**A Millsonian Approach to Security Governance and Law in Ghana:**

**Lessons from the Fourth Republic**

**Protocols**

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All Protocols Observed

**Introduction**

What can I say for the honour done me to come before you and speak to the topic and about *‘The Man John Evans Atta Mills – Ten Years On.’* May His Gentle Soul Rest in Peace. There is no better time when the values, principles, and the ideas that shaped and guided late Professor JEA Mills as an academic, bureaucrat, politician, statesman, which culminated in occupying the exalted office of President and Commander-in-Chief of the Ghana Armed Forces (GAF) is more needed now than at any stage in Ghana’s socio-economic and political life.

Nana Chair, distinguished ladies and gentlemen, the conversation this afternoon is not just about reminiscing about our late President; No. My argument is that JEA Mills embodied unique values and principles, which he brought into public life and which in 2008 started as a campaign catchphrase, ‘Asomdwee Hene,’ but which subsequently came to characterize the person we eulogise today. This person and his approach to politics, governance, and the law reflected and underpinned his understanding of, application, and usage of these principles inherent in different aspects of governance and the law.

For the purposes of today’s presentation, I begin by presenting a discursive examination of this corpus of statements and, by extension, an assessment of how these can and ought to be applied in praxis. Here, the application of these approaches will be limited to security governance and how the law must, under all circumstances, undergird how security is conceived and practiced.

Generally, a law is a set of rules and regulations instituted by a governing body. In the words of Humphrey,[[1]](#footnote-1) law may be defined as rules for guiding and mediating human conduct and behaviour that emanates from a source recognized as competent not only by the legal order, state and constitution. But it also prescribes sanctions or penalties in cases of disobedience and/or infringements. Therefore, a formal source of law is that body of documentation and praxis from which a law derives its validity[[2]](#footnote-2). In the case of governance, however, the will of the state is manifested through its statutes or decisions pronounced in Courts of competent jurisdiction. Hence, the government, the principal body imbued with the authority to act on behalf of the state, is basically the source of laws in any system of governance. Legal sources in Ghana are, however, based on legislation and precedence. Precedence, here, refers to decisions that the courts have made which are used to make other laws in other courts or within the same courts.

Governance in Ghana has been a subject of much interest since the establishment of the First Republic in 1960. In this paper, I argue that governance goes beyond the art and practice of steering the affairs of the state. It involves several actors, institutions, processes, and hierarchical levels, as espoused by Tiihonen (2004). As espoused by Tiihonen (2004) and Agyeman-Duah (2008),a governance framework includes the state and public administration and the market and society. Therefore, governance may be regarded as high-level patterns and arrangements of interactions of national socio-political actors, institutions, processes, and structures, generating tensions, failures, but also cooperation, successes, and well-being for all actors and their constituencies. For example, the World Bank (WB) defines governance as the exercise of political power to manage a nation’s affairs[[3]](#footnote-3) [[4]](#footnote-4) The United Nations Development Programmes (UNDP) more elaborate definition envisages governance as the exercise of economic, political, and administrative authority to manage a country’s affairs at all levels. According to UNDP, governance comprises mechanisms, processes, and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their ***obligations,*** and ***mediate differences***.[[5]](#footnote-5) These three seemingly innocuous words: obligations and mediating differences, are key to governance processes in Africa. According to Baffour Agyeman-Duah (2008), governance is, therefore, no longer the abstract exercise of power but rather the *why*, *when*, *what*, *where* and *how* the use of power advances democracy, economic growth and the well-being of society, which includes security. The foundations of good governance, which is a prerequisite to protect and sustain the good of all, and performing the requisite duties and conduct of public officials, have been stipulated in several legal instruments, not least in the 1992 Constitution of Ghana.

**Nana Chair, Distinguished ladies and gentlemen**

Professor JEA Mills brought something unique to public life. It is contingent on us to begin the process of systematically compiling and analysing his thoughts and actions to contribute to improved governance in Ghana. To that end, I have taken the liberty to title this lecture:

 ***A Millsonian Approach to Public Life:***

***Lessons for security governance in the Fourth Republic***

Chair, permit me to clarify and present a discursive overview of what I argue to be a particularly unique form of governance style, which, for the purposes of this presentation and for future research, I term a ‘Millsonian Approach to governance.’ This approach relates to how he understood and applied the law and governance in general and how in particular, it can be applied to security practices and its broader applicability to the Fourth Republic.

**Nana Chair, Distinguished ladies and gentlemen,**

Conflating law and governance and relating it, especially to our topic for today, namely: how a Millsonian interpretation and practice of security governance in Ghana from 2009 – July 2012, when President Mills died, offers cognitive lessons in several aspects of governance and the law. So, what principles, values and norms underpin this Millsonian Approach? Negotiating the twin lines of “security” and “law” is always challenging since one of the things security does is to elevate matters beyond the application of the law and bureaucratic procedures. But, as a lawyer, the law gave him a worldview, leading him to preserve and strengthen existing legal and bureaucratic structures in the security sector. Or perhaps, at the decision-making level, he was primarily conscious of the law. So, as he based his style of governance on the robust application of the law enabled him to pursue a particular type of governance. And here, too, President Mills’ utterances and actions relating to the importance of tolerance and harmonious relations show us that there can be an enlightened approach to security governance and in securing people.

**First**, I want to discuss the concept of peace and how the slogan ‘Asomdwee Hene’, translated as the Prince of Peace, captures the essence of the broader African, and particularly a Millsonian understanding of peace. In the African context, it has been argued that peace is not just an abstract construct but rather a:

‘down-to-earth- practical concept which permeates every facet of life of the African and thus could be seen, felt and touched…It should [neither be conceived in relation to conflict and war, *but rather in relation to order, harmony and equilibrium.’* [[6]](#footnote-6)

**Second**, how, then, did Mills manifest these values in his public life?

* *tolerance*: a tolerant individual who, despite the derogatory remarks that he experienced, showed his commitment ‘to ensure harmonious relationships… and to pursue an agenda of constructive and decorous discourse’ in public life.[[7]](#footnote-7)
* *consensus-seeking politician*: defined by Mills as providing ‘a new direction to enable Ghana to move forward with unity of purpose…. A consensus-driven agenda [that] recognize[s] the contribution of our compatriots in other political parties.’
* *Healer and unifier*: by relentlessly pursuing all avenues ‘for entrenching peace and unity.’
* *The moral and ethical defence, security and foreign policies came out in two simple statements* but mutually reinforcing statement*:* (a) ‘**dzi wofie asem,’** in which President Mills rebuffed UK Prime Minister, David Cameron, over the latter’s threat to cut aid to countries with anti-gay legislation. Mills was emphatic that: “Ghana will not capitulate to the United Kingdom or any country for that matter, and that Ghana will not legalise homosexuality on the say-so of Mr. Cameron, but will continue to operate within its constitution regardless of any threats from any country” [[8]](#footnote-8); and (b) **adze wo fie a oye***:*
* *internal security as a priority*: freedom from fear of crime so that citizens can feel safer in their homes and communities.
* *Human security approach*: protect law-abiding citizens of their freedom; no political vendetta of any kind; a Ghana which is peaceful and stable in which vindictiveness has no place[[9]](#footnote-9)
* *Judiciary, security services and public service:* For Mills, loyalty, public service and professionalism and neutrality must combine in the interests of the Ghanaian people. This cannot be compromised and in all situations, it must be made: ‘…clear [that] wrongdoing on the part of a member of government or an appointee [must not be] actively covered up under the guise of National Security.’[[10]](#footnote-10)
* *Honesty, fairness, compassion, sincerity and selflessness*: ‘make truth the guiding principle of leadership.’[[11]](#footnote-11)
* *Harmony[[12]](#footnote-12)*
* *A belief in ‘modesty’ in public life[[13]](#footnote-13)*
* *An anti-violence philosophy as a vehicle for attaining political power and a reluctance to shed Ghanaian blood in that quest for power.* However, Professor Mills was also forthright enough to caution and warn about not tolerating electoral theft and malfeasance*,*
* *More importantly, he had the strength of character to speak out against his appointees when he felt they were going astray.*
* Strengthen the rule of law, …promote accountability and good governance, protect human rights and ensure the independence of the judiciary[[14]](#footnote-14). This decision to strengthen accountability and human rights demonstrates Mills’ ‘…disposition…to fulfill his moral obligation to ensure harmony between…people’[[15]](#footnote-15)
* As a victim of abuse, he avoided confrontation with political opponents who provoked him,

On Law:

* a Millsonian approach sees, ‘the principles of accountability upheld, and the law…allowed to take its course. We have a duty to ensure that our laws are administered without fear or favour’;
* ensure a system that is blind *to one’s place in society* or political persuasion. Here, Mills’ approach is on fairness; and
* prevention of the syndrome of multiple applications of the same law. Emphasis on prudence. My whole suggestion here is that his personal style led to a particular perspective on governance in Ghana (he was a lawyer, yes. But that is to the extent that law became the entry point to his understanding of the world. It gave him a worldview. But the real impact was on governance in Ghana

Above all else, President Mills also had a wicked sense of humour. Ever the quintessential academic, Mills played on the acronym HIPC, which in everyday parlance means highly indebted poor countries, to mean Hardship, Incompetence, Parochialism and Corruption; ever the quintessential academic, certainly a Millsonian, understanding and interpretation of reality twenty years ahead of his time.

Let me state clearly that, in presenting this approach to interpreting Mills’ service to Ghana, this was not about perfection in public life and does not mean that no mistakes were made. Instead, it is about the recognition of the willingness to bring into public life a close correlation between Christian beliefs and a constant search for and drive to align these two. Therefore, in applying a Millsonian approach to public life, the evidence was not in rhetorical flourishes and empty promises founded on dubious principles masquerading as founded on Christianity*.* And this also applies broadly to how security governance, founded on the law, was to be understood.

In applying such a Millsonian lens, I argue that the quality of a state’s security provisions and governance must be dependent, **first**, on the nature of the application of its rules relating to the governance of its statutory and, in some cases, non-statutory security institutions and, **second**, the manner in which coordination between the various actors in the security sector of the state is handled and implemented. Governing the security sector must be predicated on the law and fashioned according to democratic principles. Statutory security institutions must be accountable to the populace, transparent and open, responsive and respect the rule of law. They must also be effective and efficient, ensure inclusion and participation, and be consensus-oriented.

The ultimate objective of security governance, which is predicated on established law, is to have a society free from threats, intimidation, fear of the unknown and the use of the state’s coercive apparatus to create situations of danger and insecurity. Unfortunately, there are so many instances in the Fourth Republic where security governance institutions have failed to protect the citizenry and created communities and societies of fear. Good security governance must be underpinned by an effective and well-functioning oversight body. Broadly speaking and in a Millsonian sense, a human security dimension should form the centerpiece of every state’s security governance policies. Regrettably, Ghana often suffers gross failure, neglect and the wasteful use of resources that should be deployed for socio-economic interventions but are consistently diverted into responding to security threats, commonly aimed at regime perpetuation or castigation of the opposition parties.

In praxis, therefore, security provision and its governance in Ghana should be aimed, first, at securing the welfare of Ghanaians, and second, at improving the effectiveness of Ghana’s security sector in contributing to creating the enabling conditions for national prosperity.

**Nana Chair, Distinguished ladies and gentlemen**

Let me now discuss **The Law as foundation for the governance and provision of security**

In all societies, Ghana included, governance decisions and actions predicated on the law become effective when applied constructively and without impunity. But herein lies the lacunae concerning the application of the law in a constructive manner and the lack of political will by the state to prosecute officers of the security agencies for offences or infractions committed against civilians due to their affiliations with the government of the day. This also happens in cases where officers who have flouted their service rules are ordered back to their parent organisations but the public is left in the dark as to what sanctions or disciplinary measures have been instituted against who have used their taxpayer-funded positions to intimidate citizens. Such behaviour that threatens the foundations of how security is governed within the remit of the law still remains a hurdle to surmount. That is a charge to keep, by the state and its citizens in ensuring that, security governance functions with a framework of a rule of law perspective, that shifts from rhetorical flourishes and are located within Millsonian interpretative discourses on how security governance must be situated within the law as discussed above.

When security practices are not located within the framework of the law, frustrations and agitations set in, leading to societal tensions that can be manifested in ways that can pose existential threats to the state. In cases when poor security governance and policy implementation leads to violence (Ejura[[16]](#footnote-16), Wa[[17]](#footnote-17), Senya Bereku,[[18]](#footnote-18) Nkroranza[[19]](#footnote-19) and Zambarama line[[20]](#footnote-20)) either frustrate the victims by shielding the culprits or show little commitment in assisting the victims to seek justice, then the seeds for potential radicalisation, recruitment and eventual violence might occur. Therefore allowing the existing command and control, recruitment and disciplinary mechanisms within security agencies to check and punish infractions becomes a necessary and a critical aspect of security governance and the rule of law.

**Lessons Learnt and Practices to Be Changed**

Though multiple institutions exist to identify, respond, degrade and provide public safety and security, cooperation is, at best sub-optimal. Bureaucratic in-fighting, duplication of roles, political meddling, and lack of resources have emasculated several critical frontline institutions. Necessary interventions to limit such institutional inertia include:

* improving parliamentary and political oversight capacities and bipartisanship; and
* streamlining institutional functions and roles to limit duplication.

In identifying and explaining the structural persistence of these related challenges, the analyses indicate that, long-standing structural problems have not been systematically tackled, resulting in new and difficulties embedded, which have morphed into intractable problems weakening overall effective responses from the security sector.

**Concluding Thoughts**

As indicated above, the challenge of security governance here is about restoring the fundamental values of those security institutions and ensuring their sustenance through truly autonomous watchdog processes. In a democracy, as distinct from an autocracy, governance should be ‘society-centred,’ including the private sector and the civil society. These are critical for sustaining human, economic and social development. Governance is the exercise of political, economic and administrative authority in managing diverse affairs in the interest of the governed. Good governance is participatory, transparent, dialogic, consensus-seeking and accountable. It is effective in making the best use of resources and promotes justice and ensures the rule of law. The government must ensure that public officials are held accountable for their actions through formulated and transparent processes. Also, citizens must be legally protected from arbitrary actions by authorities in security institutions. Security institutions must be responsive to the needs of the public to ensure their services are for the benefit of all citizens in an equitable manner. For good security governance, the implementation of policies and laws should be of considerable importance. Without effective implementation capability in the security institutions, the government’s efforts are perceived to be unsatisfactory.

There is a need for strengthened collaboration between government, the security institutions, the private sector and civil society. In a democratic society like Ghana, governance should be society-centred and include the private sector and civil society. In many societies, the private sector promotes enterprise and generates jobs and income, whereas the civil society facilitates interactions by mobilizing groups to participate in economic, social and political activities.[[21]](#footnote-21) Having recognised the weaknesses and strengths of the government, constructive interaction between the government and its security institutions and the private sector, including civil society groups, will go a long to improve security governance in the country.

Before I end, I have two humble appeals to the Governing Board of the JEA Mills Memorial Heritage Fund: first, please try to make a collection of Mills’ writings readily available by establishing a Presidential Collection. Protecting and using these works as the basis for knowledge generation and distribution will be the best endeavor for guarding his legacy against encroachment and debasement; and second, the struggle to appropriate what JEA Mills meant to Ghanaians and his legacy has already started through the deliberate misreading of and reinterpretation of his words. For example, in an otherwise objective piece on his political statements, his statements have been given a deepfake spin with the conclusion that:

’…he refers to his party adherents as a force as though he was a freedom fighter and they, a mercenary group ready to carry out his bidding by employing unconstitutional means to safeguard the smooth running of the election, …[and that his words] interferes with the orderliness and harmonious coexistence of the citizenry…’[[22]](#footnote-22)

As the Fourth Republic trundles on, riven with tension, fear of the unknown, violence, crime and divisive politics, there is no better way to end this conversation than to paraphrase the late President, JEA Mills, and in his abiding belief in Ghana:

 as a nation, we will find the strength of character, love of country

 and hope for our shared future as a nation, to accomplish even the

most difficult of tasks.

Let us find the courage and strength to rise above the pettiness of pride and emulate the self-sacrifice of the scholar, bureaucrat, politician and statesman who we celebrate today, and to make Ghana the fulcrum around which our struggles revolve.

Thank you.

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2. See Dickson, Osei Bonsu. 2016. *Dickson on Principles of Business Law – text, cases and materials*. Accra: Lex Mundus and Cenla. See especially chapter 1 on Introduction to Law and Legal Reasoning. Here, the different schools of thought are presented, pp.3ff [↑](#footnote-ref-2)
3. World Bank. 1992. Governance: The Worls Bank’s Experience. Washington D.C.:World Bank. See also; Sarwar Lateef, K. (2016). Governance and the Law: Evolution of The World Bank’s thinking on Governance. [↑](#footnote-ref-3)
4. Olowu, D. (2002). Governance and Public Management Capacity in Africa. In: Olowu, D. and Sako, S. (Eds.) Better *Governance and Public Policy*, pp. 4. Kumarian Press, Inc., USA. [↑](#footnote-ref-4)
5. United Nations Development Programme. (1997). Reconceptualizing Governance. Discussion Paper No.2. New York, Management Development and Governance Division. [↑](#footnote-ref-5)
6. . Anderson, J and E. Z. Bibiebome. 2019. Analysing John Evans Atta Mills’ Speeches Projecting him as ‘A Man of Peace’, *International Journal of English Language and Translation Studies*, Vol. 7, No. 3, p. 106 [↑](#footnote-ref-6)
7. . ibid, p. 109 [↑](#footnote-ref-7)
8. . ‘Mills calls David Cameron's bluff over gay aid threat’, <https://www.modernghana.com/blogs/358885/mills-calls-david-camerons-bluff-over-gay-aid-threat.html> [↑](#footnote-ref-8)
9. . New Year Message, 31 December 2003 [↑](#footnote-ref-9)
10. . New Year Message, 31 December 2003 [↑](#footnote-ref-10)
11. . New Year Message, 31 December 2003. [↑](#footnote-ref-11)
12. See President Mill’s New Year Message, 01.01.2012 [↑](#footnote-ref-12)
13. . See President Mills’ Independence Day Speech, 6 March 2012 [↑](#footnote-ref-13)
14. See President John Evans Atta Mills, Speech delivered at the 66th General Assembly of the United Nations, 23 September 2011 [↑](#footnote-ref-14)
15. .Anderson and Bibiebome, op cit., p. 107 [↑](#footnote-ref-15)
16. . ‘Government Condemns Ejura Violence and charges Security Agencies to Act Swiftly with Investigations’, at <https://moi.gov.gh/newsroom/2021/06/government-condemns-ejura-violence-and-charges-security-agencies-to-act-swiftly-with-investigations/> [↑](#footnote-ref-16)
17. . Military personnel punished for brutalizing civilians in Wa, at <https://gh.opera.news/gh/en/military/abdf803ccdaece66fadd52cd0db83c0c> [↑](#footnote-ref-17)
18. [↑](#footnote-ref-18)
19. [↑](#footnote-ref-19)
20. [↑](#footnote-ref-20)
21. Ibid [↑](#footnote-ref-21)
22. . Anderson and Bibiebome, op cit., p. 107 [↑](#footnote-ref-22)