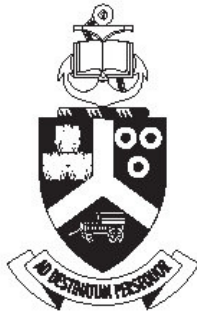


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MILITARY ASSISTANCE TO THE CIVIL AUTHORITIES: THE CASE OF SOUTH AFRICA*

1. INTRODUCTION

The South African Department of Defence and Military Veterans (DoD) finds itself in a dilemma. Since the early 1990s it has had to perform its ever increasing functions on an increasingly restricted budget. From 1994 when the Army became a largely regular force requiring consistent salaries for its full-time members, personnel costs have been high. The arms deal to procure aircraft and ships in order to update the Air Force and Navy also required a major allocation of funds. Recently the department had the enlarged task of managing military veteran's affairs added to the Minister of Defence's portfolio. Previously its restricted veterans' mission was executed by a mere directorate.

In spite of the additional funding required to pay for the economic upliftment of thousands of military veterans who were members of the previous non-statutory forces, some of which will have to be paid by the DoD, it has been announced that the South African

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Treasury has reduced the defence budget by R1,99 billion over the next three financial years. The 2009/10 budget of R32,024 billion amounts to 1,3 per cent of the Gross Domestic Product (GDP). It has been estimated that a defence budget of two per cent is required to support government policies, peace support deployments in Africa and a credible force design.¹⁾

It is now evident that the South African Police Services' (SAPS) attempts to patrol the country's land borders, and maintain borderline security have failed. The DoD will thus incur more unplanned expenditure because according to the Minister of Defence, it has to take back the borderline security function from the police.²⁾ The Minister of Police had previously already stated that the new government intended to return the Army to borderline security duties, being of the opinion that the function of securing the country should be carried out by the military. The aim is also to involve defence personnel in the battle against crime. An example mentioned was that the Army could be deployed in the escorting of cash-in-transit vehicles to deter organised crime syndicates.³⁾

The Army does have the fire power to combat large groups of criminals who typically attack cash-in-transit vehicles, and could also aid the police in cordons and searches and crowd control. Obviously it needs to train to perform these tasks. The South African National Defence Force (SANDF) was employed to assist the civil authorities in the 2009 national elections, as well as the Confederations Cup soccer in 2009. It will certainly be employed in the 2010 World Cup soccer tournament. All the taskings can be motivated, particularly since the crime wave is not abating, but the DoD will need both the budget and the manpower to carry them out. It has been widely reported that the SANDF is overstretched in its peace mission deployments in Africa. In order to be deployed on more internal missions it must thus scale down on external missions to save money and make more troops available.

The South African Defence Force (SADF) prior to 1994, and the SANDF since that date, have traditionally self censored the requirements of the force in accepting its missions in spite of ever increasing mission creep. In order to combat mission creep the DoD adopted a strategy written in the *Strategic Business Plan FY 2004/05 to FY 2006/07*, that the Minister of Defence's priorities were firstly to provide support for the government's diplomatic initiatives in Africa and promoting regional security, secondly, the restoration of conventional defence

capabilities, and thirdly, to reduce internal deployments in South Africa to zero by 1 April 2009.⁴⁾ That policy has clearly not been implementable because of amongst other things, the largely uncontrolled movement of people across South Africa's borders and high crime levels in South Africa.

2. MODERN CONCEPTS REGARDING MILITARY ASSISTANCE

On 24 August 1999 the South African Defence Portfolio Committee received a briefing by the Director of the Center for Civil Military Relations in the United States (US). During his presentation he stated that since the end of the Cold War there was no longer a threat to the safety of the US. In consequence the military would henceforth perform secondary missions such as that of peacekeeping and acting as a domestic support when called upon to assist in circumstances such as natural disasters. He argued that the new missions would require a change in military training because soldiers were taught to shoot to kill before asking questions.⁵⁾

Since the above briefing was presented the terrorist attack on the twin towers in New York was launched by al-Qaeda in September 2001. The result was the war in Afghanistan, and thereafter operations in Iraq. The military were involved in a variation of missions which included both conventional and semi-conventional operations at the start of each war, and both urban and rural counter-insurgency operations followed. During the counter-insurgency particularly involving urban operations in Iraq, soldiers were certainly required to make quick appreciations and ask questions before firing. In fact, as early as the Malayan anti-communist British counter-insurgency, often referred to as the "Malayan Emergency from 1948 to 1960", the concept of 'minimum force' was taught using training manuals and films such as "Keeping the Peace, part one, two and three". The films were used throughout the British Commonwealth for training purposes.

Other than employment in wars, military forces are usually the only organisations available that have the logistical capability and the trained disciplined workforce needed, to grapple successfully with chaotic conditions resulting from man-made or natural disasters. This was demonstrated when in response to the devastating 2004 tsunami the US aircraft carrier Abraham Lincoln's strike group led 18 000 US troops

in a relief operation on behalf of the Indonesian government. Over and above aircraft carriers which are ideal for support in coastal areas affected by tsunamis or hurricanes, armies can be employed together with naval and air force contingents, to provide disaster relief further away from the coast, as was done to help victims of the tsunami in the Far East. Non-governmental organisations (NGOs) were also involved helping to provide food, shelter and medicinal supplies to people who were affected by the destruction resulting from the tidal waves.⁶⁾

However, the use of military forces to help people in public health crises caused by political disasters in failed or near failed states, risks making things worse and may even involve the aiding forces in armed conflict. The United Nations (UN) intervention in Somalia during President Clinton's US administration, for example, deteriorated from an operation to prevent mass starvation into urban combat, and the withdrawal of the US forces. Some strategists are of the opinion that in future nation states may lose their virtually exclusive control of the use of military force, and that violence may become less politically organised. Urban mobs and transnational movements are prone to initiate chaos for their own purposes as is done in Somalia by the warlords.⁷⁾

3. LEGAL PROVISIONS FOR THE EMPLOYMENT OF THE SOUTH AFRICAN NATIONAL DEFENCE FORCE IN OPERATIONS OTHER THAN WAR

According to the *South African Constitution* the "primary object of the defence force is to defend and protect the Republic, its territorial integrity and its people in accordance with the constitution and the principles of international law regulating the use of force".⁸⁾ The *Constitution* does not name any secondary functions of the SANDF but the *Interim Constitution* of 1993, which in this matter is still applicable, provides for the following secondary functions:⁹⁾

- For service in compliance with the international obligations of the Republic with regard to international bodies and other states.
- For service in the preservation of life, health or property.
- For service in the provision or maintenance of essential services.
- For service in the upholding of law and order in the Republic in

co-operation with the South African Police Service under circumstances set out in the law where the said Police Service is unable to maintain law and order on its own.

- For service in support of any department of state for the purpose of socio-economic upliftment.

The law by way of the *Constitution* thus allows the government the desired latitude to employ the SANDF as required to satisfy its strategic aims, and to secure and or stabilise the country in co-operation with other government departments as and when necessary. For a number of years the DoD made it clear that the SANDF's main task was the defence of the country and that it would train for that purpose. Its priority task other than training for war, was to deploy forces on peace-keeping operations in Africa, and that it would withdraw from internal deployments as far as possible, adding the rider that it would make forces available for homeland deployments as and when required.

The Army's intention to be available for support to civil authorities is confirmed in its 2009 strategy publication, in which it is stated that it will provide support if a situation or emergency proves to be beyond the capabilities of the civil authorities to manage it. The tasks foreseen include restoration of law and order, protection of life and state property, protection of national key points and the augmentation of vital services during strikes.¹⁰⁾

4. NEW DEPARTMENT OF DEFENCE AND MILITARY VETERANS POLICIES AND PRIORITIES

As mentioned in the introduction, the new Defence Minister, Lindiwe Sisulu, has been appointed to head a department with a restricted budget, and the added task of managing, and at least partially financing military veterans' affairs on a much larger scale. The SANDF must return to the task of land borderline security. In 2002 an average of 13 companies were deployed along the Zimbabwe, Mozambique, Swaziland and Lesotho borders. The present lax government policy regarding movement into South Africa, will probably require many more companies on the ground to re-establish borderline security. The SANDF has been employed on many internal deployments which also require to be financed, and it is involved in African peacekeeping de-

ployments averaging about 3 000 troops at any one time.

The Minister of Defence stated during her speech in the DoD's budget vote on 3 July 2009, that the first challenge which confronted the department was a declining budget which resulted in the department's competence being "severely hampered with dire consequences". This was the situation in spite of the fact that the *Constitution* required the department to be available for both domestic and international responsibilities, and that the SANDF was required to be combat ready. She underlined the government policy and belief that peacekeeping forces had to be provided on the African continent in order to aid development, and that it was a South African obligation to satisfy the requirement for peacekeeping forces. The value of the deployments for Africa and South Africa could "not be quantified".¹¹⁾

The Minister stated that a fourth challenge was that the DoD had an outdated defence policy. She said that the SANDF had to be re-designed so as to be able to contribute to peacekeeping, disaster relief and humanitarian assistance. This was evidently largely aimed at consolidating democracy in countries that have recently emerged from conflict. The belief that external deployments had become an important part of South African foreign policy was repeated.¹²⁾ The second and third challenges had to do with the fact that the Auditor-General had given Defence qualified reports for the last nine years, and that the defence industry had been underperforming. The poor Auditor-General reports required better capacity in financial management, and the defence industry's problems would be attended to in time.¹³⁾

A new approach to the SANDF mission was that the Minister had been reported as saying that the SANDF would be making itself available as a service provider to other government departments to supplement its budget.¹⁴⁾ This assumes that Defence will actually have funds transferred to its budget from the budgets of other departments for services rendered. The rationale for the new approach is that the DoD can in the present worldwide recession, offer essential skills that will support economic growth. The Defence Force, it is argued, has within it advanced technology in the fields of medicine, engineering and even space and meteorological research. The skills transfer that will result from military involvement in the training and work throughout the country, will be extended to the private sector and other government departments.

The Minister of Defence suggested that the DoD's capacity should

be increased to help combat a most urgent challenge facing South Africa, namely the massive unemployment level among the country's youth. She stated that the DoD had agreed in the Justice, Crime Prevention and Security Cluster that the SANDF needed to play a greater role in support of the SAPS in combating crime. To be able to perform the roles foreseen the Minister rightly stated that it demanded a "well trained, multi-skilled, disciplined and well-equipped defence force".¹⁵⁾

5. SUPPORT FOR AND OPPOSITION TO INTERNAL MILITARY DEPLOYMENTS

The Defence Minister's intentions and stated policy to use the SANDF to assist civil authority to a larger degree than has been done, and to be remunerated for it, have received both support and criticism in the media. Generally the increase in internal aid missions has received approval, but the method to add to the defence budget has led to some debate in the written media.

The main thrust in support is that the creative lateral thinking involved is welcome, and that the employment of trained medical personnel, engineers and artisans in civilian assistance operations is a sound concept. It is argued that the military skills base is under-utilised and that the use of military personnel in disaster management, and in helping the ineffective municipalities makes good sense. The idea that the SANDF could assist in the programme of building houses for the Department of Human Settlements is suggested as positive possibility, but it is argued that Defence must not neglect its essential roles, and that aid to the civil authority should not be a commercial exercise.¹⁶⁾

A common concern which has been offered as an argument against the military becoming involved in service delivery for payment, is that by so doing government is competing with the private sector. It is maintained that in countries where the defence forces are allowed to be paid for the service, they are in fact going into business and this leads to increased corruption. It is also mentioned that where the military tenders for government projects it is likely to receive the work because there will be a tendency to favour a government department, based on political rather than business considerations.¹⁷⁾

The lack of funds has resulted in the deterioration of the Defence Force's infrastructure. This is often reported, and clear for everyone to see when travelling through military cantonments and bases. To rectify

it the military has taken over some repair and maintenance tasks with the necessary budget allocations from the Department of Public Works (DPW). According to the DoD's *Strategic Business Plan* major repairs and maintenance works must be executed through the DPW and are managed by means of a Repair and Maintenance Plan. Smaller repairs and daily maintenance are to be carried out by the Works Regiment. Should the latter not have the capacity for a minor work, the task can be outsourced.¹⁸⁾

The Army in its *Force Support Strategy* states that its Support Command commands the Engineer Maintenance Regiment which is responsible for all of the Army's facilities.¹⁹⁾ This in itself is an example of the establishment of an ability within the SANDF to help itself, where repair and maintenance based purely on a DPW system was taking too long and was unsatisfactory. To take the concept further based on the Defence Minister's intentions, it would seem prudent to expand the South African Army Engineer Corps to be able to execute and also to supervise building and repair projects throughout the country.

In order to ensure that the Engineer Corps does not compete with the private sector its tasks can be selected according to certain criteria. The criteria should be set up in co-operation with prominent private sector representatives. Some examples of tasks and projects which are not being carried out either successfully, or not at the required pace in South Africa at present, and which could be expedited by the military are the following:

- Road maintenance in outlying rural areas.
- Housing for the poor.
- Maintenance of municipal infrastructure, specifically in small towns.
- Construction of water and electricity facilities in rural areas and townships.
- Supervision of projects where entrepreneurs lack the equipment and technological and management skills to carry out the tasks for which they have been awarded tenders.

The Engineer Corps can not possibly become large enough to perform all the essential tasks which are simply not being carried out the by the public or private sector at present, but their tasking can be vetted to ensure that they do not do work which a private sector firm is willing and able to do.

6. EXAMPLES OF HUMANITARIAN MILITARY ASSISTANCE RENDERED BY THE SOUTH AFRICAN MILITARY

The concept that the military is to be paid for services rendered to supplement the DoD's budget, and as such will be competing with the private sector, is new. The Minister of Defence is quoted to have said that the municipalities would in future have the option of hiring the military in place of private companies. She said that the Defence Force could do it at half the price, and that although the private sector would not be impressed by the competition, the cutting of costs was necessary.²⁰⁾

Whether the concept of the SANDF competing for business will be accepted as common legal practise is to be seen. The Defence Force has sometimes been repaid the costs sustained on missions other than strictly security related missions, but mostly it has not received budget reallocation from other departments of state. In spite of the fact that the DoD normally has to use funds out of its own budget, the SADF/SANDF has carried out many humanitarian missions.

There have, for example, been several flood relief operations with the 1997, 1999 and 2000 operations in Mozambique receiving wide media coverage. The operation conducted in 2000 was code named *Operation Lichi* and its main purpose was to render support to the Mozambican authorities in order to assist the people of Mozambique affected by the floods. More than 14 400 people were rescued and 960 800 tons of food and medical supplies were delivered to the disaster stricken areas. This operation as well as a number of other missions burdened the defence budget to such an extent that the flying and training time of the Air Force was virtually brought to a standstill for some time.²¹⁾

Less newsworthy operations are those such as supplying water in trucks to communities in cases of drought, and when water mains become inoperative. The SANDF is often employed in support of the SAPS as was the situation in September 2009, when the taxi industry and the government had potentially violent confrontations as a result of the introduction of a new bus fleet in Johannesburg.

Prior to the flood relief operations in Mozambique, a most note-

worthy rescue operation was carried out by the SADF on 4 August 1991 off the Wild Coast of the Transkei. A cruise liner, the *Oceanos*, operating for Epirotiki Lines of Greece with 587 passengers and crew on board, sank at sea after an explosion in the engine room at about 21:30 on 3 August 1991, which resulted in water flooding the ship. Nearby ships responded to the ship's SOS and within 25 minutes of confirming that the *Oceanos* was in distress, the Defence Force's rescue co-ordination centre launched a rescue mission which is hailed as a textbook example of maritime rescue professionalism.²²⁾

The South African Air Force and the South African Navy undertook the mission in which 16 helicopters were used to airlift the people on board. By 07:00 on 4 August 1991 the first helicopters started airlifting and the last survivors were rescued by 11:30. In order to enable rescue helicopters to get in closer to the ship to allow quicker evacuation, Navy divers destroyed cables and other protrusions on the ship's decks. After all the passengers and crew had been placed ashore, it was erroneously concluded that 21 people were still unaccounted for. The Navy's divers returned to the ship which they searched to confirm that no passengers had been left behind. The last of the divers were finally evacuated a mere 25 minutes before the ship sank.²³⁾ Six of the divers were subsequently awarded *Honoris Crux* valour decorations for their participation in the *Oceanos* rescue mission.

Since *Operation Lichi* and the *Oceanos* rescue mission, the efficiency of the SANDF has by all accounts regressed. Whether standards can be lifted again soon is debateable, but an improvement in budget allocations will certainly help. Merit selections, better command and leadership, an improvement in discipline standards, and a realisation particularly in the officer corps, that their duties require that they conform to the technical and ethical standards of a profession, must be inculcated in the SANDF.

7. INTERNATIONAL EXAMPLES OF THE EMPLOYMENT OF THE MILITARY IN SUPPORT OF THE CIVIL AUTHORITY

There are many examples of the use of the military to help build or rebuild infrastructure in developing or even developed countries. In the 21st century alone, China, Turkey, Pakistan, Indonesia, Sri Lanka, Thai-

land and the US have used their defence forces to aid civilians when natural disasters such as flooding, earthquakes and tsunamis struck. The US employment of its US Army Corps of Engineers (USACE) is an example which the SANDF could study for a source of ideas, legal considerations, lessons learnt and years of experience. It is a useful example because the Army Corps of Engineers is employed internally in the US in a free market society.

In the 21st century the US has the good fortune that its Army Corps of Engineers became an integral part of the military, used to perform both wartime and civil peacetime tasks as early as the American War of Independence, when a clash between the interests of the private sector and the government was irrelevant. In March 1802 the US Congress authorised the President to formally establish a corps of engineers. The corps was from its formal inception used as a military engineer corps, as they are by most countries during wartime, but in the US the corps returned in peacetime to engage in civil works, which included the building of fortifications, undertaking exploration projects, and in the 1850s the surveying of routes for transcontinental railroads. After the American Civil War the most important peacetime responsibilities included the construction of waterways, coastal fortifications and lighthouses. The Corps' experience with waterways resulted in the appointment of US Army Engineer officers to direct the construction of the Panama Canal.²⁴⁾

The current mission of the USACE is to provide quality and responsive engineering services to the army and to the American nation. This includes the following civil orientated tasks:²⁵⁾

- The planning, designing and building of water resources and other civil works projects.
- The management and execution of civil works programmes to both develop and maintain the capability to mobilise in times of national security and domestic emergencies, and to execute emergency water planning programmes.
- The corps is the US's fourth largest provider of hydroelectric power and is involved in the clean up of hazardous waste sites.
- From time to time, it is even involved in major building projects. The Washington Monument and the Library of Congress in Washington DC were built by the USACE.

On 17 February 2009 the *American Recovery and Reinvestment Act of 2009*, commonly referred to as the "stimulus package" was signed into law by the US President. The stimulus package is intended to help in the recovery of the US economy and the Corps of Engineers plays a prominent role in the programme. It receives US\$4,6 billion for its civil works programme, and it is expected that the USACE will receive US\$2 to 2,5 billion for military missions through the DoD.²⁶⁾ The USACE has received a considerable amount of media coverage reporting on its activities in repairing and upgrading the levees, as well as the installing of new additional flood protection around New Orleans. The corps has spent US\$3 billion over the last four years on the project, and will spend as much as US\$14 billion over the next four years to 2013.²⁷⁾

All the work managed and implemented by the USACE is not done by soldiers. The *Recovery and Reinvestment Act* is intended to quickly provide work for unemployed US citizens. It is estimated that the Act will create or maintain about 57 400 direct construction industry jobs, and an additional 64 000 induced jobs in firms supplying or supporting the construction industry, as well as the businesses which sell goods and services to the employed workers and their families. One of the criteria which the corps applied in developing its lists of projects to fund with the *Recovery Act* funds, was "to preserve and create jobs and promote recovery".²⁸⁾

Some of the criteria for the corps' "programs of activities" which are to be accomplished with funds allocated by the *Recovery Act* are the following:²⁹⁾

- They must be executed quickly.
- They must result in high levels of immediate employment.
- They must be executed by either contract or by the direct hiring of temporary labour.
- There must be provision for a maximum number of practicable opportunities for small businesses to compete for USACE contracts, or to participate as sub-contractors.

It is evident that the USACE does a significant amount of civil work, and that it has the expertise to manage very large projects with state funds. The corps is not in business itself earning money as the South African Minister of Defence envisages. The corps obviously has many officers qualified in all forms of engineering disciplines, as well as technicians and personnel perfectly capable of managing contracts,

target dates, fund allocations and business plans. However, it is only an actor and role-player in the US economy, and is there to perform tasks which the corps is suited to, and which it traditionally does best.

A classical example of direct army engineer involvement in civil work in a developing country can be found in the counter-insurgency operations in the Philippines in the 1950s. Army engineers are reported to have constructed school houses, artesian wells, village roads, bridges and other needed public works. The military gave advice on agrarian matters as well, but the militarisation of the society and its economy was clearly not the aim of the policy of providing military aid to the population.³⁰⁾

There are unfortunately more recent examples of countries in which military involvement has been, or still is a problem. The Chinese People's Liberation Army played a major role in the country's economy in the 1990s but the companies run by the military were extremely corrupt. The Chinese head of state at the time, President Jiang Zemin, consequently ordered the Army to sell its businesses. At present Iran's Revolutionary Guards have evidently got vast commercial interests in the country. Some observers describe their economic activities as comparable to the Italian Mafia. Neither of these two examples involves military activity in a free market economy embedded in a democracy such as the US Army example, but they do indicate that military involvement in an economy must be well controlled.³¹⁾

8. CONCLUSION

The South African *Constitution* allows the DoD/SANDF to be employed for both service in the provision of maintenance of essential services, and for service in support of any department of state for the purpose of socio-economic upliftment. Sometimes it is reimbursed by other departments although the procedure can at times be extremely complicated and time-consuming. The point is that the military can be employed to execute civil projects, but the idea that it should be able to tender for contracts for which it would be paid has as yet not been normal practice. It will certainly require Parliament to pass a law to allow military business, and it will be wise based on US experience, to allow the SANDF to sub-contract and also contract other parties, to perform tasks with means and experience not available in the DoD's arsenal. Should such a law not exist or be poorly contrived, the DoD will be

taken to court by the first large business firm which feels it has been disadvantaged in not winning a contract which is given to the SANDF. It would draw a lot of media attention and start the process on the wrong foot.

Also based on the American experience it will be prudent to start the process slowly, on a small scale involving not more than a company or battalion-sized unit of engineers. In time more units could be working on projects, especially in the outlying areas. There is so much work to be done to repair and re-establish the South African infrastructure and to build additional housing, roads, water mains and sewage works, that the relatively small SANDF will not disadvantage the private sector in any way worth mentioning. Military involvement in civil projects may not have the dramatic results the Minister of Defence envisages, but it will certainly win the hearts and minds of the masses of poor South Africans, who should be the people served by the SANDF's civil work projects. It is doubtful that the remuneration received by the military on a civil works programme will help to pay for the costs of tanks, guns, aircraft, ships and other expensive defence budgetary costs. However, it could help to pay for the expenses involved in the employment of the Defence Force on civil work tasks.

The South African Army engineer corps should be expanded considerably, to allow the military to really be a role-player in the country's civil works programmes. The DoD should aim to qualify large numbers of engineer officers, at universities paid for by DoD scholarships, and even the Military Academy should introduce engineer-related subjects in the military science curriculum available in the institution.

The SANDF's combat readiness and its disciplinary standards are consistently being reported on, even by its own officers as being suspect. The correction of poor discipline and operational combat standards is the task of the officer corps. If the government and the ministry make funds available for good individual, unit and formation training, as well as the motivation and support for officers to attain better discipline backed by a quick, efficient, legally sound corrective punishment system, the readiness will improve. It also requires a value system where efficient commissioned officers are awarded the necessary status to allow their values to have ascendancy, while those who lack this drive and moral qualities are firstly corrected, and failing that, forced to resign. Such a military could be employed on internal missions in support of the civil authority with good productive results.

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