Introduction

A prominent diagnosis for Africa’s post-colonial developmental crisis has been the absence of good and democratic governance among its member states. A familiar attribution for this absence has been the inappropriate and counter-productive involvement of the military in institutions of governance. Indeed, to examine the military as an institutional actor in politics, democracy and, ultimately, governance would not be axiomatic in analyses of major Western democracies. But to omit the role of the military from this subject in some African states would constitute a significant oversight. In parts of Africa, the military, as an institution of the state that enjoys the ‘monopoly on violence’, lacks legitimacy as an agent of good and democratic governance. At the same time, the military’s institutional footing within these states is unlikely to disappear, and it can hardly be terminated. The subsequent challenge, therefore, is to determine how the military can play a positive role in enhancing and promoting democratic governance and development.

This paper argues that the institutionalisation of sound civil-military relations provides the fundamental basis for the legitimisation of the military as an actor and promoter of democratic governance. Firstly, it argues that the military is indeed an institution of governance with the aim of convincing the reader of its continued institutional need. Secondly, the paper advances the concept of civil-military relations within the discourse of security sector reform to advocate with caution that civil control of a state’s armed forces promotes good and democratic governance by providing the required institutionalisation for the accountability of the military. Thirdly, the paper examines parliamentary oversight of the armed forces and reviews some of the challenges for its effective and ideal practice. Finally, it attempts to briefly advocate some ways to enhance parliamentary oversight of the security and defence sectors.
Reviewing the military as an institution of democratic governance in Africa

Early studies of the post-colonial armies in Africa viewed them as part of an ‘institutional transfer’ of Western paradigms of governance, along with models of political administration\(^1\). However, many African militaries have come to bear little resemblance to such a model and have instead been viewed as a “coterie of armed camps owing primary clientelist allegiance to a handful of mutually competitive officers”\(^2\). The military’s claim to power in Africa was founded on the argument that the civilian ruler was a leading participant and beneficiary of economic mismanagement, as well as the promoter of internal political strife. In other words, “military governments come to power, not because of the original sin or the superior firepower of the military, but because the civilian political order has proved unsatisfactory.”\(^3\) However, as military rulers captured power, “they quickly discovered that military coups were the easiest and fastest route to state power, and by implication, the agency for guaranteed self-aggrandisement”\(^4\). In addition, the Cold War played a significant role in providing the rationale for the role the military has had in many African states. Put differently, within the context of an imminent outbreak of ‘war’ between nuclear superpowers, the existence of African militaries was not only justified and accepted by the broad citizenry, they were even allowed to replenish its capabilities and enjoy levels of autonomy disproportionate to their role in fledgling post-colonial African states. The consequences were the predatory public administrations that consolidated what some have called the “criminalisation of the African state”\(^5\) and subsequently squandered their legitimacy as a promoter of good and democratic governance.

The most fundamental basis of the military’s claim to power and as an institution of governance is “that of being the most effective and rationale means of organising force and pursuing war”\(^6\), and therefore ensuring the preservation of a state’s security, sovereignty and territorial integrity. In the words of Francis Fukuyama\(^7\) “states need to provide public order and defence from external invasion before they can provide universal health or free education”. Others see the military as “a bulwark against social unrest, and a modernising and stabilising source of organisational strength in society to prevent subversion or a total collapse of the political order”.\(^8\) However, there exists a problematic relationship between some African states and their militaries based on a dynamic that such “states have been predisposed to depend on the military as an institution for survival but apparently incapable of controlling them once unleashed”.\(^9\) Consequently, the military has been the very institution of power and force that “allows states to confiscate private property and abuse the rights of their citizens” and thereby become the primary source of insecurity for the people.\(^10\)
The inability of militaries or armed forces to provide or create the necessary environment for development arises to a large degree from poor governance by the state. In other words, the problem should not been seen solely as a military that is too interventionist, but also the result of a weak state and, moreover, a weak system of governance. This analysis clarifies the dual duty of the military: to provide security for the citizenry as well as the state, thus creating an enabling environment for development. That is, militaries can be the source of the violence inflicted on citizens, yet they (militaries) are central to the state’s ability to control violence, in particular externally induced violence. According to Nicole Ball, countries most in need of stronger security sector governance are those with weak democratic institutions and insufficient civilian capacity to manage and monitor the security bodies. In other words, the citizens of these states are unable to hold the military accountable. An approach to democratic governance should, therefore, focus on the necessity for security sector governance with regard to institutionalising civil-military relations in order to remove one of the major impediments to the African state’s ability to provide sustainable (human) development.

Civil-military relations and democratic governance

Until recently, democratisation theory did not pay much attention to the issue of civil-military relations. Democratisation theory tended to ignore the fact that democratisation is unlikely to succeed as long as the military retains the power it amassed during the previous authoritarian regime and so long as it continues to enjoy that power under the new government. Equally, good governance within the security sector in African states has not traditionally been a concern of the international community.

The role of African militaries in their respective state’s developmental malaise came under attack with the demand for democratisation and good governance. The contribution by African militaries to the ‘bad governance’ on the continent became a concern to the international donor community when the World Bank’s (WB) very technical and stringent Structural Adjustment Programmes (SAPs) failed to produce the economic reform required to halt and reverse Africa’s developmental woes. Within this context, the military as an obstacle to development was correspondingly challenged through a reduction in the defence budget. However, reductions in defence spending did not produce the expected proportional levels of development. Moreover, this did not stimulate any better governance. In some cases, investment in basic infrastructure like roads and public health, education and agriculture
declined, while spending on diplomatic services and jobs connected to the presidency increased noticeably. Consequently, something else, something more, was needed to overcome the obstacle.

By incorporating sound economic management, human development and democratic governance, SAPs began the demand for more efficient, transparent and uncorrupted governments on the continent, even though this demand was politicised and not universally enforced.12

A critical part of the attempt to regulate the armed forces and foster some kind of security sector reform is the need for democratic, civil control of the military and the historic pursuit of harmonious and non-conflictual civil-military relations. For Ball,13 security sector governance is highly political and involves altering power balances between civilians and security personnel, between the executive and legislative branches of government, within the executive branch, and between government and civil society. Therefore, the challenge in consolidating security sector governance is to “develop both effective civil oversight mechanisms and affordable security bodies capable of providing security for the state and its citizens within the context of democratic governance”.14 At the same time, objective civilian control of the military requires professional military establishments strong enough to avoid being sucked into politics, yet not so strong that they could disregard civilian elites.15 Indeed, the constraints to achieving this objective are, to a large extent, the same as those hindering better governance in other sectors of the state.

Within this context, the roles of the different state institutions or government structures in operationalising effective civil control over the armed forces are significant. The classic understanding of civil-military relations is about the balance of power between the civilian political authority and the military. Democratic civil-military relations necessitates that the military is subordinated to a democratically elected civilian government. Various constitutional and institutional measures are put in place and civilian oversight becomes key aspect of the relationship. Huntington argues that this can take the form of objective or subjective civilian control. Objective civilian control is when the civilian and military institutions are distinct from each other; when the institutional boundaries that separate the civilian and military spheres of activities and functions are clearly demarcated; when the civilian authority makes policy that the military implements; and where the military’s participation in policy making is limited to security and defence issues and obtained through civilian and not military initiative. Subjective civilian control, on the other hand, occurs when the institutional boundaries between the civilian government and
the military are blurred, and when military functions are not clearly defined or strictly confine to security and defence issues.

Subjective civilian control, in brief, is achieved when the distinction between the government and the army has been lost. Good governance of the security forces requires that they be controlled by democratic civilian institutions. The civilian control is shaped by many factors, important among them is the institutional capacity of the government.

**Parliamentary oversight of the defence sector: Why?**

Why is parliamentary oversight, particularly in a democracy, critically important? A key feature of a democratically elected government is its system of ‘checks and balances’ that helps prevent autocratic rule, amongst other things. Equally important is the need to counterbalance the executive’s power to determine and govern, on its own, the national security of a country. Put differently, the propensity of the executive to monopolise and autocratically decide the national security and defence policies, and corresponding roles and functions of the armed forces, can be checked with adequate parliamentary oversight.

But why should parliament be the primary actor in the exercise of oversight on a country’s armed forces? According to Heiner Hänggi16 of the Geneva Centre for the Democratic Control of Armed Forces, “while legislatures may range from ornamental to significant governing partners, they have some common characteristics, which include the basic functions they perform: representing the public, making or shaping laws, and exercising oversight. It is an undisputed tenet of democracy that the parliament, being the representative body of the polity, must exert oversight over every element of public policy, including the military or the security sector in general”. In articulating the South African experience of the role of the parliamentary defence committee in ensuring effective oversight, James Ngculu17 expressed a similar view, noting that “all state institutions are accountable to parliament in a democracy. Parliament, as the elected representative body of the public, needs to ensure that the defence forces operate within democratic and constitutional parameters and that it does not abuse its powers”.

In a democracy such as South Africa, parliament’s mandate and authorisation to scrutinise and oversee executive action is a constitutional provision. The importance of constitutionally institutionalising parliament’s powers is derived from acceptance and acknowledgement that constitutions are not
easy to change because voting on constitutional reforms mostly requires a qualified majority in the parliament or, as in some countries, in a popular referendum. Consequently, the constitution represents an effective way of protecting the authority and power of the parliament, similar to the way that parliament protects the powers of other branches of government.

**Parliamentary oversight of the defence sector: What does it entail?**

Basically, the main principle of parliamentary oversight of the defence sector is to hold the executive and the Ministry of Defence accountable and to oversee that a balance exists between the needs of society and the needs of the security sector in pursuing governmental objectives. Although there is no single set of norms for civil-military relations, it appears that, in a liberal democracy, the following main principles should be applied to parliamentary oversight of the security sector:

- Parliament is sovereign and therefore has the last say in security and defence policy and, in this regard, parliament holds the government accountable for the development, implementation and review of the security and defence policy;

- Parliament has a unique constitutional role in the authorisation and scrutiny of defence and security expenditures as well as declaring a state of emergency and the state of war;

* The state is the only organisation in society that has the legitimate monopoly of force. Since the state has delegated this monopoly to the military, the military is accountable to the democratic, legitimate authority;

* Principles of good governance and the rule of law are valid for all branches of government, including the security sector;

* The political and military leaders are committed to a healthy division of labour, i.e. political leaders interfere as little as possible in military decision-making and vice versa;

* The military is an instrument of national security and foreign policy; and

* The legitimate democratic authorities are the only actors entitled to decide whether the society needs more ‘guns or butter’.18
In a democracy, where the rule of law must prevail over the arbitrary use of violence, the parliament is entrusted with substantial powers to ensure that ‘the tools of coercion’ are not abused – by either the military or the executive. Through the power vested in it, the parliament performs a range of critical functions regarding the defence sector. The most salient of these are:

Legislative powers: Parliament makes, shapes and passes laws that govern the defence sector. The constitutional framework of a democracy constitutes the authority of the parliament’s involvement in defence legislation. Although parliamentarians may not be the main drafters of legislation, they nevertheless constitute the principal institution for its debate and subsequent approval (or rejection). Toward this end, parliament exercises significant power in overseeing the defence sector by, for example, stipulating what concept of security must be adopted or, for that matter, the approval or rejection of the deployment of the armed forces abroad in international peace missions.

Defence policy: Parliament supervises, guides and approves defence policy. Generally, in democracies, parliament’s role is to ensure that the people’s aspirations are embodied in state policies and, accordingly, oversee that the said policies are implemented. This holds equally, if not more so, for defence policy. In this regard, “it is important to be explicit about what is meant by ‘parliamentary oversight’. Does it mean control, consultation or accountability? In most cases in the West, actual control by parliament only occurs in limited areas. In practice, ‘parliamentary oversight’ does not mean that every aspect of military policy is directed by parliament but, more crucially, that policy is transparent and that policy-makers can be held to account if necessary”. To this end, the formulation and writing of defence policy is thoroughly scrutinised and supervised by parliament.

Indeed, policy is to be contrasted with actual operations. “Convention holds that MPs should not meddle in operational matters. There is obviously a fine line between policy and operational practice. When elected civilians do not extend or exercise their oversight and control far enough, human rights and other abuses may occur”. Therefore, parliament enjoys the prerogative to assess the implementation of defence policy. In other words, it determines whether the ‘roles and functions’ of the armed forces are in accordance with the defence and national security policy.

Budgeting: Allocation of funding for the security sector must often compete with other areas of public spending, in particular, the social and developmental sectors. The parliament has the power to approve, disapprove or amend the defence budget, as with the budget of any other sector. In order to do so,
however, the parliament must have comprehensive information on all budget items (not just grand totals) regarding defence expenditure. If necessary, the parliament can request that external auditors report to the parliament on the financial state of affairs of each security force. Not only can the legality of budget spending be scrutinised, the parliament has the right to research whether money is spent in an effective and efficient way. In the same vein, the Minister of Defence has to report to parliament on any budgetary changes, and the latter then retains the right to approve or disapprove any supplementary budget proposals.

The parliament also scrutinises the planning and programming of the Department of Defence (DoD). The defence strategic plan and its corresponding programmes designed to accomplish its defence objectives, is overseen by parliament. In short, parliament authorises policy, has legislative powers, approves the budget and endorses, alters or cancels the president’s decision to deploy the armed forces.

Parliament and concomitant institutions

The Parliamentary Committees on Defence

The parliament has the crucial power to set up committees that focus on various areas or portfolios, and the defence and security sector is no exception. The parliamentary committees, in turn, have the right to organise their own functioning and agenda in the conduct of hearings and to require the presence of cabinet ministers at committee meetings.

These committees must maintain oversight of:

- The exercise within its portfolio of national executive authority, including the implementation of legislation;
- Any executive organ of State falling within its portfolio;
- Any constitutional institution falling within its portfolio; and
- Any other body or institution in respect of which oversight was assigned to it.

In the South African case, two parliamentary committees were established and charged with the task of managing the national defence function within
the legislature. **Firstly**, the **Joint Standing Committee on Defence (JSCD)** was established in terms of the South African constitution. The JSCD is mandated, “to investigate and make recommendations on the budget, functioning, organisation, armaments, policy, morale and state of preparedness of the National Defence Force and to perform such other functions relating to parliamentary supervision of the force as may be prescribed by law”.\(^{21}\) **Secondly**, the **Portfolio Committee on Defence (PCD)** “discharges similar functions to the JSCD although it is also empowered to deal with legislation tabled in parliament. It is a multi-party committee comprising all political parties represented in parliament. The work of the JSCD and the PCD are, therefore, complementary”.\(^ {22}\)

**The Department of Defence or Ministry of Defence (MoD)**

While a powerful and competent parliament is generally considered to be an important element in the effective democratic oversight of the defence sector and armed forces, parliamentary oversight can only be successful if the parliament is given the full support of other branches and bodies of government, in particular the DoD or the MoD. Scholars are often struck by the very great differences between defence ministries in different countries. According to David Chuter,\(^ {23}\) “the difference is mainly because the range of functions, involved in defence is very large and there is a great deal of variation in the ways in which they are carried out.” Nevertheless, the Minister of Defence, like all other cabinet ministers, is held accountable by parliament for the exercise of the powers, duties and functions of his/her portfolio. In this regard, parliament provides a legislative base for the functions and organisational framework of each department of government. For example, the South African Defence Act contains the powers of the MoD, the Secretary for Defence and the Chief of the South African National Defence Force (SANDF).

The following, according to Chuter,\(^ {24}\) are suggested as the most important defence functions:

1) The command and control of operational forces;

2) Operational planning and exercises;

3) The peacetime recruitment, training and administration of military personnel;

4) Intelligence analysis and sometimes collection;
5) Formulation of defence policy;
6) Implementation of defence policy;
7) Equipment research and development;
8) Equipment procurement; and
9) Administration of the organisation itself.

Challenges for effective parliamentary oversight

It is generally accepted that a range of conditions will determine the strength or weakness of parliamentary oversight and the challenges that are likely to arise. Firstly, the formal oversight powers, including constitutional and legal powers can become muddled and dysfunctional if the executive is politically strong and non-compliant. Therefore, the political will of the parliamentarians to use their constitutional and legal powers is needed. Secondly, parliament requires real oversight capacity in terms of professional expertise and technical capabilities, and therefore requires the necessary resources at its disposal to exercise effective oversight of the defence sector. Thirdly, the issue of transparency is often fraught because of the need for confidentiality and secrecy. This has to be delicately balanced with the democratic right of public access to information.

Weakness of parliamentary oversight: In considering the strength of parliament to oversee the defence sector, Modise argued that countries with stronger legislative traditions tend to emphasise the role of legislative mechanisms entrusted with oversight roles such as committees of parliament, the ombudsman, the approval of budgets, etc. Countries with stronger executive cultures rely more on the regulatory role of civil servants, the finance ministries and presidential control to ensure the subordination of the security sector to civil power. In South Africa, it took time before members of parliament (MPs) began to internalise the separation of powers, and to expect the executive to justify its decisions to parliament and not the other way round. Oversight is generally weak in countries where the executive is strong and the legislature is weak. In fact, if one were to analyse the Southern African Development Community (SADC) alone, during the past few years, one would find that the region suffers from weak legislatures, where loyalty to the party hierarchy is sometimes confused with loyalty to the people.
Therefore, unless elected representatives have a commitment to hold the executive accountable, no amount of constitutional authority or resources will make them effective. Hence, an important condition of effective parliamentary oversight is its willingness to use the resources at its disposal and the legal power vested in it. If parliamentarians do not want to use their powers to scrutinise the government, constitutional or other legal powers will be of little use. Party politics is one of the main factors that restricts parliamentarians who have the legal power to hold the government accountable. More often than not, parliamentary political parties, which are represented within the government, are not very eager to oversee their governmental counterparts in a critical manner. As a result, instruments of parliamentary oversight are often not applied to oversee the executive, except when scandals or emergencies occur.

*Capacity for oversight:* Capacity-building is essential if parliaments are to exercise effective oversight over the military. For example, within the defence budget system, the parliamentary committees need to understand these processes and must therefore develop the skills to analyse, monitor and advise on defence expenditure. In theory, parliament can exercise its control over the executive because it controls the budget. But in reality, clear guidelines for expenditure must be set and understood by both the military and those who exercise control over the military. What role do parliamentary committees play when defence spending continues to be below the amount required to execute and sustain defence policy? Is it not their duty to be concerned with the functioning, state of readiness and morale of the military? Should they not guide the balance between social, developmental and defence expenditure? Answers to these critical questions compel the need for competent parliamentarians to provide an oversight function. “There is nothing as dangerous to democracy as an ignorant MP.”

*Resources:* In addition to its formal authority, the parliament must have the ability to carry out its roles. Members of parliament are entitled to question ministers, but they need to be able to ask the right questions. Effective parliamentary oversight of the security sector requires expertise and resources in parliament or at the disposal of parliament. The expertise of parliament is, however, no match for the expertise of the executive and the security forces. In most cases, parliaments only have a very small research staff, if any, whereas the executive can rely on the staff of the ministry of defence and other ministries, which deal with the security sector. In addition, parliamentarians are only elected for a limited term, whereas the majority of civil servants and military personnel spend their entire career in the ministry of defence. The basic problem is, however, that parliaments rely mainly on information coming from the government and military, which are the very institutions...
they are supposed to oversee. This creates asymmetrical dependency relations between the parliament, the government and the military. The situation is aggravated by the closed nature of the security sector due to the work it undertakes in the field of the military, culture, education and secrecy laws.

**Limits of transparency:** Some areas of defence policy are legitimately secret. There are, though, practical measures that can be implemented to allow legislative oversight over secret policy areas, particularly if a relationship of trust exists between parliament, the executive and the armed forces. Examples include the use of closed rather than open committee hearings. The South African White Paper on Defence[^27] states that: “Defence policy and military activities shall be sufficiently transparent to ensure meaningful parliamentary and public scrutiny and debate, insofar as this does not endanger the lives of military personnel or jeopardise the success of military operations.” It is not always easy to define clearly when this position has been reached and it is therefore important that there be good and open relations between the committees and the department to reach amicable and acceptable compromises. In South Africa, the Access to Information Act provides a legal basis for solving such disputes.

**Enhancing parliamentary oversight**

To address the capacity and resource constraints that affect parliamentary oversight, a number of measures have been proposed and applied in recent years. This is particularly the case in the context of legislative development programmes applied in countries in transition. Some of these measures include:

- Parliaments making use of the expertise of non-governmental organisations (NGOs) in their work (e.g. requesting research from think tanks and inviting civil experts to participate in public hearings);

- International parliamentary assemblies and international think tanks are becoming increasingly active in supporting parliaments. Parliamentarians are often active in these international assemblies, in which they exchange experiences and viewpoints with parliamentarians from other countries; and

- Parliaments have parliamentary staff members (for both individual parliamentarians and for committees) who must follow national and international seminars and study tours.
Conclusion

Bad governance has been instrumental in retarding development among many African states. Much of the bad governance has undoubtedly been a consequence of the military’s inappropriate involvement in structures of governance. Africa’s history of competition for the control of the state, especially between the military and civilian classes, has been at the centre of this malgovernance. At present, civil control of the military provides the best way of addressing problems of African development and governance that are military-induced. At the same time, parliamentary oversight of the defence sector, first and foremost, depends on the type of political system that exists. It might be a democracy and it might have a parliamentary or a presidential system. Parliamentary oversight of the defence sector is also crucial in ensuring that the armed forces are managed in much the same as any other public good would be. Therefore, it is essential to afford ample attention to the legal and formal frameworks of the parliamentary authority that provides the critical oversight of the defence sector. Effective parliamentary oversight requires the adoption and maintenance of ‘best practices’. The best way of trying to increase the willingness of members of parliament to engage in effective parliamentary oversight is to improve the constitutional and legal authority of the parliament and its capacity to carry out its role in terms of professional expertise and technical capabilities. However, “as long as African political rulers and administrators are drawn from a class of predators, no amount of preaching the virtues of good governance or tuition on public administration will fundamentally alter the quality of governance”.28 And because of the role that the security institutions such as the military often play in bolstering the power of political elites, caution should be taken with regard to the institutions created for the advancement and strengthening of security sector governance in Africa.

Notes


2 Ibid.


8 R Luckham, op cit, p 1.

9 Luckham, op cit, p 3.

10 Fukuyama, op cit, p 1.


12 A Mafeje, op cit, p 15.

13 Ball, op cit, p 13.

14 Ibid.

15 Luckham, op cit, p 2.


21 Modise, op cit, p 53.

22 Ngculu, op cit, p 180.

24 Chuter, op cit, p 55.
25 Modise, op cit, p 54.
26 Modise, ibid, p 57.

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