairs, the ASEAN Ministerial Meeting on Transnational Crime, and AIPA. Although AIPA remains comparatively less strong, it is expected or desired to become much more relevant in a rules-based and people-centered ASEAN. It was noted that one specific problem is that there is no mention of SSG in the APSC blueprint. Particularly, various participants called for a (stronger) role of AIPA in promoting parliamentary oversight of the security sector in the Southeast Asia. For example, AIPA could play a role in regional capacity building.

Security Sector Governance Initiatives in Southeast Asia: Country Updates

Taking stock of recent activities in SSG/R in Southeast Asia, participants examined the effectiveness of multi-stakeholder approaches since the previous IPF-SSG workshop in 2014. In **Cambodia**, it was reported that SSR efforts are continuous. A wide range of Cambodian stakeholders have participated in IPF-SSG workshops throughout the last ten years. CICP translated the *Handbook on Parliamentary Oversight of the Security Sector* from the Inter-Parliamentary Union and DCAF into Khmer (launched in Phnom Penh on 9 December 2016). Yet, there continue to be SSR-related problems in Cambodia. For example,

security officials are unwilling to peacefully confront protestors. Additionally, it is increasingly necessary to engage in SSR to control corruption. There should also be more training on human rights. Cambodia's security forces must always answer to the King and the population and not act based on partisan interest. Finally, security forces should be used to confront national disasters and climate change issues.

Participants were informed that **Indonesia** still needs a lot of work on SSR. In order to improve parliamentary oversight of the security sector, the challenges are a lack of trust, sufficient legal base, and capacity. The Indonesian leadership must also have more political will for enhanced parliamentary monitoring. It was concluded that the parliamentary and independent oversight institutions are in place in Indonesia, but that there is a problem as to how to implement and proceed with SSR.

It was highlighted that **Malaysia** was comparatively fortunate that the security sector never asserted control over the country. 2008 was an important year for civilian oversight because a large block of opposition members of parliament was created. However, some institutional obstacles to SSR in Malaysia remain. To date, there is no standing parliamentary committee on defense and the ruling coalition refuses to allow opposition motions in parliament to this effect. Lastly, resources for parliamentarians are very scarce. Ultimately, Malaysia is considered to be a democracy in transition. The judiciary is not independent and the capacity for reform is very limited.

In **Myanmar**, the biggest difference in SSG was explained as resulting from the change of government in 2015. Parliamentary oversight was enhanced because of the landslide victory of the National League for Democracy in the 2015 parliamentary elections. Yet, several SSG processes of the previous military regime have been maintained. While there have been no alterations in terms of security policy, implementation has changed. 433 laws have been revised up until August 2016. Some of the security laws are very old and difficult to amend, such as the Police Act and Border Security Act. The process has benefitted from the technical assistance provided by the European Union to the Myanmar Police Force (MPF), including support for professionalization of the MPF and parliamentary capacity building to improve accountability of the MPF to parliament. Some reforms in the security sector have taken place in the realm of the peace process. Additionally, the government is considering decentralizing the police under the control of state and regional governments. However, the actual implementation of this scheme could be challenging. It was posited that overall Myanmar is moving in the right direction, but that this will require more time. The people of Myanmar would rather gradually build SSR than too quickly.

For the **Philippines**, it was emphasized that the Internal Peace and Security Plan (IPSP) 2011-2016 articulates that human rights, international humanitarian law and rule of law are core imperatives of the government. There is also a national action plan for women, peace and security. The military and police have institutionalized multi-stakeholder engagement in SSG. Several civil society organizations are monitoring the military's campaign plan as well police community policies. The goal is to engage the military and the police in a critical and constructive dialogue, with an emphasis on human rights, international humanitarian law and rule of law. There have been several confidence-building activities to facilitate the critical and constructive dialogue process. Several training workshops and research projects were initiated in partnership with or co-sponsored by security forces and concerned government agencies. Current challenges include the fact that the role of the military versus the police in security operations is still contentious, with the military having limited police powers. Lastly, the current President's policy of extra judicial killings raises concern as well as continuous calls of the government to the Armed Forces of the Philippines (AFP) to support the war on drugs and, as such, to be involved in domestic law enforcement which is considered to be not the primary task of the AFP

Finally, it was reported that in **Thailand**, since the 2014 military coup, there is no democracy and, therefore, to date no elected parliament exists in Thailand. Nevertheless, it was noted that it is important for Thailand to continue to search for entry points to conduct SSG, with some participants noting that reform impetus can originate from within the Royal Thai Armed Forces. Indeed, the military regime accepted SSR in the South where an insurgency is occurring. It was recommended that the media should be used to educate the country about SSR and that Thailand must promote civil society organizations as a long-term goal.

Wrap-up and Way Ahead

Ultimately, in terms of the way ahead for strengthening SSG in Southeast Asia, this workshop concluded the following:

1. It must be acknowledged that good governance of the security sector benefits and is desired by the population of Southeast Asia.
2. Determining how to ensure that the security sector is under democratic civilian control is crucial in the region.
3. There is always room for improvement of SSG in Southeast Asia.
4. More resources need to be available to members and staff of parliament to perform their jobs more effectively.
5. The gap between SSG on paper versus SSG in reality needs to be decreased through enforcement.
6. It is important to take the culture of mutual mistrust between security oversight institutions and the military into consideration.
7. SSG should not be aimed at dividing the country but at fostering national unity, through the conduct of inclusive and participatory processes.
8. It is considered that the next IPF SSG will be taking place in Myanmar.