

Military unions

Threat to national security?

In August this year soldiers militantly demonstrated at the Union Buildings. Politicians and the public were shocked. But, argues **Lindy Heinecken**, this was the end point of a long and frustrating process for military unions and if grievances are not addressed we may see more such confrontations.

The militant protests by soldiers on 26 August 2009 evoked much concern among the public and international community. For many it came as a surprise, almost an absurdity that soldiers can belong to trade unions, given the highly authoritarian nature of employment relations in the military.

The existence of military unions is not unique to South Africa. In the post-Cold War era there has been growing support for unions among military personnel. Like many other employees in the public sector, military personnel worldwide have experienced a decline in employment. They have also seen changes in career patterns, extensive outsourcing of military tasks, and employment on short-term contracts, all of which affect career prospects and job security.

This has spurred a renewed interest in military unionism in Europe. The European Organisation of Military Associations (Euromil), a federation of military unions, for example has increased its membership to 32 associations representing over 24 countries.

Euromil's mission is to ensure that all member states of the European Union allow their armed forces the freedom of association to belong to unions or professional associations.

While some countries have had military unions for decades, others still vehemently oppose unions within their ranks. These include countries like France, the United Kingdom, Spain and Italy. In the UK, unions are considered 'the final taboo', but the newly formed British Armed Forces Federation is gaining support.

THE ISSUE WITH MILITARY UNIONS?

One concern is that a union will divide the loyalty of soldiers between their unit and the union. As a union's function is to form a bargaining unit in opposition to an authority such as military leadership, it poses a problem for command and control within the armed forces. By implication union membership implies a challenge to management's decisions. Yet, one of the fundamental requirements of the military profession is discipline, unquestioning obedience and the acceptance of authority.

However, in those countries where military personnel have labour rights, few have experienced any loss of military efficiency or discipline. However, limits are generally placed on the activities of such associations and few allow collective bargaining that will place the unions in a confrontational relationship with military leadership and the state.

TENSIONS BETWEEN MILITARY AND UNIONS

In South Africa the courts have given the military unions a wide berth in terms of the issues they are permitted to bargain over. This has been a main point of contention as the South African National Defence Force (SANDF) has claimed that certain issues cannot be negotiated. So, from the onset when soldiers were eventually granted the right to form unions and partake in collective bargaining by the Constitutional Court in 1999, the relationship has been confrontational.

The South African National Defence Union (Sandu) has claimed the right to negotiate over all matters of mutual interest, while

the SANDF has tried to limit the issues over which they bargain. For example, they were not prepared to negotiate over the new staffing policy, severance packages, pensions and problems with grievance procedures.

Consequently, meetings on the Military Bargaining Council have been hostile.

In 2001, the SANDF reported to the Parliamentary Committee that the military unions were detrimental and a mistake. Then in 2001, after Sandu threatened to go on strike if their grievances were not addressed, the Minister of Defence, summarily suspended the activities of the Military Bargaining Council. This ended the collective bargaining process.

In response Sandu turned to the courts to compel the SANDF to negotiate. For the next five years, from 2002 to 2007, Sandu was embroiled in numerous court cases over the right and scope of collective bargaining, which ended up once more in the Constitutional Court in 2007.

Sandu won virtually every court application so the SANDF was compelled to negotiate on matters of mutual interest. The court also ruled that the union is entitled to represent their members in grievance, disciplinary and court proceedings. Furthermore, military unions have the right to petition and protest, as long as it does not jeopardise order and discipline.

Yet despite these favourable court rulings, the SANDF continued to sideline the unions, claiming that they no longer met the membership threshold to be recognised, which Sandu disputed. With labour relations at an impasse, Sandu turned to the Parliamentary Portfolio Committee on Defence (PPCD) to intervene in 2008.

TENSION BETWEEN UNIONS

By now there were five unions operating in the SANDF, but only Sandu was officially recognised, albeit now split into two factions due to leadership squabbles.

The PPCD, in a meeting with officials from the Department of Defence expressed concern that structures for handling labour disputes and grievances, such as the Military Bargaining Council and the Military Arbitration Board, were not functional. Internal grievance procedures were also not functioning with over 4 000 grievance cases remaining unresolved, some for up to three years. Consequently the PPCD ordered the SANDF to set up a task team to address the labour relations challenges and to restore communication with the unions as “grievances were genuine and long-standing”.

Following orders, the SANDF invited the military unions to a meeting to establish an Ad Hoc Task Team. However, this time leadership problems within Sandu and tensions with the other union the South African Security Forces Union hampered progress.

Frustrated and angry, Sandu in July 2008 threatened to protest if their demands were not met. Sandu chair Tsepho Mothlwa allegedly said that “next time we come here we will be in our uniforms and with our guns”. This threat should have set off alarm bells, for just over a year later with no progress, and a total breakdown in communication between unions and military leadership, 1 300 Sandu members took to the streets to protest on 26 August 2009.

RESPONSES TO AUGUST PROTEST

This event sparked huge reaction among the public and politicians. Minister Lindiwe Sisulu ordered the dismissal of protesting soldiers and ignored due process and the basic

principles of administrative justice.

Not surprisingly, the North Gauteng High Court ordered that none of the soldiers who took part in the protest at the Union Buildings may be dismissed without a proper investigation. Nonetheless, it sparked a new wave of antipathy among politicians, military leadership and the public towards Sandu and military unions. Across the board military leadership and political parties felt that for national security, military unions must be banned.

Sisulu immediately established a National Defence Force Service Commission to look into the service conditions of military personnel. While at first adamant on outlawing unions, she soon backed down when it became apparent that to repeal the democratic rights of soldiers would involve a long and costly Constitutional Court battle.

The Congress of South African Trade Union’s (Cosatu) Zwelinzima Vavi slated the minister and others who proposed de-unionising the military and threatened to challenge this in court. He stated that Cosatu would recruit soldiers. This should have solicited public debate. Where military unions exist, few countries allow such unions to affiliate to other private or public sector associations. Ultimately, the political neutrality of the military is a requirement of armed forces in a democracy.

The real issue, however, is how to address the legitimate grievances of soldiers in terms of pay parity and service conditions that led to the protest in the first place. The military acknowledged that the protest was the result of “longstanding systemic problems in the army”.

Internal surveys have for years shown that soldiers do not think that their interests are looked after by headquarters and staff divisions, and they have problems with the Department of Defence as an

employer. It is unfortunate that despite this awareness and appeals by military unions and protest marches, it was only when soldiers acted in an unruly militant manner that the state took notice.

The challenge the SANDF now faces is firstly to ensure that grievances and pay disparities are addressed as a matter of priority.

Secondly, that grievance and disciplinary procedures start functioning. Where defence employees see that the chain of command is politicised and members don't trust processes, this inevitably has a negative impact on discipline and morale.

Thirdly, the unions and military leadership need to work towards a more cooperative relationship. The present confrontations are extremely damaging in terms of trust in military leadership and the efficient functioning of the SANDF.

Here the Minister's Committee has its work cut out. Streamlining the internal and external mechanisms to address the grievances and aspirations of military personnel will not be easy, as it may involve substantial revision of the current dispensation.

The recommendations may spark another round of conflict unless there is sufficient consultation and knowledge to comment. The authoritarian undertone of some politicians is worrying. While limitations may reasonably be imposed on military personnel, the biggest threat to national security is not the union, but the poor state of labour relations that led to ill-discipline in the first place. Surely, the defenders of our democracy deserve better treatment. LB

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Shock report on SA's 'military time bomb'

The defence force is in crisis. Soldiers are living in shacks as their barracks decay, discipline has broken down at major bases and the top military hospital is collapsing.

Judge Ronnie Bosielo, chairman of a commission looking into conditions of service in the military, told Parliament's defence committee the situation was so dire that he had submitted an urgent interim report to Lindiwe Sisulu, minister of defence and military veterans, telling her that the crisis was a "ticking time bomb" and she had to act immediately.

"[SANDF] are demoralised. They are disgruntled, they don't know where they stand. Something must be done about it. These are the harsh realities we are confronted with," he said.

Members of Bosielo's commission told the committee that they would recommend a salary adjustment for soldiers, but warned that Sisulu would need a budget increase because it could not be done from existing funds.

"The minister is going to need money very fast to respond to these challenges," said Bishop Malusi Mpumlwana, a member of the commission.

Bosielo and members of the commission told MPs that barracks were in decay, with ceilings collapsing, and toilets and showers not working. He said conditions were 'sub-human'.

1 Military Hospital in Pretoria once the flagship of the medical Corps, was falling apart. It did not have a resident radiographer, the committee was told.

The commissioners said soldiers wanted to join trade unions because grievance procedures were not working. There was a backlog of more than 660 cases waiting to be heard, and some had been in the queue for several years.

"We wondered how soldiers survive with the salaries they are getting," Boshielo said.

A private with more than 10 years service takes home R3 000 to R3 200 a month after deductions, including medical aid and pension contributions. If he lives in military accommodation, he pays about R500 a month.

The entry-level pay for a soldier can be as low as R2 300, compared with about R6 400 for a police constable.

"At Doornkop and Lens [two major military bases that the commissioners visited] there is a complete breakdown of discipline - complete," Bosielo said.

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