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THE QUESTION OF MILITARY SERVICE AND UNIONISATION

By Bantu Holomisa, MP – UDM President

I have been invited to participate in the National Defence Force Service Commission, tasked with advising the Minister of Defence on issues related to the conditions of service and labour matters within the Defence Force. It is a privilege to serve on such an important commission.

We can't deny that the recent violent industrial action at the Union Buildings involving SANDF personnel has illustrated why it is vital that we urgently look at the conditions of service in the SANDF.

It is important to note right at the outset: in the past military unionisation was taboo throughout the world. Even countries with long and admirable democratic histories have frowned on military unions. This situation is slowly changing, and a small number of countries (especially in the Scandinavian region) now allow for some form of unionisation.

We need to distinguish between what is appropriate elsewhere in society, and what is appropriate in the military. For example, it might be appropriate for a clothing worker to embark on strike action, but not for a doctor; this does not mean that the doctor has been deprived of his/her rights, merely that some of those rights are circumscribed in the interests of the rights of others... which is the essence of our Bill of Rights.

The dilemma is thus that the military in order to fulfil its duty to a democratic society, needs to operate in a manner that puts the individual rights of its members second to its duty towards society.

Capt Tom Stites - writing on this issue in the American context – makes the following important distinction about the two alternatives for a democratic society exercising civilian control over the military:

“Objective civilian control achieves its dominance by professionalizing the military and making it a tool of the state.⁴ The intent of this process is to politically sterilize the military and maximize civilian control. This produces the lowest possible level of military political power with respect to all political groups. The military is therefore viewed as distinct and separate from all other political power groups in the society. Objective control reduces the political influence of the military while maintaining a professional corps focused on achieving military security. The call for objective control has routinely come from the military in an attempt to minimize the influence of outside interest/power groups. Objective control is not likely to support military unionization.

Subjective control achieves its end by civilianizing the military and making the institution a mirror of the state.⁵ In the subjective sense, civilian control denies the existence of an independent military institution and presupposes a conflict between civilian control and the needs of military security. Subjective control brings military values and behavior more in line with society at large; and politicization of the military is not viewed as a detrimental byproduct by its proponents. In general, liberal democratic societies pursue subjective control of their militaries. Due to the political nature of subjective control, military unionization for political purposes is certainly within the realm of possible outcomes.”

Based on such an analysis, one would say that the drafters of the South African Constitution had given some thought to this matter; see for instance the creation of a civilian Defence Secretariat. This was borne out by the Defence Review. Currently the SANDF has a civilian accounting officer, whereas previously this duty resided with the military command. On the other hand, the SANDF and Government continue to expect the military to operate in the old way, hence the Constitutional Court ruling that struck down the ban on unions in the military.

The Commission would among other things need to interview all the stakeholders to determine to what extent the current system addresses their needs. The ANC and Government have unequivocally expressed opposition to the idea of a military union, whilst COSATU says the opposite and has indicated a willingness to take the matter to the highest court.

There is a fear expressed by the Minister that unions are political in nature and allowing them in the military would introduce politics into the military. In South Africa – unlike most democratic countries – most unions are of course strongly politically-aligned. So the question arises then whether the SANDF is under ‘subjective’ or ‘objective’ control.

Do we imagine a situation where COSATU campaigns for Mr/s X to become President of the country and when its affiliate members in the defence force participate in such campaigns they are then subjected to military disciplinary complaints? Would the Defence Act allow union members to conduct meetings for such campaigns in military facilities?

Finally, we need to distinguish between narrow (and restrictive) approaches to labour issues and broader principles. In other words, we need to consider whether there are ways in which labour issues and collective bargaining can be managed in the best interests of the soldiers and the country, without adopting a militant attitude (as we witness regularly whenever there is industrial action in this country).

Military service is unique in that those who enter into it swear loyalty to the country and promise to lay down their lives in its defence. There is no ‘but’ or ‘if’ at the end of such an oath of fealty. This is not to imply that soldiers should be treated like slaves. Parliament, unions, Government and society will have to apply a balancing act if we are to be in line with our Constitution.