

Parliamentary Oversight of the Security Sector: Lessons from Ghana

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1.0 Introduction

This case study seeks to assess the contribution of Ghana's emergent parliamentary oversight of the security sector in preventing insecurity and promoting stability. Ghana poses a genuine case of deepening democratic control over the security sector. But while Ghana's experiences are positive, at least in the context of West Africa, Hutchful argues that "civil control of the military in independent Ghana has historically been a myth, and that the existence of a civilian regime does not necessarily suggest civil control of the military."² Thus, this study first explores why parliamentary oversight has not contributed to increased democratization and development as much as might be expected, focusing predominantly on defense and police. To appreciate the different developments that have contributed to the evolution of Ghana's security sector, a historical context is provided. Next, the case examines what might be done in the future to strengthen the role of parliament within a democratic structure. To that end, the case study draws lessons and best practices applicable to more internationalized, post-conflict cases of security sector reform and recovery elsewhere in the region, if not elsewhere in Africa. In doing so, it analyzes the manner in which the complex amalgam of statutory and non-statutory institutions that form the security sector in Ghana is governed. Last, it considers the potential role of West Africa's regional security architecture, particularly the ECOWAS Community Parliament, to security sector reform in Ghana and the region as a whole.

2.0 Contextualizing SSR in Ghana

Following its return to democracy in 1992, Ghana has endeavored to establish accountable, democratic control over the security sector and to improve civil-military relations through a number of institutional reforms one of which has improved security sector governance. Historically, Ghana experienced protracted military interventions that became major sources of public insecurity rather than human security.³ Military rule compromised state adherence to the principles of good governance, respect for human rights, administrative justice and rule of law. The return to democratic rule was anchored primarily on the promulgation of the 1992 Republican Constitution. This constitutional order has been consolidated by the deepening democratic processes through which two successive governments have changed political leadership from different political persuasions through democratic elections for the past sixteen years.⁴

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² Eboe Hutchful, "Military Policy and Reform in Ghana," *The Journal of Modern African Studies* 35:2, 1997: 251-278.

³ Oquaye, Mike Oquaye, "Human Rights and the Transition to Democracy under the PNDC in Ghana," *Human Rights Quarterly*, 17:3, 1995: 556-573.

⁴ Conditionalities imposed by the international community linked disbursement of aid to political liberalization and domestic demands for change.

Any discussion of the effectiveness of democratic security sector oversight and governance in Ghana must be situated within the country's historical experience since 1957. The roles that the security sector played in Ghana's turbulent politics contributed to a distinct developmental trajectory in which the statutory security sector – particularly the military – is now increasingly willing to subject itself to democratic, civilian oversight.

Ghana gained independence in 1957 and subsequently became a republic on July 1, 1960 under the Convention People's Party (CPP) led by Kwame Nkrumah. This Constitution was, however, overthrown on February 24, 1966. The return of democracy brought the Progress Party to power on October 2, 1969, but it, too, was proscribed on January 13, 1972.

Democracy was re-instated after seven years of military rule when the People's National Party (PNP) was elected into power on September 24, 1979. The PNP adopted a constitution fashioned after the United States' democratic model, in which all ministers were appointed from outside parliament. On December 31, 1981, the PNP government was overthrown in a bloodless military coup d'état that was staged by the Provisional National Defence Council (PNDC). In the intervening eleven years, Ghana was under the control of the PNDC with little or no oversight over the performance of the security sector, except for a tight, secretive clique around the head of the PNDC, Chairman John Rawlings.

In the 1980s and 1990s, Ghana's public sector underwent a series of extensive reforms that culminated in the establishment of the World Bank-funded National Institutional Renewal Programme. In spite of demands from Ghana's donor partners to reform the security sector as part of the public sector reforms, the Rawlings administration managed to resist their inclusion. In fact, only in the last few years has the idea gained ground that reform of the security sector is required generally and of the Ghana Police Service particularly – perhaps even to a greater extent than the rest of the public sector.

After 1987, the Rawlings government faced mounting international pressure, coupled with strong popular agitation at the domestic level, to institute multi-party democracy and constitutional rule in the country.⁵ This resulted in the gradual opening of political space and, eventually, the reinstatement of democratic politics in 1992. Following its victory in the ensuing elections, Rawlings's National Democratic Congress (NDC) was sworn into power on January 6, 1993 under the 1992 Fourth Republican Constitution, which remains in place following the democratic election of the New Patriotic Party (NPP) in January 2001.

The protracted military interventions that characterized Ghana's independence interrupted efforts to introduce professional standards in the armed forces, as well as to promote civil control in the wider security sector. More significantly, each time there were military interventions, parliament was the first institution to be disbanded. This hindered the development of a culture of oversight within parliament; once the security sector was in power under the PNDC, it was loathe to allow checks on its power. However, it is important not to overstate the extent to which military rule undermined security sector oversight, as it is arguable that the level of scrutiny applied by parliament to other sectors was similarly weak. At the same time, the common argument that the January 2001 election of the New Patriotic Party (NPP) is the genesis of greater civilian control neglects the important advances that preceded its administration, including the establishment of the 1996 Security and Intelligence Services Act (Act 526) to regulate the activities of the

⁵ Eboe Hutchful, "Managing the Security Sector: Facing up to Ghana's Fragility," *African Security Dialogue and Research (ASDR)*, http://www.ideg.org/docs/files/Events/GSLS%202_Abstract.pdf, accessed 21 May 2008.

security and intelligence agencies and the establishment of regional and district security councils.

Today, Ghana is experiencing the longest period of stability in its democratic history, which is contributing to a transformation of the security sector. Under the current democratic dispensation and political stability, the population now enjoys improved protection of human rights, and greater transparency and public participation in security matters. The governance void and deficit that was previously experienced is receding. The critical question that remains is the extent to which civilian institutions are able and willing to take up the role the security sector now expects them to perform. The political space has gradually widened so that traditionally “non-securocratic” institutions – including parliament, the Auditor-General, the Accountant-General, the Commission for Human Rights and Administrative Justice (CHRAJ), and civil society think tanks – are playing critical roles in the governance of the security sector,⁶ The culture of impunity, which characterized the rule of the PNDC, has largely ended, and the state and its security apparatus are no longer perceived by the general public as agents of insecurity.⁷ Nonetheless, there is the need to re-examine the conditions that have facilitated the prevailing transformation that has characterized the security sector in Ghana, as well as the challenges that have precluded it from advancing farther than it has.

3.0 Assessing Ghana’s National Security Oversight Architecture

3.1 Ghana’s Security Sector Landscape

Reckoning with who provides security in a state is central to the effectiveness of security sector oversight. In principle, the state has an irreducible role in security provision. However, effective oversight of the security sector requires a collaborative effort among a broad spectrum of key actors. These actors include state agencies and service providers, as well as non-state organizations and systems that are either directly or indirectly connected to the crucial role of securing the environment necessary for political stability.⁸ In Ghana, the diverse actors that comprise the security sector include:

- Ghana Armed Forces (comprised of the army, navy and air force);
- Ghana Police Service (GPS);
- Ghana Immigration Service (GIS) and Customs, Excise & Preventive Service (CEPS);
- Intelligence Organizations: the Bureau for National Investigation (BNI); Military Intelligence, and the Research Bureau of the Ministry of Foreign Affairs;⁹
- The penal system: the Prisons Service and Judiciary;

⁶ See M. Atsutse, “Let’s Sustain Democratic Governance,” *The Daily Guide*, 21 July 2004, 5.

⁷ OECD DAC Handbook on Security System Reform (SSR), “Supporting Security and Justice,” <http://www.oecd.org/dataoecd/43/25/38406485.pdf>, accessed: 22 May, 2008. Those groups with legitimate authority to employ force; Justice and public security bodies; Civilian statutory management and oversight groups; Private (non-statutory) organizations that contribute in different ways to the performance of the oversight institutions; and Non-state actor organizations engaged in the legitimate and legal performance of community protection.

⁸ Until recently under the administrative and operational purview of the Ministry of Foreign Affairs but now under the National Security Council. See Intelligence and Security Services Act, 1996, Act 526, Part IV, section 18 (1-2) and 19 (a –e), also Interview at Accra with a Senior Official of the NSC secretariat, Accra, 4 September 2004.

- The Executive, including the national security council and respective ministries;
- Parliament and its committees;
- Civil society, including the media and non-governmental organizations (NGOs);
- Private security companies;¹⁰ and
- Tribal chiefs and other traditional actors, as well as community groups and vigilantes.

3.2 Constitutional provisions for security sector oversight

Ghana's political and institutional systems are based on a separation of powers between the Executive, Legislature and the Judiciary branches of government. The 1992 Republican Constitution of Ghana stipulates in detail the extent of executive oversight of the security sector. As the Commander-in-Chief of the Armed Forces, the President has the constitutional mandate to oversee the security services.¹¹ The role of Parliament with respect to the security sector resides in its function as the source of legitimacy of all security institutions. According to the 1992 Constitution, "no person shall raise any police service except by and under the authority of an Act of Parliament."¹² A subsequent article makes a similar statement concerning raising an armed force.¹³ The scope of Parliamentary oversight, by contrast, is less explicit; the Constitution makes reference to the investigative and inquiry functions of committees, but does not make specific reference to *oversight* of the security sector.

3.3 The National Security Council

The Constitution places the overall coordination of national security policy under the National Security Council.¹⁴ The National Security Council is the strategic decision-making organ.

The position of National Security Coordinator is perhaps the most crucial and sensitive in the country today. The office of the National Security Coordinator leads in collating information and opinions and subsequently transmits them to the office of the President.¹⁵ This places the occupant of the National Security Coordinator's office in a powerful position in terms of the overall security administration of Ghana.¹⁶

The National Security Coordinator post was a creation of Act 526.¹⁷ Despite its lapses in providing an effective legal framework for parliamentary oversight of the

¹⁰ Act 350 of 1970 and the Legislative Instruments LI 1571 and 1579 sought to regulate the registration and activities of PSC's in Ghana.

¹¹ Kwesi Aning, "Security Sector Governance in Ghana," *Security Sector Governance in West Africa*, ed. in Osita Eze and Jens-U. Hettmann, (Abuja: Friedrich Ebert Stiftung, 2005), 68 - 102.

¹² Constitution of Ghana, 1992, Article 200 (2).

¹³ Ibid, Article 210 (2).

¹⁴ The NSC consists of ex-officio members who are the President and Vice-President, Ministers for Foreign Affairs, Defence, Interior, Finance, and such Ministers as the president may determine, the Chief of Defence Staff, and two (2) members of the Armed Forces, the Inspector General of Police and two (2) others, one of whom is the Commissioner of Police responsible for Criminal Investigations Department, the Director-General of Prisons Service, the Director of External Intelligence, the Director of Internal Intelligence, the Director of Military Intelligence, the Commissioner of Customs Excise and Preventive Service (CEPS), and three (3) persons appointed by the President.

¹⁵ D. Osei-Bonsu, "An appraisal of Latent Defects in Act 526: the case for statutory amendment," (no date, pagination nor year).

¹⁶ Ibid. p. 80.

¹⁹ Ibid. Intelligence and Security Services Act, op. cit.

security sector in Ghana, Act 526 marks the first time that a national security law prescribed the national security architecture for the state in depth. However, the entire Part 1 of Act 526 was lifted from the 1992 Constitution,¹⁸ which excludes the National Security Coordinator (as well as the heads of the Ghana Immigration Service and the National Fire Service) as *ex-officio* members of the National Security Council. Prior to 1996, the Cabinet Secretary was assigned the role of Secretary of the National Security Council. However, with the creation of the National Security Coordinator's office, the continued secondment of the Cabinet Secretary to the National Security Council appears to be misplaced.

The exclusion of the National Security Coordinator has often raised misgivings, notwithstanding that the situation is partially remedied through Presidential appointment. Inclusion of the National Security Coordinator would have required amending Article 83 of the Constitution, but as the provisions of Article 83 are "entrenched,"¹⁹ they can only be amended after a referendum has taken place. Parliament could also decide to invoke its residual powers to enact certain amendments to Article 83 of the Constitution.²⁰ In 2006, the appointment of a substantive Minister for National Security, who also served as the National Security Coordinator, heightened the debate over the mandate and powers of the minister within the national security architecture. There is the need to have clarity on the role and mandate of the Minister for National Security.²¹

3.4 Regional and District Security Councils

Below the National Security Council are the Regional and District Security Councils²² – REGSEC and DISEC, respectively – established under Act 526.²³ These organs are in charge of implementing government security policy pertaining to the regional and district levels. Specifically, the role of the Regional and District Security Councils are to:

- i. Provide early warning to Government of the existence or likelihood of any security threat to the region, or the country or to the Government; and
- ii. Perform such functions of the National Security Council as the Council may assign to it.²⁴

There are regular reporting systems through which situation reports and memos from the districts are sent up to the REGSEC and then to National Security Council.²⁵ Feedback and command systems also filter down to the DISEC through REGSEC from

¹⁸ Part 3 Section 17 of Act 526 establishes the office of the National Security Coordinator.

¹⁹ Constitution of Ghana, specifically Article 290 (1)f the whole provision of Chapter eight (8), 1992.

²⁰ Constitution of Ghana, 1992, Article 298.

²¹ Osei-Bonsu, *op. cit.*

²² The REGSEC consists of the Regional Minister and his Deputy, the Chief Executive of the Metropolitan Assembly, an Officer of the Armed Forces, the Regional Police Commander, Crime Officer and Regional Officer of the Internal Intelligence Agency. Other members of the Council include the Regional Officers of the Customs, Excise and Preventive Service (CEPS), Prisons, Immigration and the Fire Officer. The DISEC includes the District Chief Executive, the Police Commander, the Crime Officer, and Representative of the Internal Intelligence Agency, as well as district-level representatives of Immigration, CEPS, and the Fire Service.

²³ Part II, Sections 5 (1) states: "There shall be a Regional and District Security Council for each region and District of the country."

²⁴ Act 526, Section 7.

²⁵ Interview with Mr. K. B. Quantson, former National Security Coordinator, 25 May 2008, Koforidua.

²⁵ See D. Osei-Bonsu, *op. cit.* It has been impossible to locate the specific year when these Regional Coordinators were instituted.

the National Security Council. The existing architecture at the Regional Security level is undergoing a further change with the addition of Regional Security Coordinators as members of the REGSECs, although their position and function – like their national counterpart – is not stated in the law. As yet, it is unclear whether or not Act 526 should be amended to cover them.

The Defence Intelligence Research Department is not an ex-officio member of either of the two organs. Part of the reason may be the assumption that defense intelligence research can only be carried out at the national level. Military intelligence at the national level has succeeded in providing stability to the government machinery, but it has done so to the detriment of security at the local level. Focused on protecting the nation as a whole and specifically the regime in power from coup d'états, defense intelligence tends to overlook other more localized forms of threat that may not have a national character. Again, it is important to point out that at both the regional and district levels, the Regional Minister and District Chief Executive can only nominate, not appoint, two persons, and they are required to do so in consultation with the National Security Coordinator.

4.0 Parliamentary Oversight of the Security Sector

In reviewing the functionality and effectiveness of parliament's oversight capacity, including the ability of relevant select committees to perform the multiple functions and roles specified to it by the Constitution with respect to the security sector, this analysis examines the "trinity of A's" – authority, ability, and attitude.²⁶ The *authority* of Parliament derives from the legal framework that governs this sector, including the 1992 Constitution, the Standing Orders of Parliament,²⁷ and other legislation. The *ability* of parliament has been conceptualized as "the capacity of parliament to hold government accountable over the security sector and is a function of the resources (human, financial and technical) available to the parliament".²⁸ Attitude refers to "the political will, of parliament towards the whole idea of oversight of the security sector."²⁹ As Ebo notes, if parliamentarians lack the will to exercise their oversight functions, then they will bring neither their authority nor their ability to bear. These three facets therefore must be viewed in parallel. Essential elements of attitude are integrity, courage, and vision; values difficult to quantify, especially in a consolidating democratic process like that of Ghana.

4.1 *Parliamentary Structures for Oversight: Standing and Select Committees*³⁰

Ghana's Fourth Republic parliament was inaugurated in 1992. In Ghana's Parliament, there are twelve standing committees and seventeen select committees.³¹ For the purposes of this paper, three of these committees are critical: the Parliamentary

²⁶ In the West African context, this idea is elaborated in A. Ebo and B. Ndiaye, *The Opportunities and Challenges of Parliamentary Oversight of the Security Sector in West Africa*, (Geneva: DCAF, 2008).

²⁷ See Standing Orders of the Parliament of Ghana, Commencement: 1 November 2000. Accra.

²⁸ A. Ebo and B. Ndiaye, op. cit. In the overview chapter other aspects of 'ability' are conceptualized, as research [and] documentation, information analysis, [the nature and extent of] administrative support, role [of] civil society, think tanks and research institutions, and finance.

²⁹ A. Ebo and B. Ndiaye, op. cit, 6. Attitude is here conceptualized as 'integrity, courage and vision'. Useful as these adjectives are, they shed very little light on what they mean in relation to the performance of oversight functions.

³⁰ This section draws heavily on my earlier chapter on A. Ebo and B. Ndiaye, *The Opportunities and Challenges of Parliamentary Oversight of the Security Sector in Ghana*, op. cit.

³¹ Standing Orders of Parliament, "Parliamentary Committees – Establishment of Standing and Select Committees," Part 20, November 2000.

Select Committee on Defence and Interior (PSCD&I), the Standing Committees on Public Accounts (PAC) and on Finance.³²

The PSCD&I has 18 members out of the total parliamentary membership of 230. Their responsibility is to “examine all questions relating to defence and internal affairs”³³ in Ghana. The committee, however, has no clear cut remit for oversight of the intelligence agencies. The Committee has two key powers: (i) investigations, and (ii) inquiries into the activities and administration of ministries, departments, agencies, public organizations, and corporations as Parliament may determine. Such investigation and inquiry may extend to proposals for legislation.³⁴ Other powers conferred on the committee include all the powers of a High Court for the purpose of enforcing the attendance of witnesses, compelling the production of documents and the issuing of commissions for the examination of witnesses abroad.³⁵ Despite the fact that the PSCD&I has been vested with these powers, it seldom exercises such powers. There are, however, various gaps in the mandates of the different Committees with direct and indirect oversight of the security sector. This becomes more glaring if one sets their current operations against their broad mandates. What it means, therefore, is that there is ample room for improving the oversight functions of the Committee on Defence and Interior and the Public Accounts Committee.

The two other Standing Committees with some oversight over the security sector are *the Public Accounts and Finance Committees*³⁶. These committees have been provided with the requisite constitutional and legal powers to execute their policy and oversight functions. These powers range from the constitutional and legal provisions discussed above to the power of control over the purse strings to Parliamentary debates, Parliamentary questions and answers and Parliamentary inquiries.

The function of the Public Accounts Committee is “the examination of the audited accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure of the Government and of such other accounts laid before Parliament.”³⁷ The PAC examines public accounts in general³⁸ and discusses the Report of the Auditor-General.³⁹ This activity provides the Committee with some measure of oversight over the expenses of the military and other agencies. They are empowered to question the rationale behind the usage – e.g., if policies that are used to justify the usage of funds are not interpreted according to their spirit and intent, they question the policy as their writ extends beyond fiduciary responsibility.

The chairman of the Public Account Committee should be from the minority group in parliament.⁴⁰ This, to some extent, allows the chairman to discharge his

³² Standing Orders of Parliament, 151 (d) and (g), November 2000.

³³ Standing Orders of Parliament, Order 158 under 'Functions and Powers of Committees, November 2000.

³⁴ See Constitution of Ghana, Article 103 (3), 1992; and Standing Orders of Parliament, 190, November 2000.

³⁵ Constitution of Ghana, Article 103 (6), 1992; and Standing Orders of Parliament, 155, November 2000.

³⁶ Standing Orders of Parliament, 151 (d) and (g), November 2000.

³⁷ Ibid, Order 165 (2).

³⁸ See Constitution of Ghana, Chapter 13, 1992.

³⁹ See Article 187 (2), *ibid*. There seems to be some dissonance in the House of Parliament concerning the extent of PAC's oversight functions. According to the Minority Leader, Alban Bagbin, 'it appears from the provisions of the Constitution and the Standing Orders so far mentioned that the committee's work is limited to examining only reports presented by the Auditor-General. This view is sometimes held by some of my colleagues but I hold a contrary opinion. I believe the committee, as a watchdog wing of Parliament in matters of public finance can, institute investigation into any matter of public interest where public funds are involved'. Bagbin, *op. cit*, 6.

⁴⁰ This practice has been upheld since 1996. The current chairman of the Public Account Committee is Hon. Samuel Sallas-Mensah who is a Member of Parliament from the opposition, National Democratic Congress (NDC). Under his leadership, the first public hearing of the committee was held in the country.

functions without fear or favor.⁴¹ PAC's performance is further enhanced by the fact that since the Chair comes from the largest opposition group in parliament, there is an added incentive to check the workings of the Executive, especially to ensure that, if not for any reasons, political points can be scored and to embarrass government.⁴² Therefore "by practice and convention, the committee has, since the establishment of the Fourth Republic, been chaired by the leader of the largest opposition party in Parliament,"⁴³ with the rest of the seats proportionally distributed among parties represented in Parliament.

In a recent development, members of the Finance Committee have complained about the manner in which the Auditor-General seemingly takes instructions from the security agencies and ministers in the performance of his duties. Members of this committee bemoaned such actions and decried that, "such development[s are] dangerous and inimical to the development of Ghana's fledgling democracy and [tend] to erode confidence in the role of parliament as a watchdog of the Executive arm of government."⁴⁴

The Finance Committee deals with matters relating to finance and the economy generally, but has the authority where "there has arisen an urgent or unforeseen need for expenditure ... to authorize advances from the Contingency Fund to meet the need and report to Parliament." Furthermore, when such an advance has been made the committee is bound to ensure that "supplementary estimates for replacement of the advance are prepared and laid before the House."⁴⁵

4.2 *Parliamentary Oversight: Theory versus practice*⁴⁶

This section examines to what extent theory and practice converge in the performance of oversight functions by the three parliamentary committees with security oversight responsibilities, the Defence and Interior Committee, the Finance Committee, and the Public Accounts Committee. There are several mechanisms and tools for both the standing and select parliamentary committees to exercise their oversight functions. The main processes for oversight performance are through:

- Questions to Ministers;⁴⁷
- Motions;⁴⁸

⁴¹ See "Ghana: After the Public Accounts Committee Hearing - What Next?" <http://allafrica.com/stories/200711010706.html>, accessed 3 June, 2008.

⁴² See the Standing Orders of Parliament that specifies the functions of this Committee, especially Standing Order 165 (1) which stipulates that the committee must not consist of more than 25 members and is under a Chairperson who does not belong to the party which controls the Executive branch of government. See Bagbin, Alban, "The Role of the Public Accounts Committee of Parliament and how it can effectively promote and enforce an ethics of management in the public service," *GII Alert*, 2, June 2004, 6.

⁴³ Interview with the Head of the PAC, Accra, 15 May 2008. See also Nana Sylvanus Kumi, "MPS clash over Auditor's report," *Daily Guide*, 9 June 2008, 15. This concerned 12 reports emanating from the office of the Auditor-General, and going back to 2005, had not been laid before the House for appropriate action.

⁴⁴ *The Independent*, 'Auditor General takes orders from Ministers, National Security', 13 July 2004, 3. Under the Ghanaian Constitution, the Auditor-General is required to submit its annual report on public accounts to parliament within six months of the end of the fiscal year. Sometimes reports are submitted years after the legally mandated deadline. The Auditor-General's dependence on the executive for funding undermines its independence. For a comparative analysis of budgetary processes in Africa, see *Budget Transparency and Participation II: Nine African Case Studies*, ed. Classens, Merrit & Albert van Zyl, (Cape Town: Africa Budget Project, 2005).

⁴⁵ Standing Orders of Parliament, 169 – 170 (1) & (2), November 2000.

⁴⁶ This section draws on Aning, "A Comparative Analysis of Security Sector Governance in West Africa: The Ghana Case," Fredrich Ebert Stiftung, Ghana, 2004.

⁴⁷ This gives opportunities to parliamentarians to question Ministers on their performance. Ministers have three weeks to respond. See Standing Orders of Parliament, No. 66 (1), November 2000.

- Statements;⁴⁹
- Annual reports submitted on the activities of each Ministry, Department and Agency;
- Quarterly expenditure returns;
- Visits and follow-ups; and
- Setting up of sub-committees to examine particular issues.

In the case of Ghana, it has also been argued that, a broader (if unspoken) basis to empower parliament may derive from its control of the public purse, its role as a watchdog over the public interest, and its powers of investigation into public corporations or any body paid out from public funds.⁵⁰ According to J. E. Ackah, the previous two-term chair of the Finance Committee and, until 2004, the ranking member of the Defence and Interior Committee, oversight entails “keeping track of how appropriated funds are spent; that is monitoring the budget and whether the activities of the executive are being carried out consistent with the law.”⁵¹ In practice, this goes beyond fiduciary responsibility to ensuring that policies and actions are taken in accordance with the law. In terms of the budgetary cycle, parliament plays an indirect role in implementing subsequent budgets, which occurs through two processes: firstly, through debates, questions, and suggestions in plenary and, secondarily, through exhaustive negotiations in standing and select committees on each ministry’s activities and on expenditure proposals. According to the Standing Orders, prior to the passing of the Appropriation and Finance Bills, members of these committees must subject the two bills to thorough debate.⁵²

The extent to which parliament’s powers “materialize in practice will depend very much on the actual ability and determination of Parliament to exercise them.”⁵³ The highly complex nature and environment of the security sector frequently presents a particularly difficult challenge for effective exercise of oversight. Some of the issues involved in performing oversight functions of this sector are often too technical for members who have not had earlier military experience nor have been given any specific training in issues dealing with security. Indeed, this is more acute as security services have peculiar organizational cultures, rules, and practices and are governed by secrecy laws, all of which can potentially pose problems if an oversight committee is not conversant with these institutional norms. The detailed operations, rules of combat, weapons procurement and use by members of this sector are beyond the professional capacity of the average members of both the standing and select committees. For example, in January 2003, Parliament approved USD 55 million for the Ministry of Defence to “acquire equipment including helicopters to facilitate Ghana’s participation in UN peacekeeping operations” in the Democratic Republic of Congo. Yet, the original estimated cost for these helicopters, contract provisions for training personnel, and provision of spare parts and tools was only USD 19,695,600.⁵⁴

⁴⁸ Motions request Parliament to debate a particular issue in which the public has expressed a particular interest. See Standing Orders of Parliament, No. 79 (4), November 2000.

⁴⁹ Standing Orders of Parliament, No. 72, November 2000.

⁵⁰ Eboe Hutchful, 2004, op. cit, 8.

⁵¹ Interview, Accra, September 2004.

⁵² See Standing Orders of Parliament, Nos. 140 -148 and 150, November 2000.

⁵³ Eboe Hutchful, 2004, op. cit, 8.

⁵⁴ Ministry of Defence, *Update on the supply of Helicopters – to the Ghana Armed Forces by Wellfind Ltd.* (n.d.) (January, 2003), p. 1 quoted in Emmanuel Kwesi Aning, “Military Imports and Sustainable Development: Case Study Analysis – Ghana,” 2004, 10.

Thus, parliamentarians need at least a rudimentary understanding of these matters if they are to properly determine policies, laws and budgets of the armed and security forces.⁵⁵ This suggests a need for independent research and expertise to support the work of the standing and select committees. Examining the PSCD&I, not only do few of its 18 members have the requisite expertise to adequately perform their security sector oversight responsibilities, but neither does the committee have any permanent or specialized staff that could support it with research and administrative duties. Parliament and its select committee on defence and interior can also take the blame for failing to press for “expanded and independent access” to data on national security issues.⁵⁶ To help remedy this gap, the United Kingdom has supported capacity building briefing sessions for new parliamentarians and members of the select committee.⁵⁷ However, the individual parliamentarians who receive such skills cannot be relied on indefinitely, since their positions both as members of parliament or specific committees are not permanent. In the run up to the 2008 parliamentary election, several of the more experienced MPs announced their retirement or lost party primaries. This turnover is contributing to undermining the effectiveness of parliament as an institution. Turnover in the legislature was 63 and 44 percent respectively after the 1996 and 2000 elections. As a result, therefore, there is the need to redesign the training package from an individually-driven approach to institutional capacity building approach to ensure continuity despite the turnover among legislators.

The issue of excessive secrecy in national security matters has also frustrated the effective exercise of parliamentary oversight. In many situations, security agencies – with the support of the President – have invoked national security reasons to inhibit oversight of sensitive issues. While some of these claims are legitimate, the justification can turn into a blanket ban on providing the public with information. A possible means to mitigate this challenge may be to ensure that secrecy is dealt with in statutory law that clearly specifies the procedures for classification and declassification of information.⁵⁸ Moreover, since the commencement of the Fourth Republic, there has been a tradition of self-censorship on security matters within Parliament. Parliament has not been able to overcome the issues of “how far it can or should go in considering the military budget, nor whether it has the right to debate it openly on the floor of the House.”⁵⁹ Additionally, parliament has always played politics with certain sensitive issues, including national security concerns. The debate on the financial proposal for the purchase of some military aircraft in March 2008 was characterized by a similar partisan debate.⁶⁰ Both sides of the political divide engaged in the “politics” of the proposal, rather than focusing on the substantive issues that will inform public debate. Such an approach to parliamentary oversight does a great disservice to national security and must therefore be discouraged.

⁵⁵ In its earlier incarnation between 1992 and 1996, members of the select committee on defence and interior often depended on the assistance of the military command for information and other support services when preparing reports to Parliament.

⁵⁶ *Budgeting for Military Sector in Africa: The Processes and Mechanisms of Control*, ed. Omitoogun Wuyi and Hutchful Eboe, (Oxford: Oxford University Press, 2006).

⁵⁷ OECD DAC Handbook on Security System Reform (SSR), op. cit.

⁵⁸ Ibid.

⁵⁹ A Freedom of Information Act would allow access to information that might otherwise be classified as ‘secret’ or confidential. However, despite the need for such legislation, the Freedom of Information bill is yet to be placed before Parliament.

⁶⁰ Statement made by the press secretary to the president, Mr. Andrews Awuni. http://ghana.gov.gh/ghana/presidency_issues_statement_purchase_presidential_jet.jsp, accessed, 3 June 2008.

4.1.2 *Parliamentary Oversight and the Security Service Acts*

The key legal framework governing the Ghana Armed Forces is the Armed Forces Act, 1962 (104). The original Act does not provide for any legislative oversight. This is surprising especially since it was enacted at a time when Ghana was being governed under democratic rule. Restrictions on providing unauthorized access to official information reinforce the difficulty faced by parliament, as erring on the side of caution is consistent with the culture of securitization.

The Ghana Police Service is governed by the Police Service Act, 1970 (Act 350), which was enacted during the Progress Party (PP) administration from 1969-1972. Act 350 also sought to enhance the oversight of the police service.⁶¹ According to Act 350, the police service, through the Inspector-General of Police, is accountable to the Minister of Interior and to parliament. Nonetheless, there has not been a single instance in the history of Ghana where such an obligation has been carried out by the police and neither has the oversight bodies requested for compliance.⁶²

Subsequently in 1974, the Police Force (Amendment) Decree 303 (NRCD 303) amended sections of Act 350. The police service was institutionally removed from the administrative and bureaucratic control of the Public Services Commission (PSC) and the service was renamed the Ghana Police Force.⁶³ Several key changes were brought about, including changing the structure of the Police Council. The Police Council, which is made up of ten members, is the constitutional body responsible for advising the President on matters of policy relating to internal security including the role and functioning of the Police Service.⁶⁴ The Council may, with the approval of the President, make regulations for the performance of its functions and for the effective and efficient administration of the Police Service.⁶⁵ Under the amendment, the Police Council was chaired by the Inspector-General of Police. In 2001, this structure was again amended so that the Police Council is now chaired by an “independent” person selected by the President and approved by the Council of State.

Today, the Security and Intelligence Agencies Act 1996, Act 526 is the main legal authority that provides for parliamentary oversight of the security services in Ghana. Despite the fact that parliamentary oversight of the security agencies has improved since the country started experimenting the Fourth Republican Constitution in 1992, several challenges, including the legal lapses, still persist. These need to be overcome in order to consolidate the country’s political stability and emerging democracy.

As noted, the Select Committee on Defence and Interior is the main body mandated to exercise parliamentary oversight under the current democratic dispensation. Specifically, Act 526 states: “the Minister assigned responsibility under sub-section of this Section [17] shall in respect of each year submit a report to Parliament on the Intelligence Agencies...”⁶⁶ On the surface, the Act merely requires an annual report from the executive body and therefore, once such an obligation is fulfilled to parliament, the expected oversight role of parliament is exhaustively concluded. On

⁶¹ See 1963 Security Service Act, 1963 (Act 202); 1969 Republican Constitution, Chapter 13, The Police Service Act, Sections 142 – 144; 1970 Police Service Act, 1970 (Act 350); 1974 Police Force (Amendment) Decree, 1974; 1979 Republican Constitution, Chapter 17, Sections 172 – 175; and The 1992 Republican Constitution.

⁶² Aning, 2005, op cit.

⁶³ See Police Service (administration) Regulations, 1974, L.I. 880; Police Force (Disciplinary Proceedings) Regulations, 1974, L.I. 993; Police Force (Disciplinary Proceedings (Amendment) Regulations, 1977. L.I. 1104; L.I. 1335 (Amendment).

⁶⁴ Constitution of Ghana, Article 203 (1), 1992.

⁶⁵ Constitution of Ghana, Article 203 (2) & (3), 1992. See also Salia, 2008, op. cit, 8.

⁶⁶ Security and Intelligence Agencies Act, Act 526, Section 17(1) 1996.

the other hand, a much more constructive deduction can be made that this provision compels the executive body to report to parliament on the state of affairs of the security agencies. Under this interpretation, parliament is afforded the mandate to scrutinize broadly or with some reservations the overall operations of the security agencies.⁶⁷

It can further be argued that Act 526 does not provide any systems of parliamentary oversight. The Act did not envisage the question of composition, mode of selection, mandate, degree of access to so called 'sensitive' information, relations with other forms of oversight and form of reporting by the executive. All these systems could have been set up in the Act to avoid suspicion, politicization and miscommunication that usually characterize debates between parliament and the security agencies. Another key issue that Act 526 failed to address is the composition and vetting requirements with respect to members of parliament who are selected to sit on the oversight committee. There is no clear cut guidance as to what the oversight committee is expected to do and areas where its mandate is expected to cover. More emphasis should have been put on setting up a design and structure to conduct the oversight mandate.

In the overall spirit of the Act, the reporting arrangement seeks to hold the security agencies both accountable and within the rule of law. Act 526 seeks to strip the security actors of their hitherto perceived opacity. The focus of this Act is regarded as consistent with democratic principles in which no area of state activity can be demarcated as forbidden to the legislative body, especially where public funds are involved.⁶⁸ The dilemma here is that while parliamentary involvement lends added legitimacy and accountability to national security agenda by ensuring that the security agencies operate in the service of the state and are protecting the national constitution (instead of pursuing the narrow political or partisan interest of a party in government), it also creates a formidable challenge to the security agencies when they have to divulge sensitive information that may be detrimental to national security. Revealing too much information can create unnecessary alarm in the public and cause the security agencies to lose credibility and trust with both the public and the government. This dilemma could be overcome by developing a clear security policy that outlines the national security priorities and outcomes, and how oversight bodies like parliament can constructively make an input. In the view of Osei-Bonsu,

...even diehard proponents would acknowledge that there are dangers with any system of oversight, that [sic] for instance brings together a government and its opponents on one small committee to hear and question often controversial and clandestine activities of agencies who are authorized to act secretly under the cloak of national interest.⁶⁹

There is also the concern that security agencies can be drawn into political controversies in the absence of independence and maturity on the part of parliament. Sensitive disclosures may lead to sensationalism in public debate, unsubstantiated accusations, and conspiracy theories spreading out under the guise of parliamentary privileges. Leaks of sensitive information may also compromise the effectiveness of security and intelligence operations. Within this particular context, it was only in 1998 that the mandatory reporting obligation to parliament provided in Section 17 of Act 526

⁶⁷ See Osei-Bonsu, op. cit.

⁶⁸ Salifu Abdul-Rahaman and Samuel Nuamah, "Ashiaman shooting: House ask for probe," *The Ghanaian Times*, 6 June, 2008, 3.

⁶⁹ Osei-Bonsu, op. cit.

took place. There have been obvious violations of Section 17 by the executive body. Of the estimated 12 annual reports that should have been delivered to parliament between 1996 and 2008, only one report has been presented – in 2001. However, the requirements of submitting an annual report by the executive body to parliament are neither optional nor discretionary. On the contrary, they are mandatory and imperative and therefore should not be derogated.⁷⁰

Given the challenges above and the particularities of the Ghanaian situation, there are three possible ways in which security sector oversight can be set out in law in such a way that provides sufficient provision for the handling sensitive information. The first approach is to give the PSCD&I wide remit, and then detail specific security matters which may not be investigated. This approach is consistent with practices in the United Kingdom and Australia. The second approach entails listing a comprehensive list of functions, which is consistent with current practices in the United States. A third, unique approach would be for the law to simply indicate that regular reporting obligations are owed parliament at specified times. In this case, the scope of parliamentary intrusion is left wide or narrow depending on the appetite of the oversight body itself.

Whatever approach taken, the PSCD&I must have a clear mandate. It should be appointed and representative of a cross-section of the parties in parliament. Its effectiveness clearly depends on the trust and collaboration that exist between the committee and the agencies it oversees.

4.1.3 Negotiating the chasm between independent parliamentary oversight and executive control

Because parliamentary oversight is generally weak in relation to the Executive, certain norms and practices have emerged in the practice of Ghana's parliament that reflect a general malaise faced by all members of parliament. There are cases where this customary praxis provides the executive with further advantage. In Ghana, demonstration of party loyalty and discipline limits oversight. Political party loyalty often takes priority over basic legislative functions; parliamentarians are unwilling to challenge members of government from their own party, as this may undermine their personal and professional advancement. As a result, parliamentarians are more tied to towing the party line than to representing their constituents. This practice is reinforced by the constitutional requirement that the majority of ministerial appointments come from Parliament.⁷¹ As a consequence of these institutional controls, informal norms have emerged in which a member of a committee may pass on critical information to another member from the opposition, who is able to raise a question that would be embarrassing coming from a member of the ruling party. In several interviews with members of the Select Committee on Defence and Interior, this practice seems to be fairly common among particular members. But this, it was emphasized, was based on reciprocity and trust that the member would keep the source of his question confidential. But there is a possibility that this may change as the elections held in December 2008 and January 2009 have brought in 85 new members of Parliament. Basically, what this means is that the compositions of all the committees will change.⁷²

⁷⁰ Ibid.

⁷¹ Ghana Centre for Democratic Development, "Ghanaian public holders remain impervious to conflicts of interest," *Democracy Watch*, 6:3 and 4, September – December, 2005; Constitution of Ghana, Article 78 (1), 1992.

⁷² See Electoral Commission of Ghana, 2008. As of January 9, 2009, the results have not as been declared in two constituencies, Asutifi South and Akwatia.

Increasingly, some members of the different committees with security sector oversight are beginning to show integrity and courage by going against their own parties' positions, instead taking positions based on national interest and what is perceived to be "right."⁷³ Often, this is to the detriment of their own political careers within their parties. This gradual change is a result of two mutually dependent dynamics: one personality-driven and the other institutional as MPs receive training and develop expertise. As parliamentarians gradually deepen their understanding of the parliamentary process and the technical details of the subject matter, they may also come to stop seeing the military as "the enemy from within".

5. Interaction with Civil Society

Civil society participation in security sector governance and their assistance in advancing local ownership have been studied extensively.⁷⁴ Collaboration with civil society groups, researchers, and other specialists in the security field can provide an alternative source of information and analysis to parliament, addressing shortfalls in knowledge among committee members and counterbalancing information from the executive. Through closer collaboration with parliament, civil society organizations can also assist with training and capacity building of MPs, facilitate dialogue with representatives of the security, and encourage public debate on the sector.⁷⁵

Civil society engagement in security sector governance in Ghana has emerged only since the late 1990s. It was not previously possible for two reasons. First, the political sensitivities of the PNDC regime and its overriding penchant for "securitizing" issues that it did not want publicly scrutinized resulted in an unofficial embargo on closer civil society engagement and supervision. Second, there was a dearth of civilian expertise on matters of security.

Security sector governance remains a highly specialized issue-area in Ghana, as elsewhere in West Africa. The traditional secrecy with which security-related issues have been cloaked has sustained this reality. It has been argued that:

African CSOs have been reluctant, as well as unequipped, to influence security policy and oversight... The problem is magnified by the relative rarity of African research institutes specializing in security issues; certainly the theme of SSR is striking in its absence from the work of mainstream political scientists and university departments in Africa.⁷⁶

The end result is a limited circle of experts and non-governmental research organizations in this area of interest.⁷⁷ Today, despite sixteen years of democratic dispensation, only a few civil society groups are actively engaged in the field. Currently,

⁷³ See Parliamentary Debates, (Official Report), Fourth Series, Vol. 14, No. 38, Consideration of Annual Estimates, Ministry of Defence, Head 380, col. 2200, 19 March 1997, col. 2204.

⁷⁴ Ebo Hutchful, "A Civil Society Perspective," *Providing Security for People: Security Sector Reform in Africa*, ed. Anicia Lala and Ann Fitz-Gerald, GFN-SSR, Shrivenham, 2003.

⁷⁵ The Parliamentary Select Committee on Defence & Interior constituted after the December 2004 Election demonstrated early interest in collaboration with CSOs. The author held two meetings with members of the Committee and its Chairperson to identify areas of possible collaboration.

⁷⁶ See Hutchful, *op. cit.*, 38.

⁷⁷ Adedeji Ebo, "Security Sector Reform as An Instrument of Sub-Regional Transformation in West Africa," *Reform and Reconstruction of the Security Sector*, ed. Alan Bryden & Heiner Hanggi, DCAF/LIT Verlag, Munster, 2004, 82.

there are three key actors at the forefront of collaborating with parliament on security sector governance: the African Security Dialogue and Research (ASDR),⁷⁸ the Ghana Centre for Democratic Development (GCDD), and the Legon Centre for International Affairs (LECIA). These bodies have been collaborating efforts to enhance the capacity of the Parliamentary Committee to deal with military and security issues that affect the country. They also facilitate dialogue and interactions between the security and civil sectors like the media. Additionally, The Institute for Democratic Governance (IDEG), the Foundation for Security and Development in Africa (FOSDA), the Ghana Centre for Democratic Development (G-CDD), and the Centre for Security Studies (CSS) are also increasingly gaining expertise in this field.

5.1 Identifying entry points for Parliamentary-Civil Society Dialogue in Ghana

Civil society's contribution to security sector governance processes is increasingly being driven by demand from parliamentary select committees, the national security institutions themselves, and other policy-relevant agencies.

The promulgation of the 1992 Republican Constitution reinstated momentum for sustained reform of security sector governance in Ghana. The democratic transition that took place in January 2001 in Ghana expanded the democratic space for civil society participation in this process. After 2001, it became apparent that concrete measures were needed to consolidate the democratic process, particularly how to ensure full civilian, democratic control and further professionalization of the security sector.

The government's idea of collaborating with an international partner who could assist with the design of a constructive framework to stimulate dialogue among key stakeholders within the security sector in Ghana provided an entry point for civil society. The UK Security Sector Development Advisory Team (SSDAT) was invited by the Ministry of Defence to provide technical advice on how to develop a human resources management and development strategy for its civilian staff. It became clear that before such a strategy could be developed there was a need for greater clarity on the roles and responsibilities of the non-military, civil service component in the MoD and its relationship to the military counterparts.⁷⁹

The on-going capacity-building programme under the Ghana security sector governance and management course has focused on the identification of roles and responsibilities of the defense sector. It also provided an opportunity to draw upon the experiences of other African countries that had strengthened the governance and management structures of their own security systems. The intention was also to enable broader inclusion of Ghanaian stakeholders in the security sector debate, including other security sector institutions, parliamentarians, academia, and civil society organizations.⁸⁰ Two key principles were established within this framework. First, the process needed to be guided by pragmatism and political realism. The concern was that if such a process was to build trust and confidence in the security system, then they must balance national security needs with sustainable justice and security development. The second principle was the recognition that, while the inception phase may be well designed it will be

⁷⁸ In June 2000, African Security Dialogue and Research (ASDR) in Ghana held a three-day "Roundtable on Security Sector Reform and Democratisation." This was a ground-breaking initiative aimed at fostering broader dialogue on the governance of Ghanaian security forces – the first time that a civil society group had brought together military and police officers, intelligence personnel, and members of the civilian policy sectors including parliamentarians to discuss security related matters. The presence of the press allowed the debates to be shared with the wider public.

⁷⁹ OECD DAC Handbook on Security System Reform (SSR), op. cit, 38.

⁸⁰ Ibid, 39.

ultimately ineffective if equal consideration is not given to managing its implementation. Those involved in designing the inception phase and planning long-term assistance therefore need to remain closely involved in the management of the inception activities to ensure continuity, institutional memory, and the confidence of local stakeholders.⁸¹

This process yielded several lessons, the most significant of which is that the involvement of a wide spectrum of stakeholders through the series of workshops resulted in a practical, common understanding of – and recognition of the utility of – security sector reform issues. It also resulted in the creation of a lasting network of individuals and organizations interested in supporting progressive transformation of the security sector. Through this network, a locally-designed and -led course on security sector governance and management was developed. Delivered by an alliance of Ghanaian institutions, the annual course is managed by a steering team jointly chaired by the Office of the President and the Office of the Head of the Civil Service. Similarly, in partnership with Ghana Institute for Management and Public Administration (GIMPA) and the Department of Political Science of the University of Ghana, African Security Dialogue and Research has built upon its contacts and local knowledge to ensure an approach tailored to Ghanaian realities; one that was effective in guiding and developing the curriculum and bringing the broader agenda of a larger stakeholder participation to fruition within a complex political environment. Its engagement in this programme has enabled the involved organizations to build trust, credibility, and relationships with a range of individuals and organizations across and within and outside of government.

This is reflected in the fact that the Parliamentary Select Committee on Defence and Security now engages the technical services of these institutions to provide seminars and capacity building training workshops for parliamentarians. The willingness to adapt to a changing environment and to utilize opportunities as they arose was a crucial factor in the successes achieved through the MoD initiative. Although the initial objective of supporting a significant enhancement in the capacity of the civilian component of the MoD was not fully realized, unintended, but real and sustained progress was made in areas that were not originally envisaged, including catalyzing public dialogues on security issues that in turn have encouraged broader reforms. Another key lesson was the strategy to directly link the initiative to the ongoing cross-government civil service reform programme. This initiative was particularly important in placing reform within the MoD in the wider context of public sector reform and in broadening participation in the process to include those from outside the security system.⁸²

The resulting civil servant training program is now well-established and provides an important forum for building understanding and promoting discussions on a wide variety of security and justice issues. It enjoys high-level official support and profile, and the course is contributing to laying the foundations for effective governance of security system, and thereby consolidating Ghana's democratic transition.⁸³

The opportunity for the increased parliamentary and civil society dialogue has been further improved by the growing transparency of the budgetary process through the introduction of the Medium-Term Expenditure Framework (MTEF) that was initiated by the Ministry of Finance. The MTEF provides a key entry point for Parliamentary oversight

⁸¹ Ibid, 39.

⁸² Ibid, 39. For a more detailed discussion of some of the broader dynamics here, see Kwesi Aning, "Managing the Security Sector in Ghana," *Understanding Good Governance in Ghana*, ed. Baffour Agyeman-Duah & Alfred Salia Fawundu, (Accra: Graphic Publications, forthcoming).

⁸³ Ibid, 39.

through budget scrutiny, but is only so if the necessary actors are capacitated to engage in debates around resource allocation in support of policy objectives.

Other factors include the increasing receptiveness of parliamentarians to engage in public dialogue.⁸⁴ There are several other donor-driven initiatives that have manifested in capacity projects, including one funded by the US Agency for International Development to build bridges between parliament, and the media on security sector governance in Ghana.⁸⁵

However, in order to ensure that parliamentary dialogues with civil society become enduring, there is the need to include traditional authorities in the process. Traditional authorities in Ghana exercise customary roles of authority, power, mediation and leadership that impact significantly on the security sector at the local level. They are also a source of small-scale, local disputes and, thus, insecurity. However, there are few points of intersection between the state and non-state security systems. Among actors in the latter, some circumvent state oversight mechanisms; most are not subject to state authority at all. However, alternative accountability mechanisms exist.

6.0 Non-State Actors in Ghana's Security Sector

Customary/Traditional Security Guards

In Ghana, chiefs are the custodians of cultural values and guardians of lands in trust of their people. The role and legitimacy of the traditional authorities in administering customary values and practices are guaranteed under the Constitution. However, the chieftaincy institution possesses a parallel security system that does not fall within the ambit of the state security apparatus. This can have an adverse affect on security sector oversight.

The most traditional security service providers in Ghana are found within the households of traditional chiefs. Customary security personnel play traditional roles as well as security functions in the chieftaincy institution. Formerly, the traditional authorities had their own security system, which was distinct from the regular police service. The *Ahenfie Police* – “Royal Police” in the Akan language – provide personal security for the chief and the traditional elders of the chieftom. Recently, the Ghana Police Service has taken over some of the security needs of the traditional authorities by providing them with security guards drawn from the Ghana Police Service. In spite of this, certain chieftoms still maintain their royal security guards in their palaces.

A more immediate concern within the chieftaincy practice in Ghana is that the institution has become a major source of insecurity in the country. Ghana suffers from many localized chieftaincy conflicts, in which arms proliferation has been a common feature. At the many festivals and traditional celebrations, it is not uncommon to witness guns, including automatic weapons and celebratory gunfire. There is little evidence that these guns are in the possession of officers from the state security agencies. How then are these guns acquired? Is their use at such public gatherings authorized, and if so, by whom? Where are these weapons stockpiled and with what precautions? And how come such practices at times occur in open view of important dignitaries, such as the President, ministers, parliamentarians and state security agencies without any question of the security implications of this practice?

Landguards

⁸⁴ OECD DAC Handbook on Security System Reform (SSR), op. cit.

⁸⁵ Ibid.

The practice of landguards was another community-based security phenomenon that, until banned in 2004, found expression in the non-state security system in Ghana. The landguards were individuals or groups hired by “big men” to protect their lands and other landed property, especially in the urban centers.⁸⁶ Landowners employed their services to deter suspected encroachers but, in many occasions, their approach to land protection resulted in violence and casualties.⁸⁷ In Accra and other urban centers, the phenomenon grew to alarming proportions because landowners exploited lapses in the land administration process. Many landowners and property agents engaged in multiple sales of plots and this practice degenerated into the rapid use of landguards in the system. It was on the basis of this practice that government finally banned the activities of landguards in the country. Subsequently, government and parliament introduced the Ghana Land Administration Project (LAP) to streamline land transactions and management in the country.⁸⁸

Private Security Companies

There are two main categories of private security in Ghana. The first is that run by public institutions, such as universities and multinational organizations. Personnel in this category are recruited and trained by these institutions and their services are retained within the same establishments. They render services to respond to the specific security needs of the establishment that recruits them and therefore, their staff and command structure remains confined within the establishment of their employers.⁸⁹

The second category, and perhaps the most visible private security operators in the country, are the for-profit private security agencies. These are private security entities that recruit personnel and dispatch them for the private utility of individuals and institutions. According to conservative estimates from the Association of Private Security Organizations of Ghana (APSOG), there are more than 350 security agencies in the country, most of which have no license to operate. The Ministry of Interior estimates that approximately 100 companies are operating with proper documentation and clearance.⁹⁰ The implication is that there are a considerable number of agencies in the industry who are operating with neither proper identification nor oversight.

The growth of these agencies has been attributed to the growing rise in crime, the need to streamline the informal security sector, and the inadequacy in capacity of the Ghana Police Service to provide the population with adequate security.⁹¹ It can also be argued that the increasing expansion of the private sector in all sectors of the economy,

⁸⁶ See Cudjoe Franklin, “Land Guards were politically nurtured,” available via <http://www.imanighana.com/article30.html>, accessed. 2 June 2008.

⁸⁷ Cudjoe Franklin (Ibid) reported in his article that landguards have destroyed public property such as school buildings and maimed alleged encroachers with guns and machetes.

⁸⁸ The Land Administration Project (LAP) is the Ministry of Lands, Forestry and Mines initiative to implement the policy actions recommended in the National Land Policy document launched in June 1999. Available via <http://www.ghanalap.gov.gh/index1.php?linkid=47>, accessed. 2 June 2008.

⁸⁹ Interview with the chief security officers at the University of Ghana campus, and Kofi Annan International Peacekeeping Training Centre (KAIPTC) at Teshie in Accra. These two institutions are among the category of organizations that recruit employ their own security staff in Ghana.

⁹⁰ This information was gathered from interviews with private security companies in Accra, Ghana.

⁹¹ Emmanuel Kwesi Aning, “Crime and Policing in Transitional Societies: The Ghana Experience,” *Crime and Policing in Nigeria: Challenges and Options*, ed. E. E. O. Alemika & I. C. Chukwuma, (Lagos: Mbeyi & Associates, 2004).

coupled with the rapid urbanization in the country has contributed to the growth of private security companies in the country.⁹²

An innovative aspect of the Police Service Act of 1970 (Act 350) was its attempt to define the parameters for regulating non-statutory security actors like private security companies, which had not previously been covered. Act 350 defines a “private security organization” as:

“any organization which undertakes private investigations as to facts or the character of any person, or which performs services of watching, guarding, patrolling or carriage for the purpose of providing protection against crime, but does not include the Police Service, the Prisons Service or the Armed Forces of Ghana.”⁹³

The act provides a clear legislative basis for the Minister of the Interior to regulate the establishment and operations of any private security organization, to require their registration. Cognizant of the possibility of definitional problems, the Act also empowers the Minister of Interior to determine whether an organization, in fact, is a private security organization.⁹⁴

Currently, two additional sets of legal instruments govern the conduct of the sector. They are the Police Service (Private Security Organizations) Regulations 1992 (L.I. 1571), and the Police Service (Private Security Organizations) Amended Regulations 1994 (L.I. 1579). Even though these legal regimes exist to regulate the conduct of private security agencies in the country, there still remain questions about the current state of monitoring, administration and regulations of the sector. This problem is further exacerbated by the fact that current capacity within both the Ministry of Interior and Police Service to supervise the sector remains weak.⁹⁵ There is a need to review the legislative instruments that govern their operations and to establish a regulatory authority – including a code of conduct, code of ethics, and training syllabus – that will oversee the administration of private security organizations.

Watchmen services

Before the advent of private security companies in Ghana, watchmen were the main private security providers, rendering security services to private and public institutions and domestic facilities. Their services were relatively cheap and were less sophisticated in terms of the weapons they use for their security operations. They were mostly hired to perform night security duties. The practice is still not uncommon in Ghana despite the proliferation of private security companies in the country.⁹⁶

Watchmen are not, in practice, organized under any regulatory framework or body. They mainly operate in the informal sector where their activities are not covered by conventional security regulations and labour laws. Even though, Act 350 may be an important regulatory source for this sector, we dare say that it only exist in theory. There are no monitoring or evaluation checks on their activities, hence little is known about

⁹² This information was contained in a statement made by Professor Ebo Hutchful at the opening of the Fourth Ghana Parliamentary Capacity building workshop in Accra.

⁹³ Act 350, Section 38 (2).

⁹⁴ Ibid, Section 38 (3).

⁹⁵ See “Parliamentarians Schooled on National Security,”

http://www.ghana.gov/ghana/parliamentarians_schooled_national_security.jsp, accessed 7 June 2008.

⁹⁶ See Joseph Appiahene-Gyamfi, “Urban Crime Trends and Patterns in Ghana: The Case of Accra,” *Journal of Criminal Justice*, 31:1, 2003: 13-23.

their contribution, good or bad, to public security. They lack training on procedures of criminal investigation, arrest, crowd control and prosecution of suspected criminals. Since much of their work is focused on patrols and arrest of suspected criminals, it is important that they are sensitized on crime prevention and human rights protection. The Ghana Police Service in collaboration with civil society groups and clients who patronize the services of watchmen should organize training programs to develop these aforementioned skills. This approach should form part of the overall security strategy of streamlining and mainstreaming the operations of watchmen for an enhanced performance, regulation and governance of the informal security sector in Ghana.

Community Vigilante Groups

Community vigilante groups are mobilized at the local level mainly to ensure community safety. Usually, such organizations are established within neighborhoods and deal in localized vices, such as theft and sexual assault. They also contribute to the construction and maintenance of developmental projects through the provision of communal labor. In many cases, the local chiefs, community leaders, family heads including, sometimes, the police are involved in recruiting members of the neighborhood watchdog committees⁹⁷.

Even though vigilante groups are empowered by their communities – albeit against the law – to arrest and hand in suspected criminals to the police, there is often lack of professionalism in discharging such duties.⁹⁸ Their membership is not based on any formal procedure against which their loyalty and criminal records are verified. Members are not given any initiation on criminal investigation, arrest, crowd control and prosecution of suspected criminals. Because of lack of training, competence, and skills human rights violations have been committed by their actions and inactions. Suspected criminals have suffered extrajudicial killings through mob actions.⁹⁹

The “neighborhood watch” practice is no longer a common phenomenon in many urban centers in Ghana, however. The “Unit Committee” system introduced under the 1988 local government reforms was supposed to assist local communities in matters of community safety by collaborating with the police. Over the years, the unit committee system has failed to function. In its place, an innovative outfit known as the Community Protection Unit has been formed by the Ministry of Manpower, Youth, and Employment under the National Youth Employment Programme (NYEP).

The NYEP operates under the supervision of the Ghana Police Service and undertakes minor policing duties. The initiative is important in terms of addressing a potential “youth problem” by giving young men with uncertain career prospects something constructive to do. As a way of remedying the problems associated with vigilantism, the community protection model offers intensive training in criminal code and law, duties of a security guard, crime scene management, law of evidence and human rights.¹⁰⁰ The community policing concept has a broader goal of encouraging the public

⁹⁷ Neighborhood watchdog committee is a term which is sometimes used to refer to the vigilante groups in Ghana.

⁹⁸ Mensah, op. cit.

⁹⁹ Factors contributing to the escalation of vigilantism in the society included an under-resourced police service; poor police-civilian relations; burgeoning crime rate; a slow, corrupt and overburdened judiciary; heightened public fear of crime; and a breakdown in traditional methods of dispute resolution. These were the factors which were given by Adinkrah Mensah, “Vigilante Homicides in Contemporary Ghana,” *Journal of Criminal Justice*, 33:5, 2005: 413-427.

¹⁰⁰ See “Ministry Trains Community Protection Personnel,” available via

to appreciate itself as partners of the police in controlling and preventing crime in local communities in Ghana.¹⁰¹ However, it is important to note that since the community policing concept was introduced in Ghana, the most observable duties they have been engaged in is road traffic management. They are rarely visible in conducting community patrols and sensitizing local communities about their security needs. Their geographic extent of operations is limited to the urban metropolitan centers and therefore their activities do not directly affect other instances of criminality, including neighborhood and highway robbery, mob justice, and other non-traffic offences. Recently, members of the state security services have challenged the constitutionality of the community protection unit and advocated that it should be disbanded.¹⁰²

7.0 The Role of Regional Cooperation and Security Architecture

7.1 South-South Dialogue

One of the key strategies to broaden the frontiers of security sector oversight beyond Ghana is to encourage experience sharing among countries in the South. The South-South Dialogue on Security Governance and Transformation¹⁰³ has offered the opportunity to stakeholders, including parliamentarians, security scholars, military and civilian defence officials, and civil society groups to discuss on the processes and mechanisms through which democratic control can be administered.¹⁰⁴ Another key objective of this platform has being to provide concrete lessons from countries in Africa with reputable experience in security oversight, particularly in the area of defence. Dialogues have tended to promote agreement among participants on procedures for greater democratic accountability, transparency, and control over the armed forces and other security actors by government, parliament and the political and civil actors. Ghana was the host of the 2003 dialogue in which the focus was on the defence sector.¹⁰⁵ Since 2000, South-South dialogues have also been held in Nigeria, South Africa, and Uganda. Within the ECOWAS sub-region, Ghanaian parliamentarians have participated in experience-sharing sessions with their Liberian counterparts concerning lessons and challenges for security sector oversight.

7.2 Regional Organizations and Security Sector Governance

The conflicts and instability that afflicted Africa during the 1990s prompted a redefinition of the nature of politics and security in Africa away from the sanctity of individual states'

http://www.ghana.gov.gh/ghana/ministry_trains_community_protection_personnel.jsp, accessed 2 June, 2008.

¹⁰¹ See *The Ghanaian Times*. Monday, June 02, 2008, available via http://www.newtimesonline.com/index.php?option=com_content&task=view&id=8872&Itemid=245, accessed 2 June 2008.

¹⁰² The legality of the community police system in Ghana was challenged by senior military personnel, from the Ghana Army, Navy, Air Force, and Military Police at a civic education lecture organized by the National Commission for Civic Education (NCCE) for the Ghana Army as part of activities marking the 8th National Constitution Week Celebration, available at <http://allafrica.com/stories/200805051132.html>, accessed 7 June 2008.

¹⁰³ This initiative is supported by a number of international institutions including Ford Foundation, DFID, the Centre for Defence and Security Management, the Institute of Development Studies, and the Centre for Democracy and Development (CDD).

¹⁰⁴ Nicole Ball, "Evaluation of the Conflict Prevention Pools: The Security Sector Reform Strategy," DFID Evaluation Report, EV 647, Bradford University, 2004.

¹⁰⁵ *Ibid.*

sovereignty and internal affairs, towards collective and human security. Several factors led to an agenda seeking common responses to the security problems facing African countries.

The first was the recognition that African countries face similar security threats, including small arms proliferation, military coups d'état and rebellion, and refugee flows. Narcotics trafficking, climate change and food insecurity are rapidly becoming priorities, as well. At the regional and especially sub-regional levels, these security challenges are not only similar, but also often shared, as they transcend national boundaries. These security challenges are best addressed through a common, collective effort. In West Africa, how to end military coups and unlawful seizures of political power continue to be an overriding concern, as these pose the most serious threats to democratic development in the sub-region. This phenomenon demonstrated the need to subject military institutions to democratic control. In response, a sub-regional process towards de-legitimizing the violent overthrow of political office holders was initiated.¹⁰⁶

Second, this recognition of the need for common approaches to security and development challenges was shared by bilateral and multilateral actors, who increasingly supported initiatives, including at the sub-regional level. This led, in part, to an increased focus on strengthening regional and sub-regional organizations in Africa, including the African Union (AU), Southern Africa Development Community (SADC), and ECOWAS.¹⁰⁷ The United Nations has decentralized aspects of its functions through the establishment of regional offices like the UN Office for West Africa (UNOWA). External support for a regional approach was reflected in the endorsement of the G-8 for the New Partnership for Africa's Development (NEPAD), adopted by African leaders during the establishment of the African Union in July 2002. For a reformed security sector that will promote and ensure an environment conducive to sustainable development in the region, it is important that the donor community and the African political leaders subscribe to a common reform agenda situated within the regional framework.

7.3 NEPAD and the Relevance of Security-Sector Governance

NEPAD is the most visible reflection of the commitment of African leaders to security and development in the new international environment. One of the underlying considerations in the NEPAD agenda is that peace and security are prerequisites for sustainable development.¹⁰⁸ NEPAD identifies strengthening existing conflict prevention mechanisms in the region and outlines four key areas of focus for sub-regional institutions:

- Prevention, management, and the resolution of conflicts;¹⁰⁹
- Peacemaking, peacekeeping and peace enforcement;
- Post conflict reconciliation and rehabilitation; and

¹⁰⁶ See the 1999 ECOWAS Protocol on Conflict Prevention, Management and Resolution; the Supplementary Protocol on Democracy and Good Governance; and the 1991 Declaration of Political Principles.

¹⁰⁷ ECOWAS, *Draft ECOWAS Conflict Prevention Framework* (Abuja: ECOWAS Commission) October 2007.

¹⁰⁸ Since its launch in Zambia in July 2001 and its endorsement by African leaders at the establishment of the African Union in South Africa in July 2002, NEPAD has attracted the attention of Africans and the international community alike. Efforts are underway to translate this vision into a concrete plan of action.

¹⁰⁹ NEPAD, *The New Partnership for Africa's Development (NEPAD)*, October 2001, 14ff.

- Combating the illicit proliferation of small arms, light weapons, and landmines.

Implementing the NEPAD agenda requires the harmonization of security policies at the sub-regional, as well as state level. But this agenda implies a broader, human security-centered approach that includes civil-military relations, public safety, crime prevention and access to justice, democratic control of security policy, as well as re-professionalization and transformation of national security organizations.

A commitment to such an agenda at the national level will act as a major catalyst for the emergence of effective regional security arrangements. The African Peer Review Mechanism (APRM) offers regional institutions the opportunity to play a critical role in monitoring democratic governance in the security sector, including the harmonization of doctrine, standard operating procedures, and codes of conduct. Here, the lessons from ECOWAS are illustrative.

7.4 ECOWAS Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping, and Security

The 1999 Protocol on the ECOWAS Mechanism for Collective Conflict Prevention, Management, Resolution, Peacekeeping and Security has a number of features with a bearing on West African armed forces and, in particular, on security sector transformation processes. In its bid to implement the relevant provisions of Article 58 of the Revised Treaty, ECOWAS has been restructuring itself to improve cooperation between member states in the areas of early warning, conflict prevention, peacekeeping, cross-border crime control, and the proliferation of small arms. This has raised the possibility of not only a common approach, but also of joint operations among national security services.

The ECOWAS institutions charged with responsibility for implementing the Mechanism include the Authority of Heads of State and Government, the Mediation and Security Council, the Defence and Security Commission, and the Executive Secretariat. One significant development is that the Authority of Heads of State and Government no longer has sole responsibility for taking decisions on key actions in the sub-region. Instead, a measure of decision-making power has been given to the Mediation and Security Council. This Council consists of nine members — seven elected by the Authority of Heads of State and the present and immediate past Chairs of the Authority.

The Mediation and Security Council is mandated to deliberate at the head of state, ministerial, and ambassadorial levels. The Council is charged with a range of tasks, which include taking decisions on peace and security matters, implementing policies designed to achieve conflict prevention, resolution and peacekeeping; authorizing all forms of intervention, and taking decisions on the deployment of political and military missions and their mandates. The Defence and Security Commission, the Council of Elders, and the ECOWAS Ceasefire Monitoring Group (ECOMOG) are the organs that support the work of the Council. ECOMOG, which has now been formally established, is to be comprised of a stand-by multi-purpose force (civilian and military) ready for immediate deployment. The Protocol has also established a Peace and Security Observation System, for purposes of early warning, which consists of an Observation and Monitoring Centre in the Secretariat, and four Observation and Monitoring Zones based in Benin (Cotonou), Liberia (Monrovia), Burkina Faso (Ouagadougou), and The Gambia (Banjul).

The Mechanism may be applied under the following circumstances: aggression against a member state or the threat thereof; conflict among several member states;

internal conflict that threatens to result in humanitarian disaster, or poses a threat to peace and security in the sub-region; serious violation of human rights and the rule of law; and the overthrow or attempted overthrow of a democratically-elected government.

7.4.1 Implications for Security-Sector Transformation: Policy Recommendations

Developments within ECOWAS have a number of implications, not just for regional and international security, but particularly for the future of Africa's security and emerging security architecture, its national security institutions, and their transformation. Key implications and requirements include:

- i. The development of a division of security-related responsibilities among key contributing states. For example, Ghana, which has a record of – and preference for – involvement in traditional peacekeeping, could specialize in preventive deployment and peacekeeping. Nigeria and Guinea, which have demonstrated readiness to participate in enforcement operations, including ensuring compliance with embargos, could be tasked with operations that require the use or the threat of the use of force. Senegal could be tasked with peacebuilding functions, given the nature of its role in select peace operations.
- ii. Unified training and doctrine relevant to the concept of operations envisaged under the protocol. This might require separate planning for preventive deployment, peacekeeping, enforcement and multi-functional operations.
- iii. A common understanding and acceptance of strict conditions for deployment of troops, including adherence to the values collectively adopted by member states – such as preventing human rights violations, upholding the rule of law, and firmly opposing coups d'etat.
- iv. The ECOWAS Commission must be designated the executive authority for initiation and implementation of peace operations, and given full political control throughout these operations if the efforts to operate – and regulate the conduct of – regional peace forces is to be successful. Eventual direct elections to ECOWAS Parliament and its provision with legislative authority will contribute to achieving effective governance of a sub-regional military force. The level of interaction and collaboration by civil society groups across borders and their linkage will also determine the extent to which that organization will influence the transformation process in national militaries.

7.4.2 The envisaged role of the ECOWAS Community Parliament

One of ECOWAS's most critical and innovative investments in peace and security is the Community Parliament. The Parliament was established by the 1993 revised ECOWAS treaty. The treaty provided few details concerning the Parliament, providing that “the method of election of Members of the Community Parliament, its composition, functions, powers and organization shall be defined in a Protocol relating thereto.”¹¹⁰ The Protocol Relating to the Establishment of an ECOWAS Parliament came into force on March 14, 2000, and the Parliament was inaugurated eight months later in Bamako, Mali. The

¹¹⁰ Ibid. ECOWAS, 1998, Article 13 (2).

Parliament is a 120-member strong body whose members, it is hoped, will eventually be directly elected to five-year terms.¹¹¹

Pending direct elections, national legislative assemblies have elected members of the regional parliament from among their own ranks. This ad hoc transitional phase was not provided for in the Protocol, which is unclear about how parliamentarians should be chosen. The Parliament is required to meet at least twice a year, in sessions lasting a maximum of three months.¹¹² Extraordinary sessions can be held at the request of the ECOWAS Chairman or a written request by a majority of the parliamentarians. Each member state is guaranteed at least five seats in the Parliament. Forty seats are allocated based on population size,¹¹³

For the time being, the Parliament's role is mainly advisory. Although it can, in theory, comment on all Community-related issues, it has no legislative powers and it has limited its purview to human rights and fundamental freedoms.¹¹⁴ However, it provides a forum for dialogue, consultation, and consensus. ECOWAS has identified improving the Parliament's oversight of the security sector and its organs as crucial for improving both governance and human rights in the sub-region. Moreover, there is a growing relationship between the ECOWAS oversight committee and national legislative assemblies, including Ghana's PSCD&I in terms of exchanging ideas and experiences. There are also two members of Ghana's PSCD&I who serve on the ECOWAS Committee.

There are several uncertainties about how the Parliament functions and how it delegates duties to its committees. Despite the history of violent conflict, security and conflict prevention were not included as part of the Community Parliament's defined areas of competence.¹¹⁵ The Parliament, however, did establish a Committee on Defence, Security, and Integration (CDSI) after it convened. But while the CDSI is a legal committee, it does not have legislative powers. Without the power to legislate, influence procurement, or influence policymaking and implementation, the Committee's oversight over ECOWAS or regional security issues lies solely in the merit of its actions and, possibly, its reports. Indeed, at its first plenary session in January 2001, ECOWAS parliamentarians elected a Malian politician, Ali Nouhoum Diallo, as speaker. Diallo asserted in his first public statement that his priority would be to maintain peace and security in the sub-region.¹¹⁶ He posited that "[the Parliamentary Committee on Defence and Security] will have to go to Cote d'Ivoire to pacify the northern and southern population. Next is Liberia and Guinea. There is also no security in...Sierra Leone."¹¹⁷

Meanwhile, the relationship evolving between the ECOWAS Parliament's Defence, Security, and Integration Committee and various national government security organs is tense, but potentially fruitful. The chair of the DSCI also identified the conflicts

¹¹¹ Ibid. ECOWAS, 2000.

¹¹² See "Extra Ordinary Session of the Council of Ministers, Final Report," <http://news.ecowas.int/en/presseshow.php?nb=28&lang=en&annee=2006>, accessed 3 June 2008.

¹¹³ Thus, Nigeria, with 110 million people, has 35 seats total. Ghana and Cote d'Ivoire have eight and seven seats, respectively. Burkina Faso, Guinea, Mali, Niger, and Senegal have six members each, and Benin, Cape Verde, the Gambia, Guinea Bissau, Liberia, Sierra Leone, and Togo have five each.

¹¹⁴ Ibid. *Ghanaian Times*, 4,

¹¹⁵ Ibid. ECOWAS, 1994, Article 6.

¹¹⁶ *Pan African News Agency*, 29 January 2001.

¹¹⁷ *Ghanaian Times*, 8 January 2001, 4. The cautious tone may be related to the 'illegal' role that Nigerian legislators are playing in the ECOWAS Parliament. The Protocol does not provide for nor permit double (national and ECOWAS) mandates for parliamentarians. Section 68 of the 1999 Nigerian Constitution meanwhile states that 'a member...loses his seat in the House of which he is a member if he becomes a member of another legislative house'. The ECOWAS Parliament's decision to fill seats with national legislators in lieu of direct election thus creates a conflict of allegiance and interest for Nigeria's representatives.

in the sub-region as the main priority areas for his committee and has initiated moves to bring to an end some of the crises through dialogue. He stated that the Committee would not just consult with officials, but would also conduct public consultations. That fact that civil society organizations will be consulted regularly for expert input to the Committee's formulation of security policies, resource allocation, and general analysis is a welcome development. There is further room for regionally-based research centers with skills in security analysis to support the work and emerging capacity of the Committee.

At the same time, there is uneasiness between the Committee's activities vis-à-vis national executive authority and the role of national assemblies. The DSCI Chair sounded a note of caution even before the Committee began its oversight: "We are not usurping the powers of ECOWAS Heads of State; all we are doing is to act as an advisory body to them in areas that concern the development of the sub-region." The Parliament, he continued, intended to "work hand in hand with ECOWAS Heads of State," including "meeting with the presidents of each country to discuss modalities for our peace moves so that it helps us to take decisions."¹¹⁸ Such deferential consultation, if more than rhetoric, does not bode well for the Committee's functioning as more than an executive rubber-stamp.

7.4.3 *Emerging contradictions and confusions*

There are problems associated with the Defence, Security, and Integration Committee Chair's perception of the Parliament's role and power in relation to the heads of state, and specifically to members of the Mediation and Security Council. Notwithstanding his concerns, the ECOWAS Parliament is sovereign in its actions and power; it cannot and does not "usurp" executive power – rather, it has started to exercise some checks and balances. The Chair's concerns take cognizance neither of the Parliament's supra-nationality nor of the ECOWAS declaration of constitutional principles, which in theory binds all member states concerning separation of powers between the Executive, Legislature and Judiciary.¹¹⁹

The Parliament has responsibilities in ECOWAS conflict prevention, primarily concerning financing and oversight. Under ECOWAS's new mechanism for conflict prevention, certain aspects of its peacekeeping operations automatically fall under scrutiny by certain parliamentary committees, especially the Defence and Security Committee and the Budgeting Control and Accounts Committee. The Protocol's article 36 (1) asserts that 'the Executive Secretary shall make provision in its annual budget, for funds to finance the activities of the Mechanism...[However] as soon as the Protocol governing conditions for application of the Community Levy enters into force, a percentage of the said Levy shall be earmarked for these activities'. The Parliament administers the Community Levy.

In so far as community funds are disbursed for a peacekeeping activity, both of the above committees have the authority to ensure that the budgets are properly applied. However, the Protocol asserts in Article 37 (1) that 'the states contributing contingents may be invited to bear the cost of operations during the first three (3) months.' Subsection (2) does reassure that 'ECOWAS shall refund the expenditure incurred by States within a maximum period of six (6) months.' There is a potential difficulty here. Once funding for a peacekeeping operation is shifted from the community to the national level, issues of national security come into play. Then there is a natural reluctance to openly discuss national security spending. Worse, most West African

¹¹⁸ Ibid. *Ghanaian Times*, 4.

¹¹⁹ ECOWAS 2001b, 6.

legislatures have neither the clout nor the capacity to ensure democratic governance of their security sectors.

Events in the Community Parliament are replicating Hutchful's argument that "the predominant pattern in many countries has tended to be executive dominance in the context of a weak legislature and civil society."¹²⁰ Such a pattern prevails in West Africa's nascent parliaments. Such weaknesses should not be transferred to the ECOWAS Parliament. Yet executive power still needs effective oversight; where will this come from, if not from the Community Parliament? The protocol's designers seem to have been unaware of the importance of Parliament's oversight function, because the protocol never mentions the Parliament. Hence the dilemma: West Africa needs more forceful legislatures, and the ECOWAS Parliament itself needs to assert its independent role vis-à-vis the executive; yet sooner or later such strengthening will involve political collision with the executive at both the national and the regional level.

7.4.4 *International Cooperation*

The need for international cooperation under the emerging ECOWAS security regime became manifest after 2001. ECOWAS has an agreement with the United States, France and the United Kingdom to build ECOMOG capacity for peace support operations. Under this dispensation, three cooperative programs have evolved in West Africa, all responding to the strategic, tactical and operational level of security priorities. Known initially as the African Crisis Response Initiative (ACRI), the American programme has been renamed the African Contingency Operations Training Assistance (ACOTA). The French programme, known as RECAMP involves practical training to strengthen cohesion and effectiveness of African capacity for peace support operations.¹²¹ The British assistance is mandated under the auspices of the African Peacekeeping Training Support Programme. As noted by Ebo, a major challenge facing West African states under such sub-regional security cooperation is the need to maintain a delicate balance between external assistance and the need for local ownership of security arrangements and reforms.¹²²

Local ownership can be facilitated if more democratic space is created for the participation of ECOWAS Community Parliament, including sub-regional civil society groups in the oversight responsibilities of such international cooperation. Currently, this is rarely the case. It is also very important to be wary of the increasing interest of western powers in regional security cooperation in West Africa. For example, the US is considering the establishment of the US African Command (AFRICOM) in West Africa. This raises numerous questions: What will be the security implications of establishing AFRICOM for member states in the sub-region? How will the command of AFRICOM affect the ECOWAS security architecture and operations? What kind of institutional arrangements will be put in place for the overall oversight of its operations in Africa? Will parliament and civil society groups be involved in the oversight role? If so, will they have the requisite mandate and capacity to play such roles?¹²³

8.0 Conclusion

¹²⁰ Ebo Hutchful, 2001, 6.

¹²¹ Sarjoh Bah and Kwesi Aning, "Understanding US peacekeeping policy in Africa: from ACRI to AFRICOM," *International Peacekeeping*, 15:1, 2008.

¹²² See Ebo Adedeji, "Security Sector Reform as an Instrument of Sub-Regional transformation in west Africa," http://www.dcaf.ch/publications/e-publications/SSR_yearbook2004/Chapter4_Ebo.pdf, accessed 7 July 2008.

¹²³ Bah and Aning, op. cit.

Parliamentary oversight of the security sector in Ghana is still a recent practice, having only come into being following the return to democratic rule in 1992. Prior to this, the military dominated the political scene for over 25 years. As the political terrain began to change during the 1980s, the defense sector was the first to be targeted for reform by the PNDC. The key objective of the reform exercise at the time was to prevent the occurrence of further counter military rebellion in the country – not to introduce democratic reforms in the entire security sector. Although this initiated transformation of the security sector, it did so in the context of a political system that remained undemocratic. OECD SSR discourse emphasizes the need for national security policies to be “human centered” rather than “state centered” – to meet the security needs of citizens, beyond just state integrity. In the Ghana case it is a matter of sequential priority to first get the security sector “governable” by the state, then to think about how to ensure that the needs of citizens are driving national security.

Democratic oversight of the security sector in Ghana has since improved. Nonetheless, the legacy of military control remains: parliamentary authority remains weak relative to the executive. To gradually alter this balance, parliament will need to be endowed with better institutional capacity to exercise its mandated oversight functions and the resources to enable and sustain such changes. Moreover, aspects of existing legislations enacted to regulate the activities and performance of key security sector institutions limits, rather than enabling, the performance and effectiveness of oversight actors. Frequent shifts in personnel and excessive politicization of key oversight and accountability institutions undermine an already weak human resource base. This role needs to be constructively complemented by the emergence of more security-conscious civil society actors, including through networking, dialogue, and advocacy for widening democratic space within the entire security sector.

Externally, security cooperation with Ghana’s bilateral and multilateral partners has been entered into in a spirit of regional cooperation for peace and security without any strategic national security interest or policy vision. It is envisaged that the outcome of the security sector governance process in the country will bring forth a national security strategy that will be driven mainly by qualitative parliamentary oversight. Currently, military engagements in either regional- or UN-mandated peacekeeping operations are not adequately guided by parliamentary oversight. This gives excessive leverage for executive manipulation of the security sector in such operations. One way to overcome this paradox is to allow parliamentary oversight to impact on the totality of executive decisions in relation to military operations both for national defence purposes and peacekeeping missions abroad.

The emerging Community Parliaments at both ECOWAS and the African Union are processes that are expected to project parliamentary oversight of security sector to the level of collective will, responsibility, and mobilization at the sub-regional and regional levels. Much of the operations of the standby force that is being constituted by ECOWAS and AU are expected to be subjected to oversight by the respective community parliaments, but the community parliament at both levels are far from being an elected oversight body. Hence, how can they be accountable to the people in whose interest they claim to represent within the current composition of the ECOWAS and AU community parliaments?

In conclusion, here is a four-level model for the effective and accountable functioning of the Ghana’s security sector: First, at the strategic level, parliament should have complete oversight over security policy and objectives. Second, at the tactical level, all operational issues should be examined only with the involvement of key stakeholders and experts. Third, the identity of key personnel should be kept out of the

public glare. Fourth, civil society organizations should be brought in, both as an extra-parliamentary source of oversight and as another actor to balance the suspicion between political and security elites.

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