

CHAPTER 4

Developments in Legislative Oversight in Liberia

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Introduction

Liberia degenerated into what became a protracted civil war in late 1989. Not a single body of the security forces was at the service of the population. Although the fourteen-year armed struggle at last came to an end in 2003, true reconciliation and justice remain distant objectives. With the brutal civil conflict transforming the national army into an armed faction, establishing republican security forces oriented towards the public good is a crucial part of the country's process of post-conflict reconstruction and development. The country is facing a crisis of confidence in the state's security forces and needs a professional security sector that is regulated by a democratically elected government, and that is outside the immediate reach of the president. In other words, what is required is a transformation of the state security forces: shifting from their role as a prop of the regime in power to providing for the security of the population.

Liberia's history of conflict and authoritarian rule should put democratic security governance at the heart of any meaningful reform agenda. The challenge of becoming an open society in which everyone has at least the possibility of having his or her voice heard has not yet been achieved, but this transition, which started with the end of the war in 2003, is now well and truly under way.

This chapter takes stock of how far the objective of transforming governance dynamics in the security sector has been realised in Liberia in the

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period 2003–13 through the lens of developments in the legislative framework for the security sector. Against the backdrop of the reform process as a whole, the chapter puts forward the argument that a narrow focus on training and equipping the Liberian security forces has not addressed the legacy of the years of conflict, nor the even longer history of regime-focused security dynamics. By contrast, it is argued that further support to reinforce national oversight and accountability of the security sector could help to overcome such deeply rooted pathologies. Specifically, this chapter examines the significance of parliamentary oversight in promoting democratic security governance and acts as a case study of the progress Liberia still needs to make in this area.

The following section discusses the scoping conditions underpinning security sector governance dynamics in Liberia. It focuses on the historical context for reforms, lending perspective to the changes already made to the architecture for security sector governance in Liberia, and the various actors involved in the process. The next section focuses on the governance gaps in the reform process and considers the first steps towards developing meaningful public and legislative control of the security sector based upon a new legislative framework. This chapter then assesses the extent to which these steps reflect sustainable progress towards a more robust culture of democratic governance. Finally, key lessons and potential next steps in security sector reform in Liberia are considered.

Scoping conditions

This section focuses on two sets of scoping conditions that need to be acknowledged in order to understand security sector reform (SSR) in Liberia. The first is the historical context of political governance in the country. The second is the approach to SSR taken by the international community and the priority given to different activities within that approach.

Liberia's historical trajectory of security sector governance

Liberia is currently making a transition from authoritarian rule to democracy. The coordinated efforts of the international community, led by the United States, resulted in the signing of a Comprehensive Peace Agreement (CPA) between the warring factions in August 2003.¹ This was a watershed moment in the history of Liberia because it brought to an end an authoritarian style of governance that had become entrenched since the country's founding in 1847.² The CPA was a hard-won victory, having been preceded by at least twelve failed attempts at achieving the disarmament of the warring factions before a roadmap for peace was agreed upon. Finally, the CPA marked the end

of Charles Taylor's term as President of Liberia and sought to usher in a new era of genuine democracy. Following two years of a transitional administration between 2003–5, the country held its first ever free and fair elections, which brought to power Africa's first elected female president, and the country's 52nd Legislature. This new tradition of free and fair elections has been maintained as evidenced by the execution of a second set of post-war presidential and legislative elections in late 2011, when the 53rd Legislature took office.

This transition from authoritarianism to democracy also affected the security sector. In this respect it is important to understand the starting point for such a transition. In the past, the office of the President of the Republic controlled the security sector. The president had traditionally ruled in an authoritarian and sometimes arbitrary manner since the period of the original settler regime of the True Whig Party. For example, the 18th President of Liberia (1944–1971), William V. S. Tubman set the rules for the security sector, proclaiming that “[t]he military has three functions: to obey, to obey, and to obey” (Bright 2002; cited in Kieh 2008: 51).³ His successor was William R. Tolbert, Jr., (1913–1980), who had been Tubman's Vice President for 19 years and became the 20th President of Liberia from 1971 until 1980, when he was assassinated in a *coup d'état*. An important event that contributed to the overthrow of his regime was the Rice Riot of early 1979, caused by a proposed price increase in the Liberian staple. Two thousand activists began what was planned as a peaceful protest march to the Executive Mansion. The march degenerated into a riot when the protesters were joined by large numbers of so-called back street boys – homeless, often drug-addicted youth living on the streets of downtown Monrovia. The widespread looting that resulted was ended by a contingent of troops called into Liberia by President Tolbert from neighbouring Guinea. This led to widespread disaffection within the Liberian security sector, which became the catalyst for the *coup d'état* that followed.

Under the regimes of Tubman, Tolbert and their predecessors stretching back to 1847, security policy was conceived and then implemented by a highly centralised authority based in the office of the president. It cannot be over-stated how the approach to national security under development in Liberia today, driven by democratic legislative initiatives and oversight, constitutes a radical departure from previous processes and policies. Yet challenges to democratic security sector governance remain, in particular those linked to Liberia's legacy of a patrimonial style of politics. This dictatorial style of governance was part of the source of later security sector problems in contemporary Liberia, such as corruption and physical threats to citizens.

The deeply entrenched networks of corruption and ethnic divisions were a central cause of the collapse of the security sector during the civil conflict and the resulting violence. Liberians have sought to move away from the past towards a clean, accountable form of governance that would place the rights of its citizens before the self-interest of its power-holders. However, dysfunctional

political economic structures remain deeply embedded at all societal levels, including in the government.

Nevertheless, hesitant, albeit slow, progress is being made in the implementation of the reform process. For instance, the International Contact Group in Liberia and the Government of Liberia imposed the Governance and Economic Management Assistance Program in September 2005. Liberia was the first state to comply with the Extractive Industries Transparency Initiative rules, and the first West African country to pass a Freedom of Information Act to support more transparent governance (Glencourse 2013). Recently the government signed up to the Open Government Partnership and committed itself to a series of ambitious goals to become more accountable. Many of these initiatives have come about thanks to President Sirleaf, but former president and governance activist Professor Amos Sawyer has criticised the logic as faulty that “once a ‘good’ person is elected President the (institutional) problems will then be addressed” (Sawyer 2002). Professor Sawyer maintains that the high and continued risk of misuse of power derives from a failure to address the flawed political institutions, and specifically the problem of the centralization of power in the presidency.

Internationally driven security sector reform

The internationally driven attempt to radically reform the security sector after the war’s end offered a chance to promote democratic security governance and prevent new destabilization. The UN family of organizations quickly identified security sector reform as a priority task. According to a report made to the United Nations Security Council, “in Liberia, one of the key reasons for the relapse into violence after the end of the first civil war and the 1997 presidential election was the lack of reform of the armed and security forces” (United Nations Security Council 2005a: par. 33; 2006: par. 6). Yet despite extensive efforts to reform the police and the military in Liberia, a comprehensive approach to SSR was the road not taken. This is one reason that SSR programmes in Liberia have been unprecedented in ambition, yet have enjoyed only mixed results (Malan 2008). Ten years after the signing of the CPA, and despite the support of many different actors from within the region and beyond, the vision of a legitimate, rights-based government is under serious threat with reform overly focused on the police and the armed forces, thus straying from the target of democratic governance for the sector as a whole.

SSR in Liberia began in 2004 with the first reform initiative of the Liberian National Police (LNP) to train 1800 new recruits in anticipation of the 2005 elections, which was introduced by the UN peacekeeping mission (United Nations Mission in Liberia – UNMIL) during the administration of the National Transitional Government of Liberia (United Nations Security Council 2005b: par. 30). Ten years of efforts to reform the LNP has resulted in an

increasingly professional police force. However, the observed abusive behaviour, a culture of impunity and the endemic corruption, as disclosed by a Human Rights Watch report in August 2013, continue to erode public confidence in the LNP (HRW 2013). There are thus presently deep doubts about the competence and integrity of the police among Liberian citizens (IRIN 2013). Until these doubts are laid to rest or removed, in particular the suspicion of police involvement in crime, the LNP will not enjoy the cooperation it needs in order to be effective, and state authority may be undermined by citizens' attempts to provide for their own safety from crime and violence, e.g. through vigilante groups.

In line with the terms of the CPA, reform of Liberia's armed forces was heavily supported by the United States. The US-led approach to army reform in Liberia relied at first on a sub-contracting arrangement with the American security corporation, DynCorp International. This agreement was superseded in 2010 by a cooperation agreement with the US military to train and equip the new Armed Forces of Liberia (AFL). The Economic Community of West African States countries, Ghana and Nigeria, also supported the AFL's general staff. As a result of these efforts, Liberia acquired a pool of nearly two thousand rigorously vetted and well-trained military personnel (ICG 2009: 23), only 5 per cent of whom consisted of former AFL soldiers, with no ethnic group accounting for more than 15 per cent by 2008 (Malan 2008: 83). The vetting process, in particular, was a noted success; two experts involved described it as the best they had witnessed anywhere in the world (ICG 2009: 12). Despite having laid a sound foundation for further development, in 2009 the UN Secretary-General nevertheless reported a "significant capacity deficit" in the AFL (United Nations Security Council 2009). By 2013, however, the newly formed Liberian army qualified to participate in their first peacekeeping operation in Mali, sending a fifty-four person strong company. Since then, this operation has been renewed and expanded. The development of a capable management and leadership core within the military is an organic process that must be nurtured by both the Liberian government and its international partners. Despite some early missteps, army reforms therefore appear to be showing some successes.

Addressing Liberia's Governance Gaps

Despite these limited successes in creating new policing and defence capacities, a comprehensive approach to SSR has not been implemented in Liberia. The CPA and the external intervention that has followed constitute a transition from war to a negative peace characterised by the absence of violence; it is negative because whilst something undesirable has stopped happening, the desired result of wider social justice and positive social well being has not been achieved (Galtung 1964: 1–4). In order to move forward, Liberians needed to agree on the key challenges facing the country and establish their

own priorities for reform. In response to this recognition a process for public consultation on national security was initiated, together with targeted support to the legislature in the area of security sector governance over the post-war period. This section describes the public hearings on national security and the legislative capacity building conducted for security sector oversight in 2005–6, which helped prepare the ground for revisiting Liberia's security sector legislation in the years that followed.

Public hearings on national security

In August 2005, and again in 2006, the Ministry of Justice of Liberia, in concert with UNMIL, conducted a national dialogue on the security sector (DCAF 2005). Such a broad-based and public consultation was unprecedented given Liberia's historical context of autocratic security sector governance. This novel step was based on the conviction that holding a dialogue on the needs and requirements of SSR would help broaden the constituency of actors working to develop a collective vision for security in Liberia. Stakeholders involved in the dialogue covered a broad range of national actors not historically involved in national security policy-making including the transitional legislature, the judiciary and civil society, as well as relevant ministries, organizations responsible for implementing reform and international actors, such as the United Nations. This hearing enabled a frank discussion among Liberians that identified challenges facing SSR in the country:⁴

- With respect to the security sector architecture at that time, the word used by some participants was “over-bloated”, referring to the multiplicity of state security institutions, their large number of staff and their overlapping mandates. Moreover, the calibre of the personnel was questioned and it was suggested that many security personnel had been recruited on the basis of patronage, not experience;
- Another challenge that was much discussed in the dialogue was the need for a security sector in which the mandate of each security institution is clear and in which each security institution is comprised of and reflects all Liberia's ethnic and religious groups. At the same time, each security organization should be comprised of suitably qualified and well-trained personnel who are recruited through a transparent process;
- A key shortcoming of Liberia's security institutions was identified as the gross abuse of human rights of Liberians, often with impunity, by security personnel through torture, arbitrary arrests and the use of official powers for private gain. This state of affairs was able to flourish due to the lack of effective oversight. This, in turn, was due to several factors, including excessive presidential powers and a lack of capable parliamentary oversight. The lack of adequate remuneration made a difficult security situation even

worse by forcing security personnel to make ends meet through petty corruption and the abuse of power;

- It was also noted during the dialogue that Liberia's security system needs to have the capacity to secure its borders and natural resource endowments, and also to be responsive to sub-regional security imperatives;
- Last but not least, Liberia was seen as needing a security sector that it can afford, albeit with initial international support.

In light of these problems, the National Dialogue pointed to the need for institutions that were law abiding and respectful of human rights. Constructive civil society input was to be encouraged. Constitutional reform was also discussed. It was felt that there was a pressing need for revision in two areas: (1) constitutional clarification of the roles of all statutory institutions to deal with the overlapping of security sector institutions and (2) addressing the possible abuse of power by the president who has the constitutional authority to appoint virtually all of the leaders of the security apparatus. The dialogue concluded by underlining that while the international community may be available and ready to assist in SSR, Liberians have the primary responsibility for reform of their own security sector, and for the post-conflict reconstruction process as a whole. This was an insight from the public dialogue that would turn out to be prescient, as the degree of local ownership of SSR would later be challenged by Liberian civil society and the legislature, particularly with regard to US support for defence reform.

Support for the legislature

Following the 2005 elections, it quickly became clear that the 52nd Legislature consisted of some 75 per cent freshmen (first time legislators). A consortium, that included the author, was established to support the capacity building of this legislature, especially the Committees on Security and Defence of both the upper and lower chambers. The consortium worked together with the African Security Sector Network, the Conflict Security and Development Group, the Center for Democracy and Development, and the Geneva Centre for Democratic Control of the Armed Forces, among others. This process attempted to offer holistic, needs-based support in the form of working sessions, research and experience sharing (Jaye 2009: 7).

Through this process, members of the different committees were brought face-to-face with legislators in Ghana and the UK and were exposed to the learning experiences of past legislators from other countries. Through these sessions, Liberian legislators obtained insights into the process of civilian democratic oversight and how to make the security sector more accountable. Critical areas covered during the sessions included the development of a united, but differentiated, security architecture that is mutually supportive in contrast

to the many overlapping functions of the existing structures. The appropriate separation of the roles and functions of the various agencies responsible for supporting the security sector was emphasised.

Exposing these freshman legislators to new ideas and giving them concrete guidance on how to fulfil their duties contributed to improving the legislative function, especially given the resource-poor environment where water, electricity and even paper were in short supply. There is a clear connection between these efforts to build the capacity of the freshmen legislators and subsequent changes to the security sector legislation. The 2008 National Defense Act, which these neophyte legislators produced, has proven to be a key pillar for security sector reform. This foundational piece of legislation also cleared the path for the 2011 National Security and Intelligence Act, which went further in establishing a rational basis for Liberia's various security institutions.

New National Defense Act

The main challenge to be addressed by the new National Defense Act of 2008 was to define the principle roles and responsibilities of the AFL. This also meant disentangling the overlapping mandates of Liberia's many security institutions. Defining the respective roles of the key sectors of the security system in Liberia was a difficult process. All of the major security institutions lacked a clear statement of their roles and responsibilities, including among others the AFL, LNP, the Liberian Seaport Police, the Police Quick Reaction Unit, the Special Security Service [now Executive Protection Service] and the Bureau of Immigration and Naturalization. This work had begun with the drafting of a national security strategy, which they only began to finalise in late November 2007 (United Nations Security Council 2007: par. 134).

The legislative process was completed and the new National Defense Act was passed in 2008. This Act superseded its predecessor from 1956 and envisaged a carefully vetted and well-trained professional force with the specific mandate of protecting Liberia's sovereignty. The 1956 legislation, in contrast, was based on out-dated US military legislation and mandated compulsory military service for all males and specialised training for officers. The number of soldiers was limited only by the ability of the government "to provide shelter, subsistence, uniform [sic], arms and ammunition and hospitalization". This model of military service contributed to building a huge force that was subsequently demobilised as part of the reform process, however, without appropriate care for the veterans, as explored further below.

In revising Liberia's approach to military training and personnel management, the new National Defense Act of 2008 also included provisions that Liberia should cooperate with the United States in the process of its security development but also draw on assistance from other international partners

both in Africa and elsewhere. This has so far enabled Liberia to gain support from countries such as Ghana, Nigeria and China in training middle and senior managers of the security sector. This reorientation is affecting all sectors of the security structure. Personnel at top- and mid-management levels have been selected and trained in these countries, introducing best practices into operational protocols. Thanks to these collaborative efforts, Liberia has accrued at least some benefits of South-South cooperation and experience sharing. These efforts to broaden the training of Liberian security personnel in other countries marks a radical new departure from an exclusive focus on US-methods and training in the context of the post-2003 SSR period, in particular, but also generally since the founding of the Republic.

According to the National Defense Act of 2008, the primary mission of the AFL is to defend the national sovereignty and territorial integrity of Liberia. Along with national defence, the remit of the AFL includes international peace-keeping and humanitarian support of the civil authority in the event of disasters. Section 2.3 e of the National Defense Act states that the duties of the AFL include support to the national law enforcement agencies when such support is requested and approved by the President. However, it is further stipulated that during peacetime the AFL shall not engage in law enforcement and that the AFL will intervene only as a last resort, when the threat exceeds the capability of law enforcement agencies to respond. In Section 2.5 of the Act it is stated that the AFL should perform its duties in a non-partisan manner. All of these prescriptions are in response to the difficult experience of the AFL during the civil conflict, when it became entangled in the war.

The National Defense Act of 2008 did not deal, however, with some additional problems arising from the recent history of the AFL. For instance, the failure of the lawsuit filed by over 200 retired AFL soldiers and the widows of deceased AFL soldiers suggests that there are on-going problems in Liberia between civilians and the military. The claim that the court rejected in November 2013 was that the Government of Liberia disbanded the AFL unconstitutionally and failed to provide retirement benefits (Parley 2013; Gblewala 2013). The ex-soldiers contended that instead of restructuring the AFL, as provided for by the CPA, the government had dissolved the army and done so without providing a retirement scheme for the former soldiers. Such controversies reflect some of the failings in Liberia's Disarmament, Demobilization and Reintegration process.

Despite its shortcomings, however, the National Defense Act of 2008 did succeed in providing a new legislative basis for the separation of law enforcement and national defence within a framework of democratic civilian control, rule of law and respect for human rights. Once a clear statement of the roles and responsibilities of the defence forces was established by law, producing the same degree of clarity for other security sector actors became a feasible goal. Achieving this clarity was the guiding purpose of the National Security Reform and Intelligence Act (NSRIA) that was passed in 2011.

The National Security Reform and Intelligence Act of 2011

The long awaited NSRIA was highly controversial because it entailed the closing down of a number of security sector institutions in order to organise domestic security provision across a smaller, more manageable number of service providers. The Act was submitted August 30, 2011 for approval by the president and was debated back and forth, resulting in two amendments. For example, the Ministry of National Security was abolished in the first version, but re-established by an amendment. Reducing the number of security institutions was seen by some as a way to reduce costs and complexity while dealing with the legacy of autocratic governance, whereby the interests of security institutions were played off one another to the benefit of the president. For others though, reducing the number of security institutions meant putting too much power in the hands of only a few key institutions, while overburdening new, weak institutions with a broad remit of duties, leaving the nation potentially unprepared to confront future threats. Many interests were put forward in the attempts to dissolve institutions deemed to have served the ends of divided political elites. Some concerns centred on varying understandings of these institutions. Several executive and legislative joint-working sessions took place to bridge the impasse. The NSRIA was finalised only in May 2013, although the Act refers to itself as “work in progress” seemingly owing to the many challenges and unresolved issues that still surround these questions (Liberia 2011).

The NSRIA of 2011 did indeed prove to be a work in progress. In 2013 several important amendments were made in order to revise the security architecture it had initially set up.⁵ Two new chapters were added to the original Act, re-establishing the Ministry of National Security (MNS) and reactivating the National Bureau of Investigations (NBI). Security institutions recognised under the most updated version of the National Security Reform and Intelligence Act as a part of the national security architecture include:

- The Liberia National Police;
- Bureau of Corrections and Rehabilitation (Ministry of Justice);
- Ministry of National Security;
- Bureau of Immigration and Naturalization;
- Drugs Enforcement Agency;
- Bureau of Customs and Excise;
- National Bureau of Investigation;
- National Fire Service;
- National Security Agency;
- Executive Protection Service
(formerly called the Special Security Service).

The MNS and the NBI regained some of their former duties and responsibilities that had earlier been reassigned to the LNP and the National Security Agency by the 2011 NSRIA. The MNS assumed the task of organizing and validating data provided to the Government of Liberia by different branches of the security sector and coordinating and sharing this information with relevant agencies, such as the National Security Agency. Cyber-crime and other high tech criminal activity are also part of the remit of the MNS along with the duty to advise the president on the activities of the other security agencies. The NBI investigates major crimes such as murder, arson, illegal entry into Liberia and the theft of government property. It is the NBI that maintains and updates records on known criminals and passes this information on to the LNP and other relevant agencies.

These amendments to the original 2011 National Security Reform and Intelligence Act bear testimony to the challenges faced in security and intelligence today. While the obligations of those entrusted with state secrets are stressed, other than the general oversight of the legislature, the president and the executive, there is no clear protection mechanism to prevent the MNS, the NBI or the National Security Agency from over-stepping their authority. This is because the role of the judiciary is not mentioned in the original NSRIA or its amendments. There is no independent avenue of appeal available, nor is there recourse for someone who feels himself wrongly suspected of crimes.

Thus, although civilian oversight is a cornerstone of the NSRIA, this call for oversight has not been fully translated into mechanisms that are adequate to this task (PBC 2012: par. 35). In a similar way, the actors governed by this Act do not possess the basic equipment needed to carry out their tasks and more advanced training is required. Without greater attention to civilian oversight, effective community outreach, reduction in the rates of corruption and adequate working tools, the current plans described in the NSRIA could be thwarted (PBC 2012: par. 35).

Progress and challenges in the Liberian legislature

The above discussion illustrates that the Liberian Legislature is a crucial actor in SSR that has come to play an unprecedented role in actively shaping Liberia's security sector governance during the transition to democracy. According to Thomas Jaye, effective security sector reform in Liberia requires strengthening legislative oversight in three areas: authority, ability and attitude (Jaye 2009, 9). From this perspective, the legislature still faces many issues that include: executive domination, lack of integrity among individual legislators and corruption.

A sound legal framework exists as a basis for legislative oversight even if the presidency is imbued with a great degree of constitutional power: Article 34 of the Liberian Constitution gives ample power to parliament to deal with all

security sector issues (Ebo 2005: 23). Furthermore, the way that the legislature operates provides space for the establishment of committees on security and defence, which could supervise the security sector through their power to hold hearings and summon witnesses. The process of selecting committee members has been broadened beyond appointments by the Speaker, thereby, making for more robust work and more openness in the legislature.

Efforts aimed at transparency, such as the Open Budget Initiative, have further extended legislative authority over security sector governance by making budget provisions for the military and other security institutions publically known. The opening of security budgets by the legislature to public scrutiny has the potential to improve public confidence, and more robust legislative oversight should further enhance these positive effects. One reported limitation of this system is the constant budget shortfall, which permits the executive to make many re-allocations without legislative approval. This is even more pronounced in situations dealing with emergencies and security threats.

However, authority is not the only variable for effective legislative oversight. Legislators must also enjoy the ability to make use of the powers at their disposal. The complexity and especially the secrecy of the security sector represent serious problems to oversight. Security officials can and do hide behind so-called national security interests in order to limit the role of legislators. Another challenge is turnover. By the time legislators develop some knowledge and expertise on defence, security and intelligence matters they find themselves moved to another committee or their tenure in the legislature will have ended. Finally, there is the problem of the generally low educational level of legislators.

Ability, secrecy and turnover are interrelated issues. Ability relates not only to educational attainment but also to personal integrity. Secrecy is a cultural variable in Liberia that can be negotiated and is open to compromise. Finally, in due course, turnover is likely to lessen as the electors gain confidence in their chosen representatives and return them to office in subsequent elections by voting on the basis of this gained confidence rather than following a 'vetted assessment' of all candidates. A key challenge for future elections will, therefore, be to improve the role and participation of the population in the process.

The final condition for effective oversight of the security sector is attitude. Historically, Liberia's legislature has usually yielded to the will of the executive. This is no longer the case. The relevant committees have been active in insisting that they provide input on security issues and do not hesitate to summon ministers to explain issues to them. Thus, the emerging role of the legislature should help to provide legitimacy for the state security apparatus, on the one hand, and empower the legislature vis-à-vis the executive, on the other hand.

Yet the problem of attitude is not only in the control of the legislature. The executive must also respect the role of legislators in ensuring democratic governance of the security sector, which has not always been the case in Liberia. Since independence, the will and commitment of the legislature to fulfil their

oversight role has been hampered by single party rule and the imperial style of the presidency. Due to these two factors, the legislature has historically yielded to the will of the executive and party loyalty has undermined the independence of the Senate and House of Representatives. This is changing. Even though the president is vested by the constitution with considerable power, the legislature has begun to use its legal authority to address issues that were previously rubber stamped by its predecessors.

Security sector reform in Liberia: the sustainability of change

Making public consultation more inclusive, establishing a new legislative basis for national security and strengthening legislative capacity constitute unprecedented changes in security sector governance in Liberia. They are, however, only the initial steps towards closing the gaps in the democratic governance of Liberia's security sector. These efforts to improve democratic governance took place within a wider context of internationally led efforts that dealt with the technical dimensions of reform but did not sufficiently address governance concerns. Increasing Liberian-owned efforts, such as reform of the legislature, may potentially offer transformative potential. This section considers the extent to which SSR in Liberia has the potential to be transformational in nature and how likely it is to be sustainable based on the SSR process to date.

Local ownership versus international intervention

There are a number of critical actors in the Liberian SSR process. Given that Liberia had become a failed state, the involvement of the international community was, and is, seen as necessary to improve the capacity of security institutions. As a result, Liberia has been obliged to undertake SSR with extensive external involvement. While a great deal of assistance was forthcoming, these support relationships have exclusively engaged the executive. Thus, with respect to local ownership and democratic participation, all local actors with the exception of the executive were marginalised in the SSR process, especially early in the process (Onoma 2014; Ebo 2008; Loden 2007).

The most egregious example of this marginalization was a relationship the US built with a private contractor to implement defence reforms on behalf of the US State Department. The company in question, DynCorp, refused to report to the Liberian parliament on the rebuilding of the AFL, citing contractual obligations to the US State Department. The contracting out of reform made it extremely difficult for the legislative body and civil society actors to exercise any kind of monitoring function, let alone provide genuine input into the process. The definition of the nature, content and character of Liberia's new

armed forces was, thus, decided without consultation with parliament or civil society, highlighting a serious lack of inclusion in the SSR process. Both government officials and civil society groups have voiced their concern about a lack of local ownership, and have called for a “Liberianisation” of the process (Anderson 2006: 4–5; Onoma 2014: 1).

Civil society should be a crucial actor in the new Liberian security sector, as emphasised in the national dialogue and the legislative development process that followed. Strengthening the role of civil society in public security oversight would also contribute to improving local ownership. In the past, civil society was confined to information sharing rather than consultation. This role needs to be expanded beyond the limited initiatives described above. Civil society was mentioned explicitly in Article VII (3) of the CPA section regarding the strengthening of civilian oversight and local participation in Liberia’s SSR. Broader governance processes gave them a limited platform for engagement. A number of civil society groups active in security related issues organised themselves into a coordinated Working Group on SSR. The SSR Working Group became much more active in reform by 2008. Community policing forums were designed to increase civil society and public input into policing, although this process went through a number of missteps before finally being re-launched in 2011 as a programme for Community Watch Teams.

Although the extent of civil society participation is much greater than at any time in Liberia’s past, these initiatives remain limited in their impact. This is because civil society was not incorporated into the Government of Liberia’s reform framework from the outset. The exclusion of civil society in Liberia’s SSR illustrates the common tendency to posit a tension between the principle of efficiency and the principles of legality, transparency and accountability (Bendix and Stanley 2008: 27). This lack of local inclusion seems to have contributed to the US decision to sever its relationship with DynCorp and take on direct responsibility for mentoring the AFL through Operation Onward Liberty, a five-year mission to assist in training the AFL. This cooperation arrangement specifically provided for a process of “Liberianisation” of leadership characterised by fast-track promotions and ultimately a Liberian Chief of Staff appointed in 2014, replacing a Nigerian general who had served the post in a caretaker role.

New oversight opportunities

Another important initiative after the enactment of the National Defense Act of 2008 was the Governance Reform Commission (GRC) made permanent in 2009 as simply the Governance Commission. The GRC was originally established under the CPA as a transitional body mandated to advise on issues of good governance. From this position, it played an important role in shaping early reforms, including leading part of the national dialogue on SSR since

2006, and was eventually mandated by the president to draft reform proposals.⁶ The President of Liberia has already tasked the Governance Reform Commission to provide advice and leadership on matters of national interest, including security, making this role permanent in 2009 (Liberia 2006). The GRC assessed the country's security sector and reviewed existing legislation. It concluded that the SSR process in Liberia was "taking place within very volatile, uncertain and fragile internal and external environments" (Jaye 2006). The centralization of power in the presidency, the lack of an independent judiciary and the past one-party rule represented significant challenges according to the GRC. The NSRIA of 2011 was an important step in helping to establish the kind of SSR called for by the GRC (Jaye 2009).

Other independent bodies created to support the effective functioning of SSR include: (1) the Liberia Anti-Corruption Commission established in August 2008 by an Act of the National Legislature with a broad mandate to implement appropriate measures and undertake programmes geared toward investigating, prosecuting and preventing acts of corruption, including educating the public about the ills of corruption and the benefits of its eradication (United Nations Security Council 2009: par. 2) and (2) the Independent National Commission on Human Rights, required by article XII of the CPA and established by the Truth and Reconciliation Commission to implement its recommendations (ICTJ 2015). Both these developments are promising and positive. However their long-term importance depends on how they are implemented, and to date they have enjoyed only mixed results.

Over the past decade, Liberia's security architecture has evolved from a many-headed monster full of duplications to a stream-lined sector with clearly defined boundaries of function and responsibility; this is in part thanks to some of the legislative capacity building efforts previously mentioned and the legal framework it subsequently has helped to develop. The legal framework for the security sector is almost complete with the passage in 2011 of the NSRIA and its amendments in 2013.

Future SSR work that awaits attention includes several pieces of legislation: a police act, reform of the drug enforcement agency, the National Defense Strategy and the Firearms Control Act. In addition, several legal topics also need attention: a clarification of the relationship between the security services and the political process in order to avoid the politicization of security and the process of appointments of top officials, whether political or non-political.

Police reform

In light of the damage to public confidence due to continuing police dysfunction, enacting a new police law is perhaps the most pressing of Liberia's immediate security priorities. Indeed, "Just because the guns have been silent for 10 years doesn't mean everything's OK here," said Thomas Nah of the

Center for Transparency and Accountability in Liberia (Stroehlein 2013). According to Nah, “Liberia is going nowhere as long as the police remain like this” (Stroehlein 2013). Although corruption is widespread in Liberian institutions, the abuses found within the LNP are especially egregious because, in the words of Cecil Griffiths, president of the Liberia Law Enforcement Association, it is “the face of the state.”⁷ Given the LNP’s capabilities and complexity, the question of oversight is critical (Gompert, Davis and Stearns Lawson 2009; Gompert et al. 2007).

An important recent initiative has been the establishment of the Professional Standards Division, the LNP’s internal monitoring unit. Since it began its work, LNP officers have been more inclined to report the abusive behaviour of other officers. However, Human Rights Watch and local bodies alike have urged the Government of Liberia and the LNP to go further to establish an independent civilian oversight board to field complains about acts of misconduct.

There is a clear need for full implementation of a new police law. There are a variety of modalities through which this need can be met. Although it would be challenging to enact, such a law could be part of an omnibus security bill. Another possibility would be to update the Act to amend the Executive Law with respect to the National Police Force of 1975 (Jaye 2008: 169). Among the provisions such an act would need to address itself are arrest and detention practices. Without an efficient, fair and transparent system of arrest, trial and incarceration, those accused of crimes might simply find themselves in jail without due process or, alternatively, might find their way right back onto the street without prosecution (Gompert et al: 57). This, unfortunately, is the reality in today’s Liberia. The LNP in this legislation should come under the authority and management oversight of the Ministry of Justice, and the ancillary police services should be consolidated into the LNP (Gompert et al: 77).

A comprehensive police law would complement the National Defense Act of 2008 with respect to the AFL, and give the LNP a sound legal footing on which to rebuild its reputation and fulfil its mission. A new police law is an essential piece of Liberia’s new national security architecture that remains missing and evidence of the crucial responsibilities Liberia’s legislature must still assume in regards to SSR.

Conclusion

The years of slow descent into crisis and the fourteen years of intermittent civil war that followed were devastating for Liberia and its people. The challenge of resurrecting a viable state security sector amidst the chaos that followed was daunting. Yet, within the ten short years since the CPA was signed, Liberia has rebuilt its military and established a new civilian police force built

upon a stronger technical foundation, with an improved capacity to secure the nation's population and its borders and even participate in international peace missions.

This internationally led effort to improve the effectiveness of Liberia's security sector, however, failed to ensure a more locally owned approach to reform. Liberia has been unable to reap the full benefit of improvements in the security sector because of the failure to match these gains with improvements in democratic accountability. As this chapter has shown, inconsistencies and the missing pieces in Liberia's legal framework for national security remain to be filled. Problems of executive dominance cut to the core of Liberia's national security architecture, preventing more effective security sector oversight by the legislature and other government actors. These dynamics facilitate old patterns of patronage-based elite politics, undermine good governance and contribute to corruption. Structural failings in security sector governance translate into ineffective service delivery, harming the population through petty corruption and abuse of power. Even though national-security policy-making has become more inclusive, civil society voices remain on the margins and Liberia's legislature and judiciary remain beholden to the executive. Failing a radical revision of Liberia's constitution, the executive will continue to enjoy more control over the security sector than the other two branches of government, and Liberia's democracy will suffer as a result.

Yet this long list of work still waiting to be done should be understood as a measure of how much progress has been made in Liberia's security sector, as well as a measure of what is yet to be achieved. The extent of progress in SSR needs to be understood against the scale of the task that presented itself. Ten years is too short a timeframe to transform security sector governance dynamics completely, yet in the past ten years much progress has been made. In particular, the new National Defence Act of 2008, together with the NSRIA of 2011, constitute a far-reaching revision of the legal basis for security provision, management and control in Liberia.

In terms of the transformative potential of governance-driven SSR, the *process* that led to these changes is perhaps the most significant aspect. More than the soundness of Liberia's new legislative framework, it is the fact that this new legal framework was enacted on the basis of a public policy dialogue that was unprecedented in Liberia for its inclusiveness and openness. It is equally important that these ideas were translated into legislation by newly elected legislators able to apply themselves to the task successfully despite such imposing capacity constraints. Moreover, it is also significant that this progress was made in spite of a general neglect towards improving democratic governance within externally led SSR programmes and in the face of many barriers to local ownership of the reform process. Liberia's experience thus symbolises the potential offered by targeted support to legislative processes, such as the parliamentary capacity-building for security sector legislators, as this process contributed to

empowering legislators to contribute to the process of improving security sector governance. It also shows the usefulness of an inclusive policy-making process, including opportunities for civil society participation and broader public dialogue. These examples suggest that a more open process can generate ideas for more responsive reform proposals, fostering political support and building consensus around potentially contentious issues, as well as improving public confidence in new legislative processes and the provision of public security.

Although the future is never assured, there are many reasons to be optimistic that Liberia is now heading in a new direction with its security sector, one that has begun to establish legislative supervision and civilian control. If so, this marks a remarkable departure from a long historical precedent of presidential dominance over security affairs. Liberia's experience so far suggests that the new assertiveness among Liberia's legislators should be supported and maintained, together with increased public dialogue and more inclusive policy-making.

Notes

- ¹ Comprehensive Peace Agreement Between the Government of Liberia and the Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL) and Political Parties Accra, August 18, 2003.
- ² On the historical roots of Liberia's crisis in democratic governance see (Jaye 2009).
- ³ As William Barnes (2013) argues, Tubman's three rules applied to public servants in general.
- ⁴ The following discussion draws on the Summary Report of the Liberia National Dialogue on Security Sector Reform (Geneva Centre for Democratic Control of Armed Forces 2005).
- ⁵ An Act to Repeal and Amend Sections 1, 2, and Section 6(IV) of the National Security and Intelligence Act of 2011 was passed on 23 May 2013 by the Honourable House of Representatives of the Republic of Liberia (Liberia 2013).
- ⁶ On the role of the GRC, see (Jaye 2009).
- ⁷ Private communication with author, Monrovia, 2014