

THE SECURITY SECTOR AND THE STATE IN NAMIBIA – AN EXPLORATION

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1. Introduction

It is now widely acknowledged in the literature that an understanding of the security sector provides important insights into the nature of the state. As social and political constructs, the state and the security sector are intimately connected, both at the operational and at the level of ideas and images. Also, significant dimensions of security, development and governance can be rendered more meaningful if the security sector itself is properly understood. Firmly embedded within the imagery and operations of the state, the security sector and its transformation, has recently emerged as an important area of research.

The growing scholarly interest in security sector transformation in different regions of the world has been preceded by a widening of the concept of security. Security is now understood as multidimensional and interdependent, with environmental, social, economic and human security dimensions, among others. While the broadening of the concept of security has validity - if only to emphasise that ultimately the referent for security should be people and not states, and to remind policy-makers of resource allocation priorities – there is also a danger that the vital issues associated with the more traditional security sector will escape scholarly attention. In this context, the security sector is defined as the defence, policing and intelligence functions of the state, and the management of ‘threats to and breaches of the peace’ through multilateral and bilateral processes.

1.2 The Security Sector defined

Traditionally, as mentioned above, the security sector has been defined to include the armed forces, police and intelligence services, together with their policy and administrative structures **1]**. More recently, some analysts have argued that the definition should be expanded to include “civil structures responsible for the management and oversight” of those institutions (Dominick & Oloisakin, 2001). Others would add “judicial and penal systems as well as civil society in general, which also plays a significant role in democratic control” (Chuter, 2002:3). A definition as broad as this touches on wider questions of governance in the broader sense. Chuter (2002:4), however, warns that it tends to blur important distinctions relating to legislative and executive functions of government. It is, however, theoretically more appealing and reminds us that, in many states structures outside formal government do have an influence on the security sector, and that these institutions (notably parliament and civil society actors) need themselves be critically examined (DFID, February 2000).

1] This has been adapted from a typology developed by the project to develop a Security Sector Transformation Handbook for Africa by the Centre for Democracy and Development (Lagos & London), the Centre for International

Policy (Washington) and the Institute for Security Studies (Pretoria). Acknowledgment is made to this research.

Following Chuter (2002:4) it may be useful to identify and functionally classify different organizations and individuals with an influence on the security sector. Such a functional typology could conceivably include:

- The *Executive* part of the security sector is concerned with the development, management and implementation of security policy and its political direction, and corresponds to the traditional definition of the security sector noted above. It is this definition that will mostly inform the analysis presented in this contribution on the security sector in Namibia.
- The *Consenting* part of the security sector comprises those structures whose approval is necessary, by law or custom, for policy to be put into practice. It includes parliament in general, its standing and select committees, as well as independent auditors and ombudsmen, and judges to the extent that they might be asked to pronounce on the legality or constitutionality of defence policy and security-related practices.
- The *Aspirational* part of the security sector consists of those who seek to have influence although they have no direct mandate. They include civil society agencies, NGOs, academics and journalists.

It is important to remember that the agendas of the above distinct categories will differ in every case. For example, the Executive component may be more interested in the domain of defence and security policy, the restructuring of armed forces and the management of human and financial resources. The Consenting part might be more interested in training with a view towards more effective parliamentary oversight and accountable financial resource management. Finally, the Aspirational element generally might need significant education in security related issues before it can play a part in the debates on them and expect to have influence.

In most Southern African countries, these components of the security sector have traditionally been closed to public debate and scrutiny for reasons to do with the ideological context of the Cold War, the protracted armed struggle against apartheid, the material interests that underpin the security sector and the state and the character of governance – especially in the context of one- and dominant party systems. Although some degree of transparency and accountability has been introduced over the past several years, progress has been uneven and, because of previous exclusion, the capacity of government officials, civil society, parliamentarians, the media and academics to engage with security issues remains limited. As a result, security sector policy and management issues are not widely discussed or understood, although they are key to transparent, democratic governance and sustainable development.

This deficiency is replicated at sub-regional level, with the result that the Southern African Development Community (SADC) has evolved forms of security co-operation often without involving parliaments or civil society, and in many cases, government officials or security practitioners themselves. This phenomenon of not involving a diversity of agencies stems largely from the liberation struggles that profoundly shaped the institutional memory and culture of the Southern African Co-

ordination Conference (SADCC) from 1980 to 1992 and subsequently of the Southern African Development Community since then. Security continues to be the preserve of the head of state or a select few in the executive arm of government, especially since the survival of state elites is often the greatest security concern.

In short, there is a need to enhance governance of the security sector in southern Africa, and this research forms part of a collaborative effort to critically explore the security sector in Namibia and investigate possible ways of enhancing security governance.

The concept 'governance' is taken to mean more than 'government' and implies a productive partnership between the legislature, the executive, the civil service (including the security sector itself), civil society and the academy in dealing with security issues. Loosely following the use of the term 'governance' by Weiss and Gordenker (1996:42), it is also taken to mean intergovernmental relations, norm and policy setting, policy execution, political/public oversight at both the national and multilateral (sub-national) levels.

2. Scope of the research

As indicated above, the focus of the research is on the security sector and its relationship to the Namibian state. While the principal focus of the research is on the military and police and the civil management and oversight bodies, the research also focuses on a wider range of actors such as civil society agencies and non-statutory security force organizations such as private security companies and vigilante groups.

For purposes of this chapter, the security forces and agencies include the Namibian Defence Force (NDF) with its army, navy and air force, the Namibian Police (NAMPOL), the Special Field Force (SFF) and the Namibia Central Intelligence Service (NIA). The *Justice organizations* include the Judiciary, The Ministry of Prisons and Correctional Services, criminal investigation and the Office of the Prosecutor-General. *Civil management and oversight bodies* include the Executive, consisting of the President, who is also the commander-in-chief of the armed forces, the Cabinet Committee on Defence and Security, the Ministry of Defence (MOD), the Ministry of Home Affairs and the Ministry of Finance. *Statutory bodies* include the Judiciary, Office of the Auditor-General and the Office of the Ombudsman. The bicameral Legislature and its Standing Committees on Security and on Public Accounts. In Namibia, the security sector is broadened to include private security enterprises, vigilante groups and *civil society bodies* such as The Namibia Policy Research Unit (NEPRU), the Institute for Public Policy Research (IPPR), the Legal Assistance Centre (LAC), National Society for Human Rights in Namibia (NAHR) and the Namibian Institute of Democracy (NID), the media, religious organizations and other NGOs, such as those on indigenous minorities, with an interest in security issues.

3. Conceptual framework

The Constitution of the Republic of Namibia formally constitutes the state as a liberal democracy, based on entrenched and inalienable Fundamental Rights and Freedoms (Chapter 3, Articles 5-25). The Preamble to the Constitution states that the people of Namibia, “have resolved to constitute the Republic of Namibia as a sovereign, secular, democratic and unitary State securing to all our citizens justice, liberty, equality and fraternity”.

In a liberal democracy, such as Namibia (Bauer, 1999 & 2001; Forrest, 2000, du Pisani, 2000), security governance may be conceptualized as involving three interactive domains of influence: the state, political society and civil society. As an ensemble of institutions and power relations, the state encompasses the security sector agencies such as the intelligence agency, military and the police, as well as a civilian Executive and Legislature. Political society comprises political parties, while civil society embodies the associational life of society, such as religious organizations, trade unions, professional bodies, business associations, non-governmental organizations (NGOs) and the like.

In a liberal democracy, there is ideally an open, dynamic and reciprocal relationship between the legislature, the executive, political parties and civil society agencies. It is, however, not merely the form and contours of power between the various actors which needs to be considered when assessing security sector governance. Various principles have been developed for the effective governance of security in democracies. Again these are ideal, and need to be contextualized, but there is general consensus that they include the following:

- The constitution should provide for clear lines of authority for security governance, specify roles and functions, and establish a constitutional framework consistent with international law.
- Security forces and agencies should be accountable to elected civil authorities (the executive and the legislature) and to independent agencies that provide oversight .
- The executive should exercise political control over the security forces/agencies and establish a clear policy framework for their activities in consultation with other actors through a transparent and consultative process.
- The legislature has an oversight role, passes laws and budgets, reviews policy and may review security activities.
- Accountability requires a significant degree of transparency although this may be limited in some respects.
- Each security department should be headed by an accounting officer such as a director-general or permanent secretary.
- A clear division of labour between the various security forces and agencies should be developed and maintained.
- Security and defence policy should be translated into integrated plans, strategies and budgets.

- Budgeting and procurement should be transparent, integrated with national budgeting processes and subject to scrutiny by parliament and civil society.
- Conditions should be created to allow civil society agencies to monitor and comment on security issues and where appropriate to assist in the delivery of security services.
- The security forces and agencies should be adequately trained and resourced to carry out their activities professionally and in a manner consistent with democratic norms and human rights (DFID, 2000:3).

Robert Griffith (1996:474), in an analysis of recent trends in democratization and civil-military relations in Namibia, South Africa and Mozambique, opines that in societies undergoing transition from authoritarian rule to a democratic system, democratic oversight of the military is the product of four primary factors. These include: the past pattern of civil-military relations, threats to the institutional interests of the armed forces, the danger of ethnic political fragmentation, and the effect of security sector reform on reconciliation, reconstruction and development. Griffiths concludes that post-conflict relations and democratic consolidation in these countries are largely shaped by the nature of the transition in general, and threats to the institutional interests of the armed forces, ethnic political fragmentation and the effect of security sector reform on reconciliation, reconstruction and development, in particular. He largely ignores past patterns of civil-military relations. Arguably, this is the weakest part of Griffith's useful comparative study.

The point of departure is that the same principles that “govern other components of the public sector are applicable to the security sector. Creating an enabling institutional framework that will promote transparency, accountability, discipline, and comprehensiveness is key to increasing the efficiency and effectiveness of resources allocated to the security sector” (DFID, 2000:3).

Collectively the principles introduced above, may be summarized as ‘democratic political control’. Chuter (2002:6) reminds us that it is important to distinguish between *civil* control of the armed forces, *civilian* control and *democratic* control. Civil control means that the military is part of the state (*civis*) apparatus, and functions as an executive arm of the state, like the police or the diplomatic service. While important for any state, it is particularly important for a democracy, since a government must be able to implement the programme and plank it has been elected on, and it requires executive oversight to do so. The government has the responsibility to ensure civil control.

Logically, civilian control implies control of the military by individual citizens (as distinct from the *civis*), which is not desirable. Moreover, civilian control (as opposed to the principle that a civilian government is ultimately in control of security issues) is a less useful concept. It is quite possible for civilians to control the security forces and agencies for undemocratic purposes. Indeed, many appalling human rights abuses have been perpetrated not by military governments, but by military forces under civilian control: Stalin, Hitler, Pol Pot, Liberia, Savimbi, Sierra Leone and the Hutu extremists in the Rwandan ethnic cleansing of 1994.

Democratic control implies that the military act in ways which the citizens as a whole approve of. This in turn means that the government which the people elect is the first

source of control, followed by parliament, followed possibly by the courts (to ensure the integrity of the constitution). The issue goes beyond that of narrow control, and means a complex inter-relationship between the state, political society and civil society, informed by the above principles.

This does not imply that the armed forces are excluded from politics. On the contrary, the armed forces cannot be precluded from the political arena given their organizational identity, autonomy and functional specialization. In a democracy, the military exercises political influence through regularized and accepted avenues (Welch, 1976:3-4). In a context of democratic control, the security sector is content to exercise its bureaucratic bargaining and accept advice, but the sector stands ready to work within overall policy direction from government (Danopoulos, 1992:3).

4. Aim of the research

This exploratory chapter attempts to describe the various actors in the security sector and the principles and practices on which they operate. Also, a preliminary attempt will be made to understand and assess the relationships between the various actors, their overall efficiency in governing the security sector and the principal challenges in the domain of governance. Overall security governance will be assessed against the principles and operational practices of a liberal democracy. At the same time, it should be borne in mind that Namibia's transition to democracy is a recent phenomenon. The country finds itself along a complex trajectory somewhere between its recent transition to democracy and consolidating its democracy. In this complex and fragile process, the country and its people have to come to terms the democratic deficits of the past. These take three principal forms: deficit at the level of values (normative deficits), deficits at the level of democratic practice and social deficits.

5. Research questions

The three principal research questions that inform the study are:

- What are the main security actors and how are their respective roles and functions in security governance defined?
- What systems and processes are in place for political direction, policy formulation, planning and budgeting?
- What principles underpin security governance, how effective is security governance in terms of democratic norms and what challenges exist?

The above principal research questions will be informed by further sub-questions of which the following are the more important: 2]

- To what extent are security sector organizations accountable to elected civil authorities, established oversight agencies and civil society?
- Do security organizations operate in accordance with international law and domestic constitutional law?
- Is information about security sector planning and budgeting widely available and is a comprehensive and disciplined approach to the management of sector resources followed?

- Is there a clear policy framework for security and has this been developed in a consultative and transparent way?
- Is there a clear division of roles and responsibilities between the security forces and the police?
- Do the civil authorities have the capacity to exercise democratic control over the operations and expenditure of the security sector organizations?
- Does civil society have the capacity to monitor the security forces and provide constructive input into the political and policy debates and does an environment exist to allow this?
- Are security force personnel adequately trained to discharge their duties in a professional and non-partisan manner?

2] This is partly based on principles that have been developed by the UK Department for International Development (DFID), see *Security Sector Reform and the Management of Military Expenditure*, Report of an International Symposium, February 15-27, 2000.

6. Typology of the Namibian Security Sector

Following the conceptual distinctions that inform this chapter, the Security Sector in Namibia, comprises the following agencies: the Ministry of Defence (MOD) that provides civil management and oversight over the Namibia Defence Force (NDF), the Ministry of Home Affairs under whose oversight the Namibian Police (NAMPOL), the National Forensic Science Institute (NFSI) and the Special Field Force (SFF) falls, the National Central Intelligence Service (NCIS) (located in the Office of the President), the Directorate of Civil Aviation (DCA), private security enterprises, political society (executive, legislature and judiciary) and civil society actors with an interest in security issues. Each of these, as well as the relations among them, will now be briefly discussed and analysed.

6.1 The Namibia Defence Force (NDF)

Chapter 15 of the *Constitution of Namibia* deals with the establishment of the Namibian Police and Defence forces. Both have been established by Act of Parliament. Article 118 (2) states that the President shall be the Commander-in-Chief of the Defence Force and shall have all the powers and exercise all the functions necessary for that purpose.

Article 119 sub-articles (1) and (2) provide for a Chief of the Defence Force appointed by the President in terms of Article 32(4) © (aa). This provision in the Constitution empowers the President, to appoint, on the recommendation of the Security Commission (SC), the Chief of the Defence Force. The functions and composition of the Security Commission are outlined in Chapter 14, Article 114 (1) and (2). The function of the Security Commission is to make recommendations to the President on the appointment of the Chief of the Defence Force, the Inspector-General of the Police and the Commissioner of Prisons and such other functions as may be assigned to it by an Act of Parliament.

The Security Commission (SC) consists of the Chairperson of the Public Service Commission, the Chief of the Defence Force, the Inspector-General of the Police, the

Commissioner of Prisons and two members of the National Assembly, appointed by the President on the recommendation of the National Assembly.

In terms of Article 120 of the Constitution, the President may remove the Chief of the Defence Force from office for good cause and in the public interest and in accordance with the provisions of any Act of Parliament which may prescribe procedures considered to be expedient for this purpose.

The **Ministry of Defence (MOD)** was established at independence in 1990 as a department of state responsible for providing the organizational and management structure for managing the Namibia Defence Force (NDF). The principal responsibilities of the MOD are to formulate and execute defence policies for the government, to house the central operational and administrative headquarters for the Namibia Defence Force (NDF) and procure its equipment.

The NDF was formally established by the *Defence Amendment Act* (Act 20 of 1990), which amended the *South African Defence Act* (Act 44 of 1957). *The Defence Amendment Act* defines the principal roles of the NDF as “to defend the territory and national interests of Namibia”, to provide assistance to civil authorities and the community when required, to undertake ceremonial functions and to assist the process of national reconciliation. The Act also provides for the deployment of the NDF within and without the national borders of the state.

Since independence, the *Defence Amendment Act* (Act 20 of 1990) (that itself amended the original *Defence Act* (Act 44 of 1957) has been amended once by the *Defence Amendment Act* (Act 8 of 2001) (that amended section 13 of Act 20 of 1990) – this section deals with the qualifications of members of the Defence Force, and inter alia provides for new members to undergo a prescribed medical examination. This particular amendment largely came about as a consequence of the impact of HIV/AIDS, also in the armed forces. It was later tested in court on the basis that it abridged some of the human rights provisions contained in the Constitution.

More recently, in 2002, a new *Defence Act* (Act 1 of 2002) was promulgated by Parliament. This Act supersedes all previous Acts and provides for the composition and organization of the Defence Force, qualifications for appointment and discharge of members of the Defence Force, administration and general powers of the President, the Minister and Officers, national defence, terrorism, armed conflict, internal disorder and other emergencies, discipline, legal procedure and offences and visiting forces.

Structure of the Ministry of Defence (MOD)

The Ministry is headed by a minister (supported by a Deputy Minister), the former, is a member of the Executive and the Legislature, and also chairs the *Defence Staff Council (DSC)*, the highest management committee of the MOD and key to the executive dimension and policy setting part of the armed forces. The minister is supported by the *Chief of the Defence Force* who is responsible for military effectiveness of the NDF and the *Permanent Secretary* (supported by a Deputy Permanent Secretary). The Permanent Secretary is responsible for the financial,

administrative and political aspects of defence policy and its implementation. The Permanent and Deputy Permanent Secretaries are civilian appointments by the President.

The Chief of the Defence Force is the most senior serving officer in the NDF and the principal military adviser to Government on strategic and military operations. He/she is the principal military adviser to the President in his capacity as Commander-in-Chief of the NDF and to the Minister of Defence. The *Defence Act* (Act 1 of 2002) vests “the executive command of the Defence Force, subject to this Act”, in the Chief of the Defence Force (Defence Act, 2002: 4 (1)). The Chief of the Defence Force is responsible for the organization, training, discipline and efficiency of the Defence Force and any auxiliary services, medical service and reserve force (Defence Act, 2002: 4 (2)). He/she is a member of the Defence Staff Council (DSC) and chairperson of the Military Steering Committee (MSC) (Shalli, 2001:11). Together with the DSC, the MSC is a constituent part of the executive of the MOD.

The Defence Act (Act 1 of 2002) also deals with the appointment and removal of the Chief of the Defence Force. In the case of his/her removal by the President, this can only happen subject to Article 120 of the Constitution and referral to the Security Commission for advice (Defence Act, 2002: 4 (a) & (5)).

The organizational design of the MOD provides for six functional directorates and two divisions. These are:

(1) Directorate Policy and Operations

This directorate is responsible for the formulation of operational plans, organization, deployment, planning of force level and structure, policy for support arms, management of day to day military co-operation, and combat support services of the defence force. The Chief of Staff: Operations who is also a member of the ministry’s Senior Management Committee (SMC), and of the Military Steering Committee (MSC) heads this directorate.

(2) Directorate Personnel

The primary function of this directorate is the management of human resources which includes selection, recruitment and career development of all employees in the ministry. The directorate is also responsible for all aspects of discipline and welfare, terms and conditions of service, remuneration, pensions and allowances, promotion and commissioning policy, leave and dress code. The directorate coordinates all aspects of training and human resource development of officers, non-commissioned officers and civilians. The directorate is headed by the *Chief of Staff: Personnel*, who is also a member of the SMC and the MSC.

(3) Directorate Logistics

The core responsibilities of this directorate are to ensure that the MOD is provided with all the combat supplies and materials it requires to carry out its functions in times of peace and war. In addition to providing supplies and equipment to the defence force, the directorate is responsible for the preparation of logistics policies

and plans and for their implementation, recording the acquisition of new materials and equipment in accordance with the defence procurement policy, and managing all vehicles and transport related issues cost effectively. The directorate is headed by the *Chief of Staff: Logistics*, who also sits on both the SMC and the MSC.

(4) Directorate Medical Services

The directorate is responsible for comprehensive health services and provision in the ministry. It formulates health policy, oversees medical supply services and ensures the general well-being of the force members. This directorate is headed by the *Chief of Staff: Medical Services*, who is also a member of both the SMC and the MSC (Republic of Namibia, Office of the Prime Minister, 2000: 383-4).

(5) Directorate Military Intelligence

The directorate is responsible for all issues relating to military and security intelligence, which include rendering security advice to the ministry, ensuring the physical security of all military installations, personnel and equipment; gathering and dissemination of security information; production and management of the ministry's communication policy; and managing relations with the media. The directorate is bound by directives issued by the minister and the permanent secretary. The directorate is headed by the *Chief of Staff: Military Intelligence*, who also sits on the SMC and MSC.

(6) Directorate Finance

This directorate manages, on behalf of the MOD, all financial resources. The directorate is responsible for the management and preparation of the defence budget, accounting and defence expenditure, internal financial control, and management of the financial and accounting system of the ministry.

The directorate is also responsible for compliance with treasury instructions and various statutes regarding financial management and is operating under the directives issued by the Ministry of Finance (MOF) and the Office of the Auditor General. The directorate is headed by the Director of Finance who is the financial advisor to the Permanent Secretary (PS) in his capacity as accounting officer of the MOD. The Director of Finance is the chairperson of the Financial Advisory Group and is a member of the SMC (Republic of Namibia, Office of the Prime Minister, 2000: 385).

In addition to these six directorates, the MOD houses two *divisions*. These are:

(1) Division Central Staff

This is an independent division, established to provide a mechanism for coordinating the work of the MOD on the instructions of the minister and the permanent secretary (PS). It is the principal agency for processing submissions from the directorates to the PS and the minister. The division is responsible for the coordination of all policy matters and preparation of all policy papers in

conjunction with heads of directorates for endorsement by the Defence Staff Council (DSC), chaired by the minister.

It is also responsible for the preparation of meetings and regional conferences on defence and security issues, production of agenda for such meetings and preparing minutes thereof, and protocol and policy on VIP visits. The division ensures the effective production and presentation of the development plans of the MOD, creates a positive public image for the MOD through the print and electronic media, implements plans and strategies for the development of information and communication systems, and oversees the ministry's internal auditing function. The division is headed by a deputy director who is also the secretary to the SMC.

(2) Division Procurement, Research and Development

Like the Division Central Staff, this division is also independent, established to coordinate capital procurement for the NDF, which includes the acquisition of all military equipment, ammunitions and materials, contract negotiations with suppliers, service providers, inspections and reviewing condition of sales as per purchase terms, attending military exhibitions to ensure effective sourcing, and liaising with manufacturers. The division also has responsibility for researching, designing and developing military materials for the NDF (Republic of Namibia, Office of the Prime Minister, 2000: 385).

The Namibia Defence Force (NDF), by Act of Parliament (Act 20 of 1990 as amended), has been established to ensure the sovereignty and territorial integrity of the state by guarding against external aggression, both conventional and unconventional; prevent violation of the country's territorial integrity, and provide assistance to civil authorities in guarding and protecting government buildings and key installations as provided for in the Defence Act (Act 20 of 1990). The NDF consists of the Namibian Army, the Namibian Air Force, and the Namibian Navy (Defence Act, 2002: 2 (a-c)).

The Namibian Army

At independence in March 1990, Namibia did not have a national army. The NDF was created out of former demobilized elements of the People's Liberation Army of Namibia (PLAN), the armed formation of the South West African People's Organisation of Namibia (SWAPO), the South West Africa Territorial Force (SWATF) and elements from the former special police unit, Koevoet (Crowbar). SWATF and Koevoet were created by South Africa, the former colonizer (Coletta, et al. 1996a & b; Nathan, 1990; Lamb, 1988 & 2000; Preston, R, March 1993).

The principal roles of the army are provided for in the *Defence Act* (Act 1 of 2002: 5 (1-5) and the earlier *Defence Policy* as approved by the National Assembly in March 1992. These include: to ensure the maintenance of the sovereignty and territorial integrity of the country (employed in defence of Namibia); on service in the prevention or suppression of terrorism; on service in the preservation or suppression of internal disorder in Namibia; on service in the preservation of life, health and property; on service in the maintenance of essential services; on such other service as may be determined by the President; and "while employed as

contemplated in paragraph (a), be used in those police functions mentioned in section 13 of the Police Act, as may be prescribed”.

At this point, it is important to point out that the roles assigned to the NDF under the Defence Act (Act 1 of 2002), significantly broaden the functions and scope of operations of the NDF. For example, the Act makes explicit mention of terrorism, the maintenance of essential services, and the deployment of members of the NDF in internal policing and crime prevention. This last provision, as will be shown later, blurs the distinction between civic and military functions and empowers the President to deploy the NDF in a policing role. In retrospect, it seems as if the events of September, 11 2001 and their aftermath, as well as the issue of Caprivi (August 1999), and that of Kavango (1998-2001) and Namibia’s military involvement in the conflict in the Democratic Republic of the Congo (DRC), all played their part in shaping the Defence Act (Act 1 of 2002).

The Namibian Air Force

The Namibian Air Force operates in support of the army and the Namibian Navy. This part of the NDF performs the functions of surveillance, transportation of supplies and equipment, and training of personnel. It also renders support to communities in the event of human or natural disasters (Republic of Namibia, Office of the Prime Minister, 2000: 386).

The Namibian Navy

The Namibian Navy is the most recent addition to the NDF. The Navy was primarily established for maritime protection, for safeguarding the rich marine resources along the extended coastline of over 1,500 kilometers and for coastal surveillance. Brazil is primarily responsible for providing naval training. The renovation of the naval base at Walvis Bay is currently one of six prioritized capital projects listed in The Second National Development Plan (NDP2, Chapter 32: 551-556).

At the time of writing, the overall staff complement of the MOD for the NDF in 2003 comprised of 17 441 positions, of which only 15 834 were filled. This compares closely with the Namibian Police Force that was allocated almost the same number of positions in its establishment (17 034) of which only 11 656 were filled (State Revenue Fund, 2003: 18). In 1998 these figures were almost half of what they are now. The country’s military engagement in the DRC in the period 1998-2002, the abortive attempt to secede the Caprivi Region from the rest of Namibia in August 1999, post 11 September 2001 and the increase in crime inside the country, all account for a significant increase in budget allocations to the security sector. Table 1 below summarizes public sector expenditure on the Security Sector over the period 1990 to 2003.

From the above brief exposition of the organizational structure of the MOD, it is clear that the six directorates and the two divisions have relatively clear divisions of labour. The *Directorate Policy and Operations* is tasked with the formulation of operational plans in the domains of organizational design, deployment and planning. The *Directorate of Personnel* deals with all aspects related to human

resource development, promotion and conditions of service. On its part, the *Directorate of Logistics* produces logistical plans and has oversight over their implementation. This includes procurement in accordance with the Defence Procurement Policy and other relevant planning documents. The *Directorate Medical Services* is responsible for health services, including communicable diseases such as HIV/AIDS and Tuberculosis. The *Directorate Military Intelligence* has as its remit the gathering and dissemination of military and security (intelligence) information and the safeguarding of key strategic installations. It also plays a role in media liaison. Finally, the *Directorate of Finance* is among its other functions, responsible for the budget of the NDF. All of the directorates are represented on the *Senior Management Committee (SMC)* and the *Military Steering Committee (MSC)*.

The two divisions, for *Central Staff* and for *Procurement, Research and Development*, too, have designated functions. The first, the Division for Central Staff, prepares policy briefs for endorsement by the Defence Staff Council (DSC). The DSC is chaired by the Minister of Defence. This division is also responsible for policy coordination. The second, the Division for Procurement, Research and Development, coordinates capital procurement for the NDF for various purposes such as research and development and weapons procurement.

The MOD, in its attempts to prepare and equip the NDF to meet the challenges of the new millennium, purchased the Windhoecker Maschinen Fabrik (WMF), a company which manufactures mine protected multipurpose infantry fighting vehicles and other trailer related vehicles. Since then, contracts for these products have been secured in other SADC member states.

More recently, a company owned by the MOD with a Board comprised of senior uniformed and civilian officials in the security sector has emerged as an important agency, particularly in the domain of procurement. The investment portfolio of the August 26th Company includes ownership of a diamond mining concession in the Democratic Republic of the Congo (DRC) as a compensation for the military and financial contribution that Namibia has made to save the regime of former president Laurent Kabila at a critical moment.

Table 1. Public Sector Expenditure on the Security Sector 3]

Year	Total Public Sector Expenditure	Allocation to Ministry of Defence		Allocation to State Security Agency		Allocation to Special Field Force		Allocation to the Security Sector GDP
	In N\$ Million	In N\$ Million	As % of National Budget	In N\$ Million	As % of National Budget	In N\$ Million	As % of National Budget	%
1990	2,175,7	119	5.5	0	0	0	0	1.9
1991	2,897,5	188	6.5	0	0	15,4	0.5	2.8
1992	3,382,0	190	5.6	0	0	17,9	0.5	2.5
1993	3,386,3	180	5.3	0	0	14,6	0.4	2.0
1994	3,738,5	214	5.7	17,6	0.5	10,9	0.3	2.0
1995	4,380,0	275	6.3	19,5	0.5	18,0	0.4	2.4
1996	5 325,1	382	7.2	17,5	0.3	28,3	0.5	2.8
1997	5,778,3	414	7.2	25,9	0.5	48,2	0.8	2.8
1998	6,446,2	521	8.1	28,7	0.5	80,1	1.3	3.3
1999	8,009,3	789	9.9	22,1	0.3	150,0	1.9	4.5
2000	8,761,9	785	9.0	41,2	0.5	219,6	2.5	4.2
2001	10,492,0	905	8.6	38,6	0.4	233,0	2.2	4.3
2002	11,477,5	935	8.2	41,2	0.4	267	2.3	4.0
2003	12,256,7	879	7.2	46.6	0.4	193,8	1.6	3.2

Compiled on the basis of information derived from the database of the Institute for Public Policy Research (IRRP) <http://www.ippr.org.na/database.htm> which are based on the official budget documents (both main and additional) of the Government of the Republic of Namibia.

Democratic/political control

As a citizen-based liberal democracy (Erasmus, 2002: 5-26), Namibia broadly conforms to the liberal democratic model of security sector governance. Since the state itself is both historically and socially constructed, Lamb (1998: 14-23) identifies three “traditions of civil supremacy” that shaped the nature of security sector governance in Namibia. These are: the colonial legacy, “the revolutionary/insurgent” tradition and the democratic tradition.

On his analysis, the democratic tradition has become preeminent in the post-independence period, although the residue from the two other traditions can also be found (Lamb, 2000:100).

The politics of national reconciliation, the design of the transition to independence in 1990, especially the security provisions of the transition, the involvement of the British Army Military Advisory Training Team (BMATT) shortly after independence, as well as the provisions contained in the Constitution all conspired to ensure that Namibia broadly mirrors a model of democratic control of the armed forces (Nathan, 1990).

The principles of democratic control of the security sector derive their legal basis from sub-article 1.2 of the Constitution, which recognizes the sovereignty of the people as the foundation for state power. This, together with other constitutional provisions, such as those under Articles 27, 32, 40, 44, 63, 75 and 118, provide for effective subordination of the armed forces to civilian political control, by entrusting political office bearers with overall policy making responsibility, including those relating to defence and foreign policies.

The Defence Act (Act 1 of 2002), too, contains provisions that limit the direct involvement of the NDF in political society and provides for a civilian led Ministry of Defence, and a NDF composed of professional and non-partisan members.

Democratic governance of the security sector is somewhat diluted by the proclivity of executive dominance in the National Assembly. The Executive, through the President, Prime Minister (as leader of government business in the Legislature) and the *Cabinet Committee on Defence and Security* (CCDS) are arguably more important for policy coordination and democratic control than legislative oversight. The CCDS, for example, coordinates the activities of the Namibia Central Intelligence Service (NCIS), determines policy in respect of the deployment and tasking of the NDF, the Namibian Police (NAMPOL) and other security agencies (such as the Directorate of Civil Aviation (DCA), and deals with the higher management of crises inside and outside of the country.

There is also explicit provision in the *Defence Act* (Act 1 of 2002: 5 (b)) for the President to engage the Defence Force on such service as he/she may determine. The Defence Act (2002: 32 (1-7)) also provides for service outside Namibia. Given the importance of this provision, as well as the procedures stipulated in the Act, for the democratic governance of the armed forces, a brief elaboration is necessary.

Article 32 (1) of the Act provides for any member of the Defence Force to perform service at any place outside Namibia whenever it is necessary –

- (a) “to combat, prevent or suppress any attack or act of aggression which is directed at Namibia in any manner by any armed force or group of persons, or any threat of such attack or act of aggression; or
- (b) to prevent the recurrence of any such attack or act of aggression or any threat of such attack or act of aggression.
- (3) The President may, with the concurrence of the Cabinet, deploy members of the Defence Force outside Namibia –

- (a) in compliance with a resolution of the Security Council of the United Nations or the African Union or the Southern African Development Community; or
- (b) in the execution of an obligation arising from a bilateral or multilateral agreement to which Namibia is a party, for the purpose of maintaining, bringing about or restoring peace, security and stability in a country other than Namibia.

The President must as soon as possible, but not later than 30 days after a deployment was ordered under subsection (2), inform the National Assembly of the deployment.

- (4) If a deployment contemplated in subsection (2) is ordered at a time when the National Assembly is not in session, the President must forthwith summon the National Assembly to meet as soon as possible, but not later than 30 days after the deployment was ordered.
- (5) Upon being informed in terms of subsection (3) of a deployment referred to in that subsection, the National Assembly may by resolution, proposed by at least one third of all the members of the National Assembly and passed by a two-thirds majority of all the members of the National Assembly, disapprove of the President's decision to deploy members of the Defence Force.
- (6) In the event of a disapproval under subsection (5), the President is obliged to withdraw the members of the Defence Force not later than 30 days from the date of such disapproval.
- (7) If a resolution contemplated in subsection (5) is not proposed or carried, the deployment in question is deemed to have been approved by the National Assembly".

From the above legal requirements, as well as the associated procedures, it is clear that the President has extensive executive powers and considerable political latitude as commander-in-chief of the Namibia Defence Force (NDF). The Defence Act (2002) privileges the Executive over the Legislature when it comes to democratic oversight and control. Notwithstanding the provisions contained in section 32 (subsections 3-7), the Legislature is very much the minor partner in the process. Considering that roughly 60 percent of the members of the Legislature are from the Executive, and that the President and the Cabinet Committee on Defence and Security (CCDS), are primary in the provision of executive oversight, legislative oversight is effectively secondary to executive oversight. Also, accountability and transparency, while provided for under the Defence Act (2002), are being diluted by executive control.

One of the clearest recent illustrations of the primacy of the Cabinet Committee on Defence and Security (CCDS) over legislative oversight came from the engagement of the CCDS (in 1998) in dealing with the ex-combatant issue. Following public demonstrations by ex-PLAN fighters, demanding to be employed by the government, the CCDS set up a Technical Committee of senior officials in the public service to address the problem. The latter committee commenced with the registration of all ex-combatants in all thirteen regions of the country. The ex-combatants were properly classified and the registration exercise culminated in recommendations to employ the ex-combatants. These were approved by Cabinet in December 1989. The outcome of all of this, was that a total of 9 095 ex-combatants were placed in the public service, with the Namibian Police(NAMPOL) and the NDF, absorbing the bulk of them (2 820 and 2 175, respectively) (Office of the Prime Minister, 2000:31). 3]

3] The Technical Committee registered a total of 13 934 ex-combatants in 3 categories: Category A (7 595), Category B (4 359) and SWATF/Koevoet (1 980).

The two select parliamentary committees on Security and Public Accounts, however, provide for a semblance of legislative oversight over the security sector. Legislative oversight is also embedded in the provision that the Legislature passes laws and budgets and reviews policy. The National Assembly can endorse the existence of a state of Emergency or National Defence (Article 32 (f)) and ratifies accession to international security agreements. The Constitution of Namibia, however, does not contain a provision that the military can only be deployed inside and outside the borders of the state on a clear mandate from the Legislature. The practice is that deployment of the NDF, while provided for in the *Defence Act (Act 1 of 2002)* is an executive privilege; often confined to a few members of the executive, notably the Cabinet Committee on Defence and Security (CCDS). Parliament, however, does debate defence and security related issues, while the opposition parties field questions to the responsible minister or a person designated by him/her. For example, there was a lively debate on the floor of the National Assembly following Namibia's recent military engagement in the Democratic Republic of the Congo (DRC).

The policy and legal frameworks that govern the respective functions and responsibilities of the NDF and the Namibian Police provide for fairly clear divisions of labour between them, except for the provisions contained in the Defence Act (section 5, subsection (b) and subsection (4) (a-c) and subsection (5)). These important provisions enable members of the Defence Force to be employed on police functions with such powers and duties as are by law conferred or imposed on a member of the Police Force in terms of section 13 of the Police Act (1990).

Security and defence policy does translate into integrated plans, strategies and budgets. These are reflected in national development plans and public sector investment programmes (See Second National Development Plan [NDP 2], 2002, Chapter 32, pp.554-6). Procurement Policy and actual procurement itself, however, are, less transparent. In these respects, accountability is somewhat limited.

One of the most interesting dimensions of oversight was provided by the active involvement of the National Planning Committee (NPC) – a body that falls under the Office of the President – when Cabinet decided to transfer the responsibility from the Committee of Deputy Ministers to the NPC in respect of the socio-economic reintegration of ex-combatants. Shortly after, a company, the Socio-economic Integration Programme for Ex-Combatants (SIPE programme), was established for this purpose. At the same time, the NPC was given the mandate, again by Cabinet, for providing financial assistance to war orphans whose parents died during the liberation struggle between 26 August 1966 and 18 June 1989. By the end of 2001, some 1 134 orphans were beneficiaries of the SIPE programme (Office of the Prime Minister, 2000: 30).

Finally, Namibia is a signatory to various international agreements and protocols. These include, among others, a bilateral agreement between Namibia and Brazil on maritime cooperation (1994); a protocol between Namibia and China on the provision of military assistance (1995); a Memorandum of Cooperation between the United

States of America and Namibia on the removal of landmines and other unexplored ordinances (1995); Agreement between Namibia and Russia on military matters cooperation (1997); the Non-Proliferation Treaty (1996); the Treaty on an African Nuclear Weapon-Free Zone (Pelindaba Treaty) and the Ban on Landmines (1999). Namibia also plays an active part in the affairs of the Southern African Development Community (SADC), notably in its Inter-State Defence and Security Committee (ISDSC), and the newly-restructured Organ on Politics, Defence and Security (OPDS).

6.2 The Namibian Police (NAMPOL)

The Namibian Police (NAMPOL), established by an Act of Parliament (Act 19 of 1990), falls under the Ministry of Home Affairs with a minister and deputy minister. The Police Act (Act 19 of 1990) provides for the establishment, organization, administration, and powers and duties of NAMPOL. It prescribes procedures to protect the internal security of Namibia and to maintain law and order. It also regulates the appointment, promotion, discipline and discharge of members of the Namibian Police Force. It replaced the *Police Act 7 of 1958*. This Act was substantially amended by Act 3/1999. Particularly notable is the amendment of section 14, which substantially broadens police powers of search and seizure. Section 4 of the Act was amended by Act 5/2001 (regarding standards of physical and mental fitness). The appointment of the first Inspector-General of Police (and Commissioner of Prisons), was done by the President in terms of Proclamation 8/1990 (GG 46). Subsequently, the appointment of the Inspector-General of Police was provided for in Proclamation 35/1997 (GG 1765).

Like the NDF, the Namibian Police Force (NAMPOL), was forged as an integral component of the founding of the Namibian State. It subsequently, again like the NDF, became one of the first fruits of national reconciliation, with existing appointments in the former South West African Police (SWAPOL) at independence, being protected under Article 141 of the Constitution of Namibia.

The Namibian Police Force (NAMPOL) is headed by an Inspector-General, and comprises of commissioned officers and non-commissioned officers who are appointed under the Police Act (as amended) and various other regulations. The Inspector-General has two deputies, one responsible for administration and the other for operations. There are six functional *divisions* which have responsibility for the following:

1. Human Resources.
2. Finance and Logistics.
3. Inspectorate.
4. Complaints and Discipline.
5. Crime Investigation Department.
6. Special Field Force.

Each of these divisions fall under a commissioner, who are deputized by deputy commissioners. Each of the six divisions have sub-units or offices under them. For example, in the case of the Khomas and Oshana regions, officers of the rank of commissioners command the Namibian Police Force (NAMPOL), while all the other regions are either under the command of deputy commissioners and chief inspectors, respectively.

The policy frame of NAMPOL provides for both pro-active and reactive policing, with a strong emphasis on community policing. Most recently, after much talk, the City of Windhoek, established its own city police force that is meant to complement the efforts of NAMPOL in crime prevention and the maintenance of law and order. As pointed out earlier, there are also explicit provisions in the Defence Act (Act 1 of 2002), for members of the NDF to be deployed in a policing capacity (for example in the event of crime prevention, proactive policing and the more effective control of money laundering and trans-national crime syndication).

6.2.1 Special Field Force (SFF)

The Special Field Force (SFF) is one of the six divisions of NAMPOL. The SFF was established just prior to the 1999 National and Presidential Elections. It was formed as one of the employment strategies of government in reaction to sustained public demonstrations by former demobilized combatants. The primary responsibilities of the SFF include, crime prevention, law and order, specifically the suppression of illegal civil disobedience, and border protection. The SFF has been deployed in the Northeastern regions of Kavango and Caprivi in the period 1989-2002. In the case of Kavango, the SFF assisted the NDF in operations against UNITA elements from neighbouring Angola. In the Caprivi Region, the SFF played a supportive role to the NDF in defeating elements of the Caprivi Liberation Army (CLA) in their unsuccessful attempts to create an independent Caprivi state.

Composed of former elements of PLAN, the SFF has drawn fire for its lack of training and professionalism. If the reports of the Namibia Society for Human Rights (NSHR) are to be believed, the SFF has also been implicated in alleged human rights violations.

From the perspective of democratic political control, the SFF may detract somewhat from some of the principles that are now widely regarded as useful and important for effective security sector governance. For example, although the SFF is one of the six divisions of the Namibian Police, lines of authority and accountability are not always clear. While executive oversight exists, legislative and civil society oversight of the SFF is less clear and arguably weaker. Consistent reports of ill-discipline, inadequate training and suspect professionalism, too, could become grounds for further concern. The deployment of members of the SFF in the Kavango Region in the period 1999-2001/2, suggests room for improvement, especially in the domains of discipline and professionalism. It is also not clear how the SFF fits into the policy of community policing, particularly since it seems more 'militarized' (for example in virtue of its uniform) than the other elements of the Namibian Police.

6.2.2 National Forensic Science Institute (NFSI)

The National Forensic Science Institute (NFSI) is a semi-autonomous body under the supervision of the Ministry of Home Affairs that also reports directly to the Ministry of Justice. The mandate of the NFSI includes the rendering of scientific opinions in respect of certain crimes. Previously forensic science expertise resided in South Africa. The NFSI provides the entire spectrum of forensic services required in Namibia. This includes ballistics and human genetics (DNA) analysis. The NFSI recently gained accreditation under the benchmark International Standard Organisation (ISO).

In its work, the NFSI deals with cases such as drunken driving, rape, counterfeit money, culpable homicide, arson and attempted murders. Given the general increase in crime, also trans-national crime, the NFSI has become a national asset with a growing demand for its services.

6.3 Namibia Central Intelligence Service (NCIS)

The Namibia Central Intelligence Service Act (Act No. 10 of 1997) replaces the former South African National Intelligence Act (Act No. 19 of 1987) by establishing a Namibia Central Intelligence Service (NCIS) under a Director-General. The Act came into force on 5 June 1998 (Proclamation 12/1998, Government Gazette 2062). Regulations pertaining to the NCIS are contained in GN 118/1998 (Government Gazette 1876). The Director-General of the NCIS was appointed in Proclamation 14/1999 (Government Gazette 2062).

Section 3 of the Namibia Central Intelligence Service Act, (Act 10 of 1997) deals with the composition of the NCIS in terms of the Namibian Constitution. Under these provisions, the NCIS consists of – a Director-General appointed in terms of Article 32 (3) (i) (ee) of the Constitution by the President on such terms and conditions as he/she may determine; a Director appointed in terms of section 5 (1) of the Public Service Act (Act 13 of 1995) after consultation with the President; and such other persons appointed in terms of section 8 (1) of the Namibia Central Intelligence Service Act (Act 10 of 1997).

The general powers of the President are subject to the provisions of the Constitution, in particular Article 27 (2) thereof, and also subject to the provisions of the Namibia Central Intelligence Service Act (Act 10 of 1997) itself. The powers, duties and functions of the NCIS are provided for in section 5 (1) and subsections (a) to (f) of the Act. Subsection (2) (a) to (c) deals with the limitations of such powers, duties and functions and their relationship to other agencies with security functions of the State.

The powers, duties and functions of the NCIS include:

- (1) to investigate, gather, evaluate, correlate, interpret and retain information, whether inside or outside Namibia, for the purposes of –
 - (i) detecting and identifying any threat or potential threat to the security of Namibia;

- (ii) advising the President and the Government on any threat or potential threat to the security of Namibia;
- (iii) assisting the Namibian Police Force by gathering intelligence to be used in the detection and prevention of such serious offences as may be determined by the Director-General after consultations with the Inspector-General of Police; and
- (iv) taking steps to protect the security interests of Namibia whether political, military or economic;

(2) gather ministerial intelligence at the request of any interested office, ministry or agency, and without delay to evaluate and transmit as appropriate to that office, ministry or agency such intelligence and any other intelligence at the disposal of the Service and which constitutes ministerial intelligence;

(3) regulate, in co-operation with any office, ministry or agency entrusted with any aspect of the maintenance of the security of Namibia, the flow of security intelligence and the coordination between the Service and that or any other office, ministry or agency of functions relating to such intelligence;

(4) assist with the carrying out of security vetting investigations for the security clearance of persons who hold or may hold vettable posts in offices, ministries and agencies or who have or may have access to any sensitive or classified information;

(5) make recommendations to the President in connection with-

- (i) policies concerning security intelligence;
- (ii) security intelligence priorities; and
- (iii) security measures in offices, ministries and agencies; and

(6) perform such other duties and functions as may from time to time be determined by the President as being in the national interest.

Subsection 2 (a) – (c) of the Namibia Central Intelligence Service Act (Act 10 of 1997), states that the provisions stated under subsection (1) shall not be construed as depriving or derogating from any power, duty or function conferred upon or entrusted to any person or authority other than the NCIS by or under any other law; limiting the functions of an intelligence capability connected to any office, ministry or agency in respect of any function relating to ministerial intelligence; and depriving or derogating from any duty or function or a body or committee instituted by the President.

The powers, duties and functions of the Director-General are outlined in section 6 (a) to (f) and subsection (2) (a) (i) and (ii) and 3 of the Act. The most important of these are: to act as principal advisor to the President and the Government on matters relating to national security and intelligence; report to the President or to the Cabinet, as the case may be, on threats and potential threats to the security of Namibia; in consultation with the President ensure that a good relationship is established and maintained between the NCIS and every office, ministry and agency, and any institution approved by the President; take all reasonable steps to ensure that the actions of the NCIS are limited to what is necessary for the proper performance of its

functions in terms of this Act, and as far as is “reasonably practicable take steps to ensure that national security intelligence, intelligence collection methods, sources of information and the identity of staff members are protected from unauthorized disclosure”(Section 6 (f)).

Subject to the provisions of the Namibia Central Intelligence Service Act (Act 10 of 1979), the Director-General may, on the recommendation of the *Means Committee*, and with the prior written approval of the President and of the Treasury, acquire or hire land or premises which may be necessary for the functioning of the NCIS. Subject to written approval of the President and the Treasury, the Director-General, may also sell, let or dispose of any land or premises inside or outside of Namibia.

The *Means Committee* is chaired by the Director and comprises of the Permanent Committee: Finance or any other person designated by him/her.

The Act (under section 6, subsection 3) requires that the Director-General shall annually, not later than 31 July of each year, submit to the President a report on the activities of the NCIS over the period of 12 months preceding 31 March of that year and shall furnish such other information relating to the activities of the NCIS as the President may require.

The Act also provides for the powers, duties and functions of the Director, who in terms of the Act (section 7), acts as the administrative head of the NCIS, subject to the oversight and control of the Director-General, to whom he/she is accountable.

The Director-General may, after consultation with the *Personnel Committee*, but subject to the provisions of the Act, appoint any person as a staff member. Any staff member may also be promoted, discharged, transferred or reduced in rank or grade, subject to the provisions contained in the Act (Section 8 & subsections (1) to (6)). The *Personnel Committee*, too, is chaired by the Director and has as additional member(s) the Secretary to Cabinet or a person designated by him/her (Section 29 (1) (a)).

The Director-General, the Director and every member of staff shall, before commencing his or her duties, make and subscribe to an oath of solemn affirmation of allegiance, and an oath of solemn affirmation of secrecy.

Staff members have the following powers, duties and functions under the Act (Section 9 (1) and (2)): perform such duties under the Act or any other law conferred or imposed upon him/her and no staff member shall be personally liable in respect of anything done in good faith in the performance of his or her functions in terms of the Act.

As far as accounting practices are concerned, the Director may, with the prior written approval of the Director-General open an account(s) with a financial institution inside the country. In the case of a foreign bank account (s), the written approval of the President must be obtained (Section 10 (2)). The Act also states that in respect of local account(s) an overdraft on such an account(s) shall not be allowed. Moneys may be utilized in respect of services of a confidential nature approved from time to time by the President in writing as being in the national interest (Section 11 (b)). The Act does provide for audits, subject to the provisions of section 25(3) of the State Finance Act

(Act 31 of 1991). These provisions empower the Office of the Auditor-General to undertake such audit(s). There is a restriction on inspection, revision and audit. Section 16 of the Act stipulates that such inspection, revision and audit can only be undertaken by a person who has received a security clearance for that purpose.

Access to private bank accounts, can only be granted after a written application by the Director-General, and when a judge of the High Court of Namibia is satisfied that there are reasonable grounds that a person, body or organization being investigated by the NICS is using a bank account for making financial transactions relating to activities of such a person, body or organization (Section 19 (1) – (8)). A direction issued by a judge shall be issued for a period not exceeding three months at a time, and the period for which it has been issued must be specified (Section 19 (3)).

As is to be expected, the Act provides for prohibition of disclosure of identity (Section 22 (a) – (b) and (i) & (ii)), prohibition of access to the premises of the NCIS (provided for under Section 23 (1) – (3)), as well as for prohibition of interception and monitoring (Section 24 (1), (2) and (3)). The latter provision is especially important from a security governance point of view. The Act provides for a judge of the High Court of Namibia, subject to the provisions of section 25, issue the Director-General of the NICS with a directive to intercept postal articles, telephone calls, enter private premises, examine, copy, photograph, transcribe or remove any record, document or other material from private and public premises (Section 24, (1), (2), (3) and their relevant subsections).

Two further provisions of the Act need to be mentioned, since both of them are relevant to the democratic governance of the security sector. The first, relates to the employment of the NCIS in times of emergency or of national defence contemplated in Article 26 of the Constitution. Section 31 of the Act provides for the NCIS to be so employed in times of emergency and national defence. The second, deals with the disclosure of information on the request of the Parliamentary Committee on Security. Section 32 (subsections (1) and (2) (a) & (b)) state the conditions under which the information sought should be provided. These include:

- (a) [that] each member of the Committee has received a security clearance pursuant to a security vetting investigation by the NCIS; and
- (b) if the information sought is sensitive or classified information, each member of the Committee has prior to such disclosure made and subscribed to an oath or solemn affirmation of secrecy before the Director-General.
- (c) If the President is reasonably of the opinion that it is not in the national interest that the information sought, be disclosed by the Director-General to the Committee at a specific time, he/she may determine that such information should not be disclosed, in which event such information –
- (d) Shall not be disclosed within a period of six months from the date on which the President has determined that it should not be disclosed;
- (e) Shall, after the expiry of the period of six months, subject to the specific provisions, be disclosed to either –
- (f) The full Committee; or
- (g) Only the chairperson and one other member of the Committee, which member has to be a representative of the official opposition party, as the President may determine;

- (h) Shall after the expiry of a period of one year, subject to the provisions of subsection (3) of the Act, be disclosed to the full Committee, if such information has not previously been so disclosed.

The Act in subsection (3) provides for it that the Director-General of the NCIS is under no obligation to disclose information to the Parliamentary Committee on Security unless each member of the Committee to whom such information is to be disclosed has satisfied the requirements specified in the Act.

Finally, the Act (under Section 33 and its various subsections) provides for the President to make regulations in relation to the acquisition of supplies, vehicles, or other equipment and services. Also, the Director-General may, in consultation with the President, make directives in respect of the organization of the NCIS; the amount, classes and grades of posts on the establishment; conditions of service of staff; the granting of loans and bursaries to staff members and the charging of staff members on account of misconduct, among others.

Presidential power and patronage are also evident in the provisions contained in section 34 (1) of the Act, that empowers the President to delegate certain powers and assign duties (excluding any power conferred on him/her by section 23 (1) or (2) or 33 (1)), and any power exercised or duty performed in terms of such delegation shall be deemed to have been exercised or performed by the President⁴.

⁴ Section 23 (1) gives the President power to restrict access to premises of the NCIS, while section 33 (1) defines the powers of the President to make regulations in relation to various matters, such as the acquisition of supplies.

Democratic political control

The Namibia Central Intelligence Service (NCIS) does meet some of the domain principles and practices of democratic political control, such as the Constitution providing lines of authority for security governance within a constitutional framework that is consistent with international law. There is also provision for the NCIS to be accountable to elected civil authorities such as the Executive and the Legislature (for example through the Parliamentary Committee on Security), however, accountability to the Executive is significantly firmer established and arguably easier to effect, than to the Legislature. Section 32 (1) – (3) provide for comprehensive and stringent conditions under which information requested by the Parliamentary Committee could be disclosed. Independent oversight by civil society agencies seems to be even more difficult. Another matter of public interest is that a judicial direction is required in terms of the Act for the interception or monitoring of communications and the search of premises (Sections 25 & 26 and their respective subsections).

The Executive does exert political control over the NCIS as one of the agencies of the security sector and does establish a policy framework for its activities. The Director-General of the NCIS, by law, also reports directly to the President. The consultative and policy processes are, however, in important respects less deliberative and transparent when compared to that of the Namibia Defence Force

(NDF) and the Namibian Police Force (NAMPOL). For example, in the case of the former, the NDF, Parliament debated the earlier 1993 Statement on Defence Policy. Namibia upholds a relatively clear division of responsibilities among the various security forces and agencies, however, there is provision in the Defence Act (Act 1 of 2002) for the NDF to be deployed in a policing capacity, subject to certain legal provisions.

Representation of the Secretary to Cabinet on the Personnel Committee provides an additional link to the Executive (Cabinet), while the presence of the Permanent Secretary: Finance, arguably improves coordination between the NCIS and the wider budgetary process of the state. The actual budgeting process (available information shows that the NCIS has a budget of N\$ 46 million in 2003) is, however, rather removed from Parliamentary and civil society scrutiny. According to the figures provided in public documents, allocations to the NCIS have never exceeded 0.5% of the national budget, and from fiscal year 2001 to the present have been on a slight decline.

Security intelligence policy with respect to the NCIS does crystallize into integrated plans, strategies and budgets. Policy formation, however, is not widely transparent, while budgeting and procurement are not entirely integrated with national budgeting processes, subject to scrutiny by Parliament and civil society. In a wider sense, conditions pertain for civil society organizations, such as the National Society for Human Rights (NSHR), the Legal Assistance Centre (LAC) and the print media to comment on security issues. Private security companies, too, operate extensively in the country.

6.4 Directorate: Civil Aviation (DCA)

The Directorate: Civil Aviation (DCA) is one of the directorates under the Ministry of Transport and Communication. The DCA operates under a Director. There is also provision for a Deputy Director, a Deputy Chief for aviation safety, a Director for aircraft accident and incidents investigation and a Chief Air Traffic Control Officer, among other positions. The DCA is responsible for aviation safety, over flight clearances, personnel licencing, aerodrome certification and aircraft registration, among other functions. At the operational level, the DCA works closely with other security agencies, such as the NDF and the NCSI on matters that fall within its remit.

6.5 Private Security Enterprises

The *Security Enterprises and Security Officers Act* (Act 19 of 1998) established a *Security Enterprises and Security Officer Regulation Board (SESORB)* and provides for the registration of security enterprises. It also provides for the establishment of a fidelity guarantee fund. The Act came into force on 1 August 1998. The Act came into force on 1 August 1998 (GN 181/1998, GG 1917).

In terms of Part II of the Act, a Security Enterprises and Security Officers Regulation Board (shortened as SESORB), acts as a juristic person with the following objectives: (a) to exercise control over security enterprises and the occupation of security officer;

and (b) to maintain, promote and protect the status of security enterprises and security officers.

Section 4 (a) – (p) of the Act, embodies the powers, duties and functions of SESORB. These include, among others: to maintain standards and regulate practices in connection with the occupation of security officer and persons pursuing or intending to pursue such occupation; give advice on the training of security officers in Namibia and promote the standard of such training; accept donations and, with the approval of the Minister of Home Affairs, accept donations from outside the country; determine the remuneration payable from the funds of SESORB to members of SESORB and members of its committees, and advise the Minister of Home Affairs on any matter relating to security officers.

SESORB has the following members: six security officers selected by the Minister of Home Affairs from among persons whose names appear on a list in terms of subsection (3) of the Act, of whom three shall be representatives of employers and three representatives of employees; one member of police designated by the Inspector-General; one staff member in the Public Service designated by the Ministry of Labour; and one staff member in the Public Service designated by the Minister of Home Affairs. Members of SESORB are appointed by the Minister of Home Affairs and hold office for a period of three years and can, at the expiry of such period, be eligible for re-appointment. Members of SESORB elect, at the first meeting of a newly constituted Board, a chairperson and vice-chairperson from their number. Section 10 (1)- (3) of the Act, empowers SESORB to establish a committee(s) for the purpose of performing any of its functions. SESORB may also appoint an Executive Committee consisting of at least three of its members. The Executive Committee exercises delegated powers and duties on behalf of SESORB.

The Act deals comprehensively with the registration of security enterprises and security officers (Part III, sections 14 – 25 and their respective subsections) and provides for a register and a code of conduct drawn up by the Minister of Home Affairs, on the recommendation of SESORB. Briefly put, the Act requires that all security enterprises and security officers must be registered as such for the purpose of rendering a security service; application for registration must be made to SESORB subject to specific conditions (such as a clear and complete set of finger prints taken in the prescribed manner, payment of the prescribed application fee); a registration certificate must be issued by SESORB; SESORB may withdraw the registration of a security officer by written notice under conditions specified in the Act, and SESORB has the power, by notice of motion, to apply to the High Court of Namibia for an order withdrawing the registration of a security enterprise or a security officer, if grounds other than those mentioned in section 20, 22 (2) or 29 (2), exist justifying the withdrawal of registration.

The Act (under section 25 (1) – (3)) provides for appeal within 21 days to the Minister of Home Affairs against decisions on registration, suspension, withdrawal or conviction of a security enterprise or security officer, by SESORB. The Act also provides for a fidelity guarantee fund, its administration and control (Sections 26 to 2), as well as for auditing and other financial provisions (Part V, Sections 33-35).

These latter provisions require from the Minister of Home Affairs to table the financial statements of SESORB in Parliament within 14 days after receipt thereof after the commencement of the next ordinary session (Section 34, (3)).

Finally, the Act makes provision for the preservation of secrecy and the disclosure of information. Information obtained by a member of SESORB or by a security officer, can only be disclosed with the consent of the Minister of Home Affairs or for the purposes of legal proceedings relating to a matter under the Act (Part VI, Section 36 (1) (a)-(c)).

Since independence Namibia has witnessed a significant growth in the number and activities of private security enterprises. The belief in management as the key towards effective governance, also in the security sector, coupled to a significant increase in the rate and intensity of crime, have spawned numerous private security enterprises. For example, according to a report published by the Namibia Economic Policy Research Unit (NEPRU), in the year 2000 alone there were 9 600 reported cases of housebreaking and 1 200 cases of motor vehicle and cycles theft (NEPRU, 2002:4). On average these amount to 26 burglaries, 3 cases of motor vehicle theft and 1 murder each day. Based on available information, rape, indecent assault, fraud, domestic violence and robbery cases seem to have risen significantly since independence as well. In this respect, Namibia seems to mirror societies that have made recent transitions from authoritarianism to democratic rule.

A 2003 Strategic Programme Framework document from the UN Office on Drugs and Crime indicates that serious crimes in 1998, expressed as a rate per hundred thousand population in Namibia, look as follows: rape 35.5, aggravated robbery 20.5 and murder 17.9. Additional rates included housebreaking 462.4 and stock theft at 155.0. Burglary and stock theft represent about 90% of property crimes. There is a widespread perception among the population of “poor” police performance.

Available information indicates that, in 2000, private expenditure on security amounted to N\$ 343 million in property insurance, N\$ 433 million on household security installations and N\$ 274 million on private security services (NEPRU, 2002: 4). Government spent N\$ 1 368 million, 10 percent of its budget on security services in 2000.

Democratic political control

The Security Enterprises and Security Officers Act (Act 19 of 1998) provides for robust democratic political control over private security providers. The SESORB has clearly defined powers, duties and functions and provides a clear policy framework for this element of the security sector. Executive oversight is provided for in the powers vested in the Minister of Home Affairs, while legislative oversight is provided for in the legal requirement in the Act that obliges the Minister of Home Affairs to submit annual financial statements to Parliament. The Act provides for fairly comprehensive and clear guidelines in terms of financial control. Also, the legal provisions in respect of the registration of security enterprises, as well as the code of conduct, all strengthen democratic political control. The one area that falls outside the scope of this research, relates to the training and professionalism of private security enterprises and security officers.

There have been reports in the local print media of some members of the SESORB behaving in ways inconsistent with the professionalism and code of conduct, provided for in the Act. This is one area that calls for more research.

6.6 Vigilante groups

Before and after independence, Namibia has witnessed the rise and decline of self-defence vigilante groups. Some of these, especially in the pre-independence period have been established by the former South African apartheid state, principally for political reasons, in support of its political project. Most of the vigilante groups before independence had a clear ethnic character and fitted into the corset of South Africa's political project to muster an alternative to the popular appeal of the South West African People's Organization (SWAPO of Namibia). In the 1980s, for example, vigilante groups were established by the South African Defence Force (SADF) in both the former Owamboland and the Kavango. In some respects, the former special police unit, KOEVOET (Crowbar), (Hinz & Leuven-Lachinski, 1989) reflected a vigilante character of a particularly brutal kind (du Pisani, 1986).

More recently, a vigilante group, Epango, was established among the Ovaherero – speaking community in the Ovitoto and Okondjatu areas, primarily in the belief that the Namibian Police Force, in particular, did not act decisively on crimes such as stock theft (Keulder, 1993). These “local strongmen” made a commentary of a special kind on post-independent state-societal relations, for Epango “challenged both existing notions regarding the state and civil society in Namibia”(Keulder, 1993:2-3). This aspect of the local security sector, too, needs to be further researched.

6.7 The Security Sector/Civil Society interface

Recent studies of Namibia's civil society (Dobell, 2000; Melber, 1999, 2000, 2003) and surveys conducted by Keulder (July 2001) and Van Zyl and Keulder (2001), all show that the Namibian state enjoys a high level of formal legitimacy from its citizens. The Security Sector, too, is held in high regard, with the youth expressing positive trust in the military (collectively, close to fifty percent (46.5%) expressed the view that the military could always (25.1%) be trusted, and 21.4% that the military could just about always be trusted) (Van Zyl & Keulder, 2001:61). The Namibian Police, too, enjoys significant levels of trust from the youth; combined, some 42.9% of young Namibians would always (20.3%) trust the police to do what is right, while just about 22.6% felt that the police could just about always be trusted (Van Zyl & Keulder, 2001:63).

Civil society agencies, such as the National Society for Human Rights (NSHR), the Legal Assistance Centre (LAC), as well as the print media, do comment on security issues. Their role, however, is often difficult. For example, the involvement of Namibian troops in the civil war in the Democratic Republic of the Congo (DRC) was first reported by the print media but denied by the government.

It was only much later that government confirmed this to be true (*The Namibian Online* 27 and 28 August 1998, 18 December 1998 and 5 January 1999, also quoted in Bukurura, 2002: p.5-6). Even then government officials blamed the press for being irresponsible, and for putting the lives of NDF troops at risk. On 29 December 1998, for example, the then Prime Minister, was reported as accusing the media of “propaganda, advocacy and manipulating and doctoring news to the detriment of the safety and morale of our soldiers fighting in the DRC” (*The Namibian Online* 5 January 1999). Although troops were engaged in a war outside national borders, there were concerns in government circles that press revelations were an issue that put national security in jeopardy (Bukurura, 2002: 5-6).

The Sikunda case of October-November 2000, too, illustrates the difficulties the print media have to contend with when it comes to security matters. Sikunda Snr, an official UNITA representative in Namibia prior to 1998, was, with other suspected UNITA sympathizers, arrested by the Namibian authorities. Notwithstanding an interim order against the Minister of Home Affairs by Manyarara, AJ of October 2000 for the release of Sikunda from detention, the order was *not* obeyed. When the local print media reported widely on the case, two dailies, *The Namibian* and *The Republikein* (together with the Bar Council of the Society of Advocates) were subsequently blamed by the Judge President for their interference in the judicial process (Bukurura, 2002: pp. 7-12).

Notwithstanding these difficulties, the local print media has managed to report on issues of a security and sensitive nature. For example, local dailies gave extensive coverage to the unsuccessful march of former freedom fighters on State House in July 2000 and published interviews with some of the disgruntled ex-combatants (*The Namibian*, Tuesday, July 11, 2000, *Die Republikein*, July 12, 2000). The local print media also reported regularly on developments in the Kavango Region during the UNITA banditry of late 2000 and 2001 (*The Namibian*, October 5, 2000; *New Era*, Monday, 13-16 November 2000).

A further illustration of the role of the media in commenting on security issues is that of the 128 suspects in the Caprivi high treason case. This important case has been dragging on for more than three years (August 1999 to date). The local print media has been informing the public on legal and other developments over the entire period. At least one local daily, *The Namibian*, has also managed to publish a report on the controversial Tshikapa diamond mine in the Democratic Republic of the Congo (DRC). The mine was apparently given to the Government of the Republic of Namibia as a reward for coming to the rescue of the late President Laurent Kabila of that country in his hour of need (*The Namibian*, August 14, 2002, p.3).

A perusal of the local print media provides evidence that controversial issues do not easily escape the attention of some of the local journalists. One such illustration is the report carried in *The Namibian* of September 2, 2002 on a new army base at Kongola in the Caprivi Region. The report quoted local residents and tourism operators as expressing their opposition to the new base on the basis that it would harm tourism in the area.

While it is considerably harder to find evidence of other forms of interaction between civil society and the security sector, two recent examples come to mind. The first, was a meeting in December 2002 between the Minister of Home Affairs, the President of the Namibia Chamber of Commerce and Industry (NCCI), Dr Leake Hangala and the captains of industry, to solicit their support for a police reservist scheme. In a subsequent statement, the NCCI said that it “welcomed the multilateral approach towards the maintenance of law and order through the involvement of the business community” (*Reported in New Era*, Monday, 9-12 December 2002).

The second recent example of such interaction, was that of The Media Institute of Southern Africa (MISA) and the AIDS Law Unit of the Legal Assistance Centre (LAC) during the public hearing on, what was then, the Defence Bill of 2002. MISA sought (unsuccessfully) for the amendment of three clauses in the Bill. These dealt with restrictions of media reporting and a stipulation on inciting defence force members and those of auxiliary services to act in conflict with their duties. The LAC, acting on behalf of the Namibia Non-Governmental Organization Forum (NANGOF), called for an amendment to the wording of Section 7(1) © in such a way as to ensure that the practical effect thereof will not exclude persons living with HIV/AIDS from recruitment in the NDF, solely on the basis of their HIV status (*Reported in Windhoek Observer*, February 02, 2002).

From the above examples, it is evident that civil society does interact with the security sector. By and large, media freedom is alive in post-independent Namibia. Conditions do exist for civil society actors to comment on security and defence issues. Their ability to monitor and assist in the delivery of security services, however, is limited. There is also the matter of training and empowerment. It is only recently that civil society actors such as academics from the local university and human rights activists and researchers from the Legal Assistance Centre (LAC), have been engaging constituent parts of the Namibian security sector in training under the aegis of the *Southern African Defence and Security Management Network* (SADSEM). Such training covers topics as diverse as civil-military relations, defence management, defence economics and budgeting and regional security, among others.

7. Conclusions

The analysis and overview of the Namibian security sector undertaken in this chapter shows that Namibia broadly meets many of the criteria widely associated with democratic security sector governance. Prominent amongst these are: a robust legal and policy framework for the different security sector actors; political oversight of the security sector, particularly at the executive level of government; relatively clear systems and processes for political direction, policy setting, planning and budgeting (perhaps more so in the case of the Namibia Defence Force (NDF) than in the case of the Namibia Central Intelligence Service (NCIS)); security sector organizations are accountable to elected civil authorities, however, accountability is stronger towards the executive than the legislature; there are other established oversight agencies such as the Office of the Ombudsman, the Auditor-General and the Judiciary; security organizations operate in accordance with international law and domestic constitutional law; by and large there is a clear division of roles and responsibilities

between the security forces (notwithstanding the provisions of the *Defence Act* , (Act N0. 1 of 2002) that provide for members of the NDF to be deployed in policing roles), and security force personnel are regularly trained to discharge their duties in a professional manner.

Measured against the criteria outlined in this chapter, security sector governance in Namibia, however, does fall short in some respects. There are some democratic deficits, chief among these are: weaker legislative oversight compared to that of the executive; considerable presidential patronage in the appointment of key personnel, for example the Director-General and Director of the NCIS; information about security sector planning and budgeting is often not widely available, this makes it difficult for civil society and Parliament to determine whether a comprehensive and disciplined approach to the management of security sector resources has been followed in every case; a relatively limited capacity of civil society actors to effectively monitor the security forces and to provide constructive input into the political and policy processes; a somewhat limited human resource capacity in some security sector organizations, especially in the domains of planning and budgeting and political control that is preeminently exercised from the centre (a legacy of the recent liberation experience?).

This chapter has also shown that there is a proliferation of private security enterprises in Namibia and in this sense, security has been privatized. Indications are that this trend will continue and deepen, particularly in view of rising crime and other threats to human security. In important respects, Namibia mirrors the experience of other countries that have made the transition from either war termination or authoritarian rule to democratic governance.

Post - September 11, 2001 events, too, have had an impact on the policy frame and operational practice of both the Namibia Defence Force (NDF) and, more especially the Namibia Central Intelligence Service (NCIS). Defining moments such as September 11, have shaped the ways in which many states now perceive security.

Finally, the overall character of the Namibian security sector signifies that the country is still in a transition phase towards consolidating its newly won democracy. The outcome of this transition awaits history, especially as there is the ever-present possibility of democratic reversal and decline. After all, democracy is prone to failure just like any other form of government.

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