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REASSESSING CIVIL CONTROL OF THE SOUTH AFRICAN ARMED SERVICES

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A research report submitted to the Faculty of Management, University of the Witwatersrand, in 50% fulfilment of the requirement for the degree of Master of Management (in the Field of Security).

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Clyde Brad Hepburn[1]

ABSTRACT

Defence Review 2015 concluded that the South African National Defence Force (SANDF) was in a "critical state of decline", faced imminent and irreversible loss of capabilities and questioned its ability to meet all of its ordered defence commitments (Department of Defence, 2015c, pp. ix; 9-9). This is a grave indictment considering it is entrusted with the constitutional mandate to defend the Republic (Republic of South Africa, 1996, Sec 200). This begs the question "what went wrong?" Causes raised include the apparent disjuncture between the defence mandate and budget. It is unlikely, however that the blame can be attributed to a funding shortfall and overly ambitious defence mandate, alone. Some question whether a flawed institutional civil control structure might be to blame for compromising military command and thereby the ability of the armed forces to ensure effective defence. Did the new government go too far in imposing robust civil control over the SANDF in 1994, effectively emasculating the SANDF? Alternatively is the selected model for South Africa's civil control and oversight regimes simply inappropriate or otherwise ineffective? Whether the failure lies with the selected model itself or in its execution are issues that were examined in the study.

This study takes as its point of departure, various Defence Review 2015 policy proposals that, it was argued, point to deeper flaws in the institutional civil-military arrangements within the DOD. As such, they are fundamental to our understanding of the civil control challenges confronting the DOD and the formulation of policy options and recommendations. What the study highlighted was that the ultimate challenge for the DOD could be reduced in simple terms to finding an agreeable solution that would satisfy both the statutory civil control precepts and the Chief SANDF's desire for freedom from undue interference with his executive military command. Central to the entire civil control debate is of course the balance DOD design, around which the DOD transformation project is structured, and the role of the Sec Def in exercising civil control in a 'collaborative relationship' with the Chief SANDF. There is general consensus that the balance DOD design has

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failed to live up to expectations and that it has proven difficult to establish and maintain the optimum balance between civil control and an effective armed service. What is equally obvious is that even after more than two decades of democratic consolidation; the DOD has yet to complete its transformation. If Defence Review 2015 is anything to go by then it can be expected that the process is set to continue for at least the next 25 years.

That civil control remains a contested concept within the DOD is not in doubt. The solutions may be elusive; however, there is strong evidence that the answers lie more with how the Def Sec should be capacitated rather than the current focus on repositioning to better enable civil control of defence and to perform the duty assigned to it. Structural issues are clearly a factor and should indeed be dealt with in the broader DOD reorganisation. Nonetheless, there is a strong argument presented that instead of restructuring, better use should be made of performance agreements, delegations and detailed instructions. Given that the DOD is recognised in law as a 'special case', there should be a strong legal argument for amending the applicable legislation to make provision for a 'special delegation regime' or performance agreements, as a solution to the DOD's immediate needs for providing an effective armed service.

Keywords: Civil control; oversight; Defence Review 2015; South African National Defence Force; armed services; budget; civil-military relations; Constitutional mandate; defence ministry, military command and control, defence secretariat.

DECLARATION

I declare that this report is my own, unaided work. It is submitted in partial fulfilment of the requirement for the degree of Master of Management (in the Field of Security) in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in any other university.

_____

Clyde Brad Hepburn

March 2016

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Table of Contents

List of Acronyms and Abbreviations iv
List of Figures v

Chapter 1 Introduction and Background[2] 1

1.1 Introduction 1

1.2 Background 3

1.2.1 Problem Statement 4
1.2.2 Purpose Statement 5
1.2.3 Research Questions 6

1.3 Research Methodology 6

1.3.1 Research Paradigm 6

1.3.2 Conceptual Frame 7

1.3.3 Research Design 9

1.3.4 Data Collection and Analysis 10

1.3.5 Trustworthiness of Data 12

1.4 Summary of Chapters 13

Chapter 2 Literature review 14

2.1 Introduction 14

2.2 Terminology 16

2.2.1 Military, Armed Forces and Armed Services – in Search of Clarity 16

2.2.2 Civilian versus Civil Control – the Debate 17

2.3 Making the Case: Reassessing Civil Control 20

2.4 Theory and Concepts 24

2.5 Conclusion 36

[2] With acknowledgment to the *Research Guidelines for Masters Degrees by Coursework and Research*, for the research report framework/template, as adapted (Wits School of Governance, 2011).

Chapter 3 **Institutional Dimensions** 39

3.1 Introduction 39

3.2 Civil Control under Apartheid Rule 40

3.3 The transition 1990 - 1994 46

3.4 Defence in Transformation: Minister Modise 61

3.4.1 Civil Control Constitutional Frameworks 61

3.4.2 Department of Defence Transformation Project 67

3.4.3 Implementing the Balance DOD Design 88

3.5 Conclusion 108

Chapter 4 **Organisational Renewal Post Integration** 111

4.1 Introduction 111

4.2 Ministerial Task Team Report on the Restructuring of the Office of the Secretary for Defence 112

4.3 Parys Resolution 123

4.4 Change of Command: Minister Sisulu 130

4.5 Defence Review 2014 136

4.6 Conclusions 140

Chapter 5 **Repositioning the Secretariat for Effective Civil Control** 143

5.1 Introduction 143

5.2 Statutory Roles and Functions of the Secretary for Defence 145

5.3 Delegations of Powers 147

5.4 Core Challenges with Statutory Functions 150

5.4.1 Accounting Status 151

5.4.2 Comprehensive Instructions 152

5.4.3 SANDF Compliance to Minister of Defence's Instructions 153

5.5 Alternative Approaches to Civil Control 154

5.5.1 Desire DOD Accountability and Staff Liaison Structure 155

5.5.2 Outer Office Model 159

5.6 Analysis 165

5.7 Conclusion 167

Chapter 6 Conclusion and recommendations 170

6.1 Chapter Outline 170

6.2 Introduction 170

6.3 Reassessing Civil Control of the Defence Force 177

6.3.1 Repositioning and Capacitating the Defence Secretariat 179

6.3.2 Modifying the Organisational Structure and Realigning Functions 183

6.3.3 New Accountability Concept for the Department of Defence 185

6.4 Insight on Data Collection and Challenges 187

6.4.1 Restrictions 189

6.5 Concluding Remarks 190

References 192

Personal Communications and Private Documents 198

List of Respondents Interviewed 200

List of Acronyms and Abbreviations

ANC	African National Congress
Chief SANDF	Chief of the South African National Defence Force
CODESA	Conference for a Democratic South Africa
The Constitution	The Constitution of South Africa, 1996
Def Sec	Defence Secretariat
DOD	Department of Defence (South Africa)
JMCC	Joint Military Coordinating Committee
JSCD	Joint Standing Committee on Defence
JSCPA	Joint Standing Committee on Public Accounts
MCC	Military Command Council
MK	Mkhonto we Sizwe
Minister	Minister of Defence and Military Veterans
MOD&MV	Minister of Defence and Military Veterans
MOD	Ministry of Defence (South Africa)
NP	National Party
PAC	Pan Africanist Congress
PCD &MV	Portfolio Committee on Defence and Military Veterans
PDSC	Plenary Defence Staff Council
PFMA	Public Finance Management Act, 1999
PSA	Public Service Act, 1994
SADF	South African Defence Force (Pre 29 April 1994)
SANDF	South African National Defence Force
SC	Secretariat Council
SCOPA	Standing Committee on Public Accounts
Sec Def	Secretary for Defence
TBVC	Transkei, Bophuthatswana, Venda and Ciskei
TEC	Transitional Executive Council

List of Figures

Figure 1	Civil-Military Relations under President P.W. Botha	44
Figure 2	SADF Organisational Structure circa 1990	45
Figure 3	Option 2: CSANDF Reports via Sec Def to Minister	74
Figure 4	Sec Def forms part of the Outer Office	75
Figure 5	Balance/Compromise Model	77
Figure 6	Balance DOD Design	84
Figure 7	Macro Design – 1998	98
Figure 8	DOD Macro Design 2001 – 2004	104
Figure 9	Joint Support Macro Structure 2001 – 2004	105
Figure 10	DOD Macro Design Post-DODW	127
Figure 11	DOD Macro Design 2015	139
Figure 12	Delegation Dilemma	148
Figure 13	Required Delegation Situation	149
Figure 14	Desired DOD Accountability and Staff Liaison Structure	158

CHAPTER ONE

INTRODUCTION AND CONTEXTUALISATION

"The nation that will insist on drawing a broad line of demarcation between the fighting man and the thinking man is liable to find its fighting done by fools and its thinking done by cowards."

Sir William Francis Butler

1.1 Introduction

Nowadays, the exercising of 'civilian'[3] control over the armed services is a phenomenon that is widely accepted by most countries worldwide. Notwithstanding a few notable exceptions, the majority have in place a coherent system of civilian oversight and control that is founded upon the principle of the armed services' subordination to the civilian leadership (Bruneau, 2008; Cawthra, 2003; Chuter, 2011; Croissant, Kuehn, Chambers, & Wolf, 2010; Edmonds, 1988; Feaver, 1996). Aside from a few noted consolidating democracies still struggling with civilian control tensions (for example Thailand, Egypt, Kenya, Burundi and Venezuela) (Freedom House, 2015) – the practice of democratic civil control has matured substantially beyond its initial purpose of simply preventing coups (Croissant *et al*., 2010, p.950) and otherwise ameliorating the threat of "...praetorian military intervention in domestic politics…" (Cottey, Edmunds & Forster, 2002, p. 31). Even Huntington (1957, p.20) was moved to observe that the "…problem of the modern state is not armed revolt…"

The concern, therefore, is that the arguments put forward – which hold that the primary problem confronting governments is the threat of military intervention in domestic politics – may well serve to distort the concept of civil control, ultimately manifesting in the imposition of rigid civil control regimes at the expense of good governance and effective defence. Feaver (2003, p.4), in reflecting on this myopic view, cautions that it cannot be assumed that negating a threat of military intervention or coup, will necessarily translate into an improvement in civil-military cooperation

[3] This is of course a contested term and as will be later argued it is probably better to speak of 'civil control' (Chuter, 2011). The use of these different terms will be debated and clarified in a later section.

and military effectiveness. Civil-military challenges will remain an issue even when civil control over the armed services is asserted (Feaver, 2003, p.4).

South Africa is a remarkable case in point. The recent, long awaited, release of Defence Review 2015 has served to rekindle interest in the country's civil-military relations. The conclusions, although refreshingly frank, were not particularly surprising. South Africa's nascent National Defence Force (SANDF), created in the euphoria of the first democratic elections and subjected to sweeping reforms and 'civilianisation'[4], has attracted steady criticism over the years, variously for being unaffordable and/or for defects in its design and structure (Cilliers, 2014; Chuter, 2011; Le Roux, 2004; Mills, 2011; Shaw, 1995; Williams, 2000). The Defence Review went so far as to conclude that the SANDF was in a "critical state of decline", and unable to meet all of its ordered defence commitments (Department of Defence, 2015c, p. ix). This is a grave indictment against the national department entrusted with the constitutional mandate to defend and protect the Republic and its people (Republic of South Africa, 1996, Sec 200) and that in 2014 alone, consumed a budget in excess of 42.8 billion Rand (Department of Defence, 2014, p. 22). This begs the question "what went wrong?"

The disjuncture between the defence budget and level of defence ambition has attracted much of the blame for the state of decline (Department of Defence, 2015c, p.ix). It is, however, unlikely that the Department of Defence's (DOD) decline can be attributed to a funding shortfall and overly ambitious defence mandate, alone. It is argued that whilst recognising that defence funding will always feature prominently, there is a greater risk in allowing the funding argument to dominate the debate to the exclusion of all other evidence. Evidence such as the misalignment of the Defence Force and Secretariat functions, an ineffective institutional civil-military

[4] 'Civilianisation' in the defence sector is defined by Ratchev (2011, p.14) as "a transfer of control and/or a select number and type of working positions from military to civilian personnel." The presumption is that the defence organisational structure was initially designed around uniformed personnel only.

arrangement and the compromised integrity of military command, simply cannot be ignored.

That being the case then, left unresolved, these additional shortcomings have the similar potential to impede not only the exercising of civil oversight by Parliament and civil control by the National Executive, Minister of Defence (hereinafter referred to as the Minister) and Secretary for Defence (Sec Def) but equally the capability of the SANDF in executing its ordered commitments. The key issue here is as much about the SANDF's efficiency and effectiveness in service delivery as it is about guaranteeing civil assurance.

This hypothesis raises a number of possibilities. Did the new government go too far in their efforts to impose robust civil control over the SANDF, in the period leading up to 1994 and in the years that followed, effectively emasculating the SANDF? Alternatively is the selected model for South Africa's transformed DOD and civil control and oversight regimes simply inappropriate or otherwise ineffective? Alternatively, put another way, whether the failure lies with the selected model itself or in its execution – a victim of the dilemma of balancing power between the civil authorities and the armed services – are issues that require further interrogation? Ultimately, given that there is acceptance on the need for civil control, then the question arises as to what the ideal institutional civil control and oversight regimes should look like.

1.2 Background

This study is broadly situated within the South African public policy field, the locus being defence policy; in the contexts of the DOD and the analysis of both the Constitutional imperative for civil control of the SANDF and the unfolding defence strategy. It takes as its point of departure, various Defence Review 2015 policy proposals that, it will be later argued, point to deeper flaws in the institutional civil-military arrangements within the DOD. As such, they are fundamental to our understanding of the civil control challenges confronting the DOD and the formulation of policy

options and recommendations. The focus of this study was expressly narrowed to concentrate on assessing the civil control of the transformed SANDF in the period immediately prior to 1994 and the decades thereafter. Of particular interest are those defence policy issues which impact on the exercising of the Minister's and Sec Def's statutory functions, the statutory accountability and delegation regimes regulating relationships between the Sec Def and Defence Force, and ultimately the bearing this has on the operational effectiveness and efficiency of the SANDF. The research design is a basic interpretative qualitative study applying a constructivist/interpretative paradigm with the researcher as a participant observer (Wagner, Kawulich & Garner, 2012). The study was conducted primarily at the South African Department of Defence Headquarters, ARMSCOR Building, Pretoria, between April and December 2015.

1.2.1 Problem Statement

The functions and composition of the Defence Secretariat (Def Sec) are not aligned with the changing Defence Mandate and the Minister's specific support requirements. The crux of the problem appears to be both institutional in origin as well as a consequence of the inherent civil-military tensions within the DOD that impacts on the co-existence, power relations and working procedures between the Def Sec and the SANDF. It seems, perversely, that the current institutional civil control arrangements have effectively compromised the integrity of military command, and thereby the ability of the armed services to fulfil the roles and missions assigned to it. What are not so clear are the solutions.

Although considerable research has been conducted on the subject of civil-military relations and to a lesser degree civil control of armed services, and notwithstanding wide acceptance of the need (Bruneau, 2008; Cawthra, 2003; Chuter, 2011; Croissant, Kuehn, Chambers, & Wolf, 2010; Edmonds, 1988; Feaver, 1996), there is little agreement on the ideal model that should be applied (Bland, 1999; Bruneau, 2015; Burk, 2002;

Chambers, 2011; Cottey, Edmunds & Forster, 2002; Feaver, 1996; Huntington, 1957; Ratcheve, 2011; Schiff, 1995; Williams, 2003). Even the extensive report of Defence Review 2015, although identifying numerous shortcomings, only offers "…strategic level guidance…" (Department of Defence, 2015c, pp. 9-14) and not specific operational or managerial level recommendations for restructuring the DOD to effect improved civil control and deliver an effective SANDF.

Therefore, whilst the literature on the subject of civil-military relations – and more particularly civil control of the armed services – is helpful in providing a broad framework and concepts with which to guide the study, there is no apparent blueprint for a universally applicable model that can be converted directly to South Africa, with its own unique context and history. In addition there are no definitive empirical studies of particular significance in the literature that could be considered explicit advice on how to transform the DOD by means of realigning the functions and composition of the Secretariat with the changing defence mandate and the Minister's specific support requirements, to assure effective defence.

While this research builds our understanding from the perspective of foreign armed services, which have all experienced, to varying degrees, challenges with flawed institutional and legislative civil control arrangements, it is more important for what is missing rather than any particular solution for South Africa. It is this lacuna which is debated in the coming chapters.

1.2.2 Purpose Statement

The purpose of this study is to explore how the functions and composition of the Defence Secretariat can be realigned – whilst enhancing the civil control regime and the integrity of military command – with the changing Defence Mandate and the Minister's specific support requirements, as a means to achieve effective defence. The usefulness of the research paper will be in the articulation of options and recommendations that can be taken up as part of the DOD's overall policy review.

1.2.3 Research Questions

The central question in this study is: “How can the functions and composition of the Defence Secretariat be realigned with the changing Defence Mandate and the Minister’s specific support requirements, whilst striking the optimum balance between civil control and the integrity of military command, so as to assure effective defence?”

The following questions will guide the research:

1. How should the Defence Secretariat be repositioned and capacitated to better enable civil control of defence and to perform the duty assigned to it?

2. How can the organisational structure be modified to clarify the responsibilities and realign the functions of the Minister and the Accounting Officer (Sec Def)?

3. What is the requirement for a new accountability concept within the DOD?

1.3 Research Methodology[5]

1.3.1 Research Paradigm

A constructivist/interpretative research paradigm was selected as being the most appropriate for the study, using a basic interpretative qualitative study research design with the researcher as a participant observer (Wagner, Kawulich & Garner, 2012). The underpinning assumptions are, that reality is socially constructed (Ontology), knowledge is subjective and culturally-bound as well as historically and context dependent (Epistemology), and that the enquiry is value-laden in nature and that it will be necessary to report on the researcher’s values and biases that may affect the neutrality of the study (Axiology) (Wagner, 2012). In terms of

[5] With acknowledgement to the *Research Guidelines for Masters Degrees by Coursework and Research*, Wits University, that was consulted liberally in compiling the Research Methodology section (Wits School of Governance, 2011).

methodology, the researcher; as a participant observer and Deputy Director Departmental Performance Monitoring and Evaluation, operating from the DOD Headquarters study site; was entirely responsible for gathering the data (Wagner, 2012). Although every effort was made to limit ideological biases, the researcher's service as a commissioned officer in the SANDF, since 1981, should be noted, as well as the fact that he is staffed at the DOD study site. With regards to relationship of the researcher to the participants, most are fellow DOD employees, whether as peers or superiors (Wagner, 2012). Some recently retired DOD members were also interviewed based on their direct involvement in, and primary knowledge of, the defence transformation processes. In a few cases academic and military experts were interviewed as participants who have no particular relationship to the researcher. It should also be noted that although the research topic is not directly related to the researcher's day-to-day duties, providing some separation, his work in the Directorate Departmental Performance Monitoring and Evaluation, brought him into regular contact with a number of the identified study participants and there was frequent informal engagement and debate on the research topic (Wagner, 2012).

1.3.2 Conceptual Frame

As explained in more detail in the literature review, section 2.4 Theory and Concepts, the premise of this study is that civil control over the armed forces is a necessary precondition for democratic rule, and for democratic consolidation to flourish (Croissant, Kuehn, Chambers, & Wolf, 2010, p. 950). Civil control of the armed services should, however, not be confused with democratic control (Cawthra *et al.*, 2003, p. 305) and neither is the exercising of civil control the preserve of democratically elected governments alone. Civil control is both possible and is often exercised, in the absence of democracy (Cawthra *et al*., 2003, p. 305; Feaver, 1996). This study has, accordingly, been conducted through the lens of democratic civil control and is positioned within the broad debate on the mechanisms to balance civil control of the armed services on the

one hand and effective defence on the other – and not the notion of civil control *per se*. The departure point is that – whilst it is acknowledged that there are a number of consolidating democracies still struggling with civil control tensions, the practice of democratic civil control has matured substantially beyond its initial purpose of simply preventing coups (Croissant *et al*., 2010, p. 950), and "...the threat of praetorian military intervention in domestic politics…" (Cottey *et al*., 2002, p. 31).

In developing the conceptual frame, the study takes cognisance of the late Rocky Williams' argument for a new approach, one that adapts Westernised "…late modern civil-military relations theory…" for the African environment (Williams, 1998, pp. 2 - 22). What is proposed is an approach which sees a combination of objective and subjective mechanisms being utilised to achieve civil control of the armed services. When viewed through this lens, it appears that the solution for the DOD lay more with Schiff's (1995) 'concordance theory' based on a three-way partnership and cooperative arrangement between the government, the armed services and society, than it did with Huntington's (1957) 'institutional separation' model. In terms of a theoretical approach, the study could not, however, ignore the 'institutional separation' model (Huntington, 1957) notwithstanding its limits, because of the strong influence it had on the post-democratic DOD design. Schiff's (1995) 'concordance theory', on the other hand, resonates much more closely with the current DOD developments on civil-military relations and is aligned to the overarching principles contained in government's National Development Plan Vision 2030 (Department:The Presidency, National Planning Commission, 2011).

In order to conceptualise and then analyse civil-military relations as they exist in the MOD/DOD, the author developed the following five assessment indicators, as adapted from Bruneau (2006, pp.6-7), as the framework of analysis (model) for this study:

a. Analyse both institutions (Def Sec and SANDF) individually, as part of the larger DOD, to acquire an in-depth understanding of each before analysing their impact on one another.

b. Analyse what influences the institutions exert on actors and processes.

c. Evaluate the means by which the Executive Authority exercises civil control of SANDF and the SANDF's concomitant effectiveness in fulfilling the roles and missions assigned to it.

d. Analyse the extent to which a particular model copied from another country/institution and context can be translated into the DOD.

e. Determine how the DOD (as an institution) structures power relationships and maintains the balance between the Def Sec and SANDF – include a review of:

    - Conditions under which the transformed DOD was created.
    - Interests of the stakeholders involved in creating the institutions.
    - Influence of pre-existing institutional models on the transformed DOD.

1.3.3 Research Design

The study was conducted empirically using a basic interpretative qualitative study research design with the researcher as a participant observer (Wagner, 2012). Non-probability purposive sampling was used and the data collection methods included a literature study, analysis of documentary data sources and interviews with internal and external stakeholders (Wagner, 2012). Primary and secondary documentary sources included public documents (open-published sources such as Acts of Parliament, published DOD and other national department public material) and, where appropriate, private documents (official restricted

DOD and MOD files, minutes of meetings and general correspondence). The researcher was fortunate to have been granted access to a restricted archive of DOD and Ministerial internal correspondence that covers the earlier pre-election and transitional periods under review. A selective literature review was also undertaken, supported by an evaluation of the practices of foreign armed services of select countries, chosen on the basis of shared similarities in liberal-democratic systems, Commonwealth influences and structure of defence. Respondents were also purposively selected, based on the researcher's judgement, as both primary and secondary data sources respectively, who were intimately involved in the policy development and design and structuring of the DOD. This also includes academic and other experts who were used to corroborate data and generally add value to the discourse (Wagner, 2012).

This research design answers the aim of describing, understanding and explaining the DOD as the unit of analysis and was shown to be the most appropriate in answering the research questions and achieving the research outcome. The interpretative qualitative study method was selected, particularly as it supported the study aim to understand the practices and the cultural and social contexts that shape the defence policy development activities (Wagner, 2012). This allowed the researcher to develop a coherent story, told through the eyes of the participants, that is textually rich and highly descriptive. Ultimately the qualitative method facilitated the acquiring of knowledge by means of a structured, comprehensive data- analysis (Wagner, 2012). The researcher as the research instrument – participant observer – was provided an advantage through his employment in the DOD, which allowed him to leverage his access to both the study site and study participants.

1.3.4 Data Collection and Analysis

The DOD was the unit of analysis and the methods of data collection mainly featured document analysis and interviews – structured, semi-structured and unstructured (Wagner, 2012). These proved to be the most

appropriate methods, based on the constructivist/interpretative paradigm and basic interpretative qualitative research study methodology selected to answer the research problem (Wagner, 2012). Both primary and secondary data sources were utilised and are equally important to the study but were treated differently. The data analysis methods linked the gathered data inductively and included thematic content analysis, documentary analysis and discourse analysis of various types (Wagner, 2012). The utilisation of a wide range and type of data sources also formed the cornerstone of the efforts to enhance trustworthiness and credibility, as will be described in more detail in the section to follow.

Primary data. Primary data accessed was in the form of public documents (open-published sources such as Acts of Parliament, published DOD and other national department public material, formal legal opinions and other published and/or gazetted material and respondent interviews) and private documents (restricted official DOD and MOD files, minutes of meetings, diaries, and pertinent correspondence between officials engaged in the transformation process) which proved critical to the study and achievement of the outcome. Much of the primary data was made available from a restricted archive (private) of DOD and Ministry internal material (unpublished) that covers the critical period under review. Care was taken to exclude all specifically designated confidential data sources from the research report – that were not otherwise cleared by the DOD for public release. Additional non-restricted internal sources used were material that addressed the design, structure, organisation, approach, doctrine, concepts and capabilities of the DOD.

Respondents/participants were identified during the initial literature review and formulation of the research proposal, and were updated as the study progressed. The respondents were purposively selected, based on the researcher's judgement (Wagner, 2012), who are or were intimately involved in the policy development and design and structuring of the DOD. The serving DOD officials request for anonymity has been respected. The

respondent's interview transcripts were allocated an alphanumeric reference code to protect the respondent's identity.

Secondary data. The secondary data, in the form of the select literature review, internal minutes of general meetings and reports, and interviews with ad hoc respondents who could add value, depth and richness to the discourse proved invaluable. Literature and data sources were consulted to provide the background information on and theoretical underpinning for the concepts of civil-military relationships, civil control, and civil oversight of the armed services.

1.3.5 Trustworthiness of Data

For purposes of this qualitative study the terms trustworthy and credible are used to describe data validity and reliability. The key criteria applied is that the study is designed to ensure that the results are applicable, dependable and confirmable (Wagner, 2012). The researcher made every effort to be as 'unobtrusive' as possible and encouraged participants by creating a non-threatening, safe environment conducive to building trust with the researcher and free and open discourse (Wagner, 2012). In addition, participants were reassured that, where requested, that the data provided would be treated in a manner that assured that respondents were not directly linked by name to any inputs to the research paper and that all transcripts would be confidentially secured. Multiple methods of data collection were also utilised, as set out in paragraph 1.3.4 above, to identify any discrepancies and it proved useful in providing a factual basis for the review of data collection results and, where necessary, re-questioning participants to clarify understanding (Wagner, 2012). Multiple data collection methods were also utilised as the basis of triangulation between primary and secondary data collected and the literature. Trustworthiness was also enhanced by utilising participant and peer validation to ensure that the results are credible (Wagner, 2012).

1.4 Summary of Chapters

The study is arranged in the following sections: Chapter one provides an introduction and contextualisation of the problem under investigation. This includes the background, research purpose, research problem, research questions, research methodology and data collection and analysis methods. Chapter two provides a survey of previous studies on the research topic, and positions the research within the literature by linking the research to the current academic debates. The chapter focuses on theory, particularly civil-military relations theory, defence management and defence strategy. Chapter three provides the institutional background to defence policy and strategy in South Africa in general, and civil control of the armed services in particular. It commences with a historical overview of civil-military relations and the civil control practices prior to 1994 and then focuses on the post-1994 transitional and consolidating phases up to 2002 (end of the integration of Statutory and Non-statutory Forces). Chapter four focuses on the post-integration period from 2003 to 2015 and concludes with the current policy and organisational renewal challenges. Chapter five focuses on identifying and analysing in detail the (current) statutory duties and functions of the Sec Def as well as the challenges with the present structural arrangement. This includes discussions regarding various options for realigning the functions and composition of the Def Sec to restructure power relations and achieve the optimum balance between the Def Sec and SANDF. Chapter six analyses and discusses the research findings in relationship to the research questions. Chapter seven closes with a summary and conclusions. Further research is proposed that can build upon the findings of the limited research report. The limitations of the study are also debated as well as a few of the challenges that arose.

CHAPTER TWO

LITERATURE REVIEW

> *"Many of the key concepts which have been used to justify the existence of armed forces in the past are inadequate in their ability to explain the complexities of the present and new interventions are required to create the space within which the boundaries of the civil-military relations debate can be expanded. It is the responsibility of African scholars to seize this initiative…"* Rocky Williams (Williams, 2003, p. 281)

2.1 Introduction

Lieutenant General (Rtd) P. Steyn (1994), the first Secretary for Defence (Sec Def) to be appointed in the post-democratic Department of Defence (DOD), commented shortly after the birth of the new South African National Defence Force (SANDF), on the difficulty in constructing the ideal system of institutional civil-military cooperation between the civilian political authority and the armed services:

> "…there is, however, absolute agreement…that the commander-in-chief of a national defence force, the state President will be obeyed by the nation's military... In other words, civilian command of the military is not at issue.
>
> …the problem appears to be how to adjust the traditional relations between the civil authority and the military establishment sufficiently to mount a credible deterrence… the search for effective institutional arrangements to ensure sound civil-military cooperation…"

Steyn (1994) advances a number of important sub-themes. Firstly, that it is not 'civilian command' or more commonly described as 'civilian control' of the armed services *per se* that is the problem, but rather the challenges of striking a balance between the power of the armed services and the civil authorities in a practical system of institutional civil control. Secondly that "mount[ing] a credible deterrence" (Steyn, 1994) or in this case effective defence is dependent upon the success of this arrangement. In essence it is the obedience of the armed services to the state which is at the core of the relationship, and that in the absence of such willingness by the armed

services to subject itself to the authority of the state; the question of civil control becomes moot.

Huntington supports this position, in that "…the military are servants of the statesman" and "civilian control is essential to military professionalism" (1957, p.79). Finer (1975, p.229) makes reference to "…tradition of civilian control…" and later that a function of the armed services "…is to come to the aid of the civil power…" In his seminal work *Armed Services and Society*, Edmonds (1988, p.10) speaks of the strict control of the armed services as, "…being the *sine qua non* of democratic government…". Edmonds (1988,p.11) also provides a thought-provoking example of a core principle of 'civilian control' in reference to Mao Tse-tung's guerrilla campaign against the Chinese Nationalist government, in which he is credited with observing that when political power is achieved through "… the barrel of a gun…" then the "…critical question was always who controlled the gun."

The central theme that is emerging is that – given that the armed services can be relied upon to unreservedly obey the 'civilian' commander in chief – the immediate question then is how civil control of the armed services can best be exercised in a manner that does not compromise its effectiveness as a fighting force. In the case of South Africa this calls for a civil control 'model' that provides for enhanced cooperation between all levels of the DOD's macro-organisational structure and greater transversal departmental effectiveness and efficiency if the DOD is to realise its vision of "[e]ffective defence for a democratic South Africa" (Department of Defence, 2015). Undoubtedly the solution, as Steyn (1994) acknowledges, is much more complex than simply implementing "effective institutional arrangements" and "sound civil-military co-operation". It is this theme that this study intends to explore and develop in the coming sections.

2.2 Terminology

2.2.1 Military, Armed Forces and Armed Services, in search of clarity

The Constitution, in Section 200 (1), states that "… [t]he defence force must be structured and managed as a disciplined military force" (Republic of South Africa, 1996). The Defence Act, under Chapter 1, Section 1 (1) Definitions, confirms that for the purposes of the Act, whenever reference is made to 'Defence Force', (used in this case to mean the South African National Defence Force to quote the full title) that " 'force' means a military force" (Republic of South Africa, 2002). In any number of publications (Bland, 1999; Bruneau, 2015; Cawthra, 2003; Chuter, 2011; Feaver, 1996; Huntington, 1957; Williams, 2003), the terms 'armed forces' and 'military' are used interchangeably. Edmonds (1998), in his landmark study, *Armed Services and Society*, comments extensively on this conundrum. Ultimately the distinction is only important as far as it is useful in preventing confusion and misunderstanding when the particular terms are used.

Edmonds (1998) argues that both the term 'armed forces' and 'military' can and are used to describe a wide range of armed groups that are "structured in such a way as effectively to apply coercive means to achieve specific objectives" (Edmonds, 1998, p. 21). Therefore such armed forces or military can include along a continuum everything from a nation state's regular army to partisan irregular guerrillas and Para-military units (Edmonds, 1998, p. 21). Edmonds (1998) argues persuasively that the preferred term, to properly describe and differentiate the state organisation, permanently established by constitutional law, which enjoys a monopoly on the management of violence, including the constrained application of violence to defend and protect the country's sovereignty and it citizens, is 'armed services' (Edmonds, 1998, p. 26). This term best describes the various national militaries and/or regular armed services, which are the subject of this study, and will be consistently applied.

2.2.2 Civilian versus Civil Control: the Debate

In a number of publications, particularly the earlier seminal works on 'civil-military relations' (Huntington, 1957; Finer, 1975; Edmonds, 1988), the authors variously adopt the term 'civilian control' in reference to the control exercised by the state, or statesman in some instances, over the armed services. The White Paper on Defence 1996, also, in reference to the duties of the Sec Def, Section 24, speaks of "…civilian control of the defence function…" (Department of Defence, 1996). A contemporary scholar David Chuter argues, in respect to the confusing practice of authors interposing 'civilian' and 'civil' in relation to control over the armed forces, that "…by civil control is meant the obedience which the military owes to *civis*, the State" (2011, p.63). As a concept, its value lies in its function as a reminder to the citizens and the armed services "…that the latter owes obedience to the State" (Chuter, 2011, p. 68). This 'obedience to the state' must be viewed in the context of the argument that armed services exist as a legitimate organ of state because most citizens believe that the application, or threat, of violence, is justified under certain circumstances (Chuter, 2011). It is therefore imperative that the armed services are resourced and organised for the execution of ordered defence commitments in a manner that best balances effective and efficient performance with what is acceptable to the people.

Chuter (2011, p.64) considers three situations where 'control' by civilians, could arguably be said to exist. When applied to the DOD we observe that firstly the Minister, as the political head of the ministry, can approve or reject any proposal put to her by the SANDF. Secondly, appointed civil servants, whether within or external to the DOD, can rule on whether or not a particular proposal put forward by the SANDF is aligned with government policy or not. Thirdly the Sec Def as the Director-General of the department is responsible to Parliament for the spending of his budget. He is therefore expected to exercise due diligence in approving or otherwise rejecting expenditure if he believes it is fruitless or wasteful (Chuter, 2011, p.64).

In another approach, the influential Geneva Centre for the Democratic Control of Armed Forces (DCAF) promotes the term ‘civilianisation’ in respect to transformation of defence ministries (Ratchev, 2011). ‘Civilianisation’ in the defence sector is defined by Ratchev (2011, p.14) as “a transfer of control and/or a select number and type of working positions from military to civilian personnel.” The presumption is of course that the defence organisational structure was largely designed around uniformed personnel only. It is further stressed that the term ‘civilianisation’ should not be confused with ‘demilitarisation’, a term which is also used in the context of civil-military relations, but is only applicable to countries in transition from military dictatorships or martial law-based governance, for example Turkey and Greece (Ratchev, 2011, p. 15).

Civilianisation is not seen, therefore, as simply a process of replacing uniformed personnel with civilians in the same job category. The focus of main effort is directed at “…creating or transforming former military organisations into civil-military institutions” (Ratchev, 2011, p. 15). The transformed institution should be better able to contribute to national security and be more effective and efficient in meeting ordered commitments. The addition of civilians should thus contribute to the streamlining of the organisation and freeing up uniformed personnel to “focus on their core missions…” (Ratchev, 2011, p. 15). This is a useful framework and it will be extensively applied in the study of the DOD’s transformation from a military to a civil-military institution.

Castro (2013, p.11) in a divergent view, goes as far as to question the existence of the ‘civilian’ construct. He disputes the common notion, embraced by not only the military but also by numerous researchers of civil-military relations, that there are in fact ‘civilians’ or a ‘civilian world/environment’. According to Castro “…civilian is a military invention. I am only a civilian in relation to the military and when I am classified by them as such…” (2013, p.11). The gist of his argument is that, civilians do not necessarily define themselves as such and that it is rather the military that emphasises the difference between themselves (as the military) and

the rest who are civilians. There are understandably, various sound legislative reasons for defining civilian personnel (such as in South Africa where they are managed under the Public Service Act) as distinct from uniformed personnel (who are managed under the Defence Act). Castro's (2013) underlying argument, nonetheless, is that both groups are a lot closer and probably more unified than the theoretical differences would indicate and for that matter questions whether such rigid distinctions are entirely necessary in an integrated defence headquarters.

Notwithstanding the various positions on civilian versus civil control – what is clear is that the Ministry is not responsible for coercing the armed services to cooperate and subject itself to civil control; rather the Ministry provides direction to ensure that the DOD keeps on track and maintains the agreed course (Chuter, 2011, p.6). One should also be cautious not to over emphasise the use of control in respect to the relationship between the civilian secretariat and the armed services. The civilian officials have an important role to play as the agents of the Minister and Parliament but not to control the Chief SANDF (Fourie, 1996, p. 27). Control in this sense is a light touch to provide direction and to guide the uniformed services and divisions to effect civil control whilst contributing to the effectiveness and efficiency of the department (Chuter, 2011, p.69). What Nathan (1996, p.107) describes as a relationship "…characterized by creative tensions and dynamic interaction." Failure to adhere to these guidelines risks alienating the armed services – leading to resistance and attempts to circumvent the very processes and conditions that civil control intended to bolster (Chuter, 2011).

There are a number of cogent arguments supporting the crucial role of civilians in transformed civil-military institutions. This paper supports the argument that 'civil control' is much more useful as an all-encompassing term for the execution of 'civilian-led' control of the armed service. It is further suggested that the term finds greater acceptance amongst the uniformed personnel, who are generally sensitive about the concept of civilians' 'exercising control' over the armed services. For purposes of

clarity the term ‘civil control’ to denote political oversight and Executive Authority control over the armed services is used consistently throughout the rest of this study. In addition the term civilianisation is also used, albeit sparingly, in relation to the transformation of the defence organisation from previously purely military institution to a civil-military institution.

2.3 Making the Case for Reassessing Civil Control

Generally the interest shown in the theory and practice of civil control of the South African armed services, has seen a marked decline since the peak in the period immediately before the 1994 democratic elections and decade thereafter (Baynham, 1992; Cawthra, 1997; Cawthra, 2003; Cawthra & Luckman, 2003; Gutteridge, 1996; Hamann, 2001; Mollo, 2000; Nathan, 1994; Shaw, 1995; Steyn, 1994; Stott, 2002; Wiliams, 2002; Williams, 2003). Then later still in the new decade (Chuter, 2011; Le Roux, 2004; Malan, 2006; Mills, 2011; Ngoma, 2006; de Vries, 2006). The waning interest was recently boosted by the long awaited release of the report on South African Defence Review 2015, initially approved by cabinet on 19 March 2014, and finally passed by the National Assembly on 7 June 2015 (Department of Defence, 2015c). The highly anticipated release of the detailed report, although refreshingly frank, did not present many surprises. South Africa’s nascent Defence Force, created in the euphoria of the first democratic elections, had attracted steady criticism over the years, variously for being unaffordable and/or for defects in its design and structure (Cilliers, 2014; Chuter, 2011; Le Roux, 2004; Mills, 2011; Shaw, 1995; Williams, 2000).

The Defence Review concluded that the SANDF was in a “critical state of decline”, bedevilled by numerous challenges that impacted on its ability to meet all of its ordered defence commitments, further exacerbated by the gross misalignment of expenditure between personnel, operating and capital (Department of Defence, 2015c, pp. ix; 9-9). The final *caveat* being that the SANDF faced imminent and irreversible loss of capabilities, unless decisive and immediate action was taken to check the decline and

revise the funding levels (Department of Defence, 2015c, p. ix). This is a grave indictment against the national department entrusted with the constitutional mandate to defend and protect the Republic and its people (Republic of South Africa, 1996, Sec 200) and that in 2014 alone, expended a defence budget in excess of 42.8 billion Rand (Department of Defence, 2014, p. 22). This begs the question “what went wrong?”

There are a number of reasons posited for the current state of decline, chief amongst them being the disjuncture between the defence budget and level of defence ambition (Chuter, 2011; Cilliers, 2014; Department of Defence, 2015c; Department of Defence, 2015a; Le Roux, 2004; Maynier, 2015; Mills, 2011; Shaw, 1995; Williams, 2000). More recently, in April 2015, the Department of Defence (DOD) acknowledged this threat, as being serious enough to warrant being registered as a strategic risk to the achievement of ordered defence commitments (Department of Defence, 2015b, p. 133). There is therefore no shortage of arguments supporting the position that the disjuncture between the defence mandate and budget vote not only exists, but that it has contributed materially to the decline in capabilities. It is, however, unlikely that the impairment of defence capabilities can be attributed to a funding shortfall and overly ambitious defence mandate, alone.

The Defence Review does suggest other contributory causes and although it posits its advice as “…strategic-level guidance…” (Department of Defence, 2015c, pp. 9-14) and thus not as specific operational or organisational level recommendations, it nevertheless proposes four interventions that, on examination, appear to point to a deeper organisational crisis. These are to:

- Reposition the Defence Secretariat to better exercise civil control.
- Establish a legally sound defence delegation regime.
- Review and overhaul the current defence organisational structure.
- Restructure the SANDF so as to clarify and confirm command (line) authority (Department of Defence, 2015c, pp. 9-16 to 9-17).

It could be argued that these proposed interventions are indicators of much more profound shortcomings in the institutional civil-military arrangements within the defence organisation, other than simply a question of budget misalignment. That being the case, then left unresolved, these shortcomings have the potential to continue to impede not only the exercising of civil control by the Executive Authority (represented by the Minister) and civil oversight by Parliament but, also the effectiveness and efficiency of the SANDF in meeting its ordered defence commitments.

This hypothesis raises a number of possibilities. Did the new government and its stakeholders go too far in their efforts to impose robust civil control over the SANDF, in the period leading up to 1994 and in the years that followed, effectively emasculating the SANDF? Alternatively is the selected model for South Africa's civil control and oversight regimes simply inappropriate or otherwise ineffective? Alternatively, put another way, whether the failure lies with the selected model itself or in its execution – because of the dilemma of balancing power between the civil authorities and the armed services – are issues that require further interrogation. Ultimately, given that there is acceptance on the need for civil control, then the question arises as to what the ideal institutional civil control and oversight regimes should look like.

These questions, and others, are interrogated against the background of South Africa's developmental agenda[6], foreign policy objectives (Department of Defence, 2015c, pp. 0-2) and a SANDF grappling with the inevitable tension between its constitutional mandate, which is to defend and protect the Republic and its people (Republic of South Africa, 1996, Sec 200 (2); Department of Defence, 2015, p. 31), and the mandate of the civilian Secretariat which is to enhance civil control over defence (in this case the SANDF) (Department of Defence, 2002, Sec 8 (d); Department of Defence, 2015, p. 33).

[6] Particularly the New Growth Path (Department of Economic Development, 2010), National Development Plan 2030 (Department: National Planning Commission, 2011), Medium-term Strategic Framework 2014 – 2019 (Department: The Presidency, 2014).

The solution requires much more than simply striking a balance between civil control of the armed services on the one hand and effective defence on the other. It is, rather, vested in the imperative for the SANDF to execute its constitutional mandate. That being the case, then it is posited that it can only be achieved – granted that the DOD must be adequately funded for the level of defence ambition – through a more effective and efficient model for Executive Authority oversight and civil control of the armed services. This would similarly require increasing the transversal cooperation between the Secretariat and Defence Force at departmental level. It is argued that this does not necessarily have to be achieved at the expense of the integrity of military command and discipline, and line management cohesion.

The key theme to be explored, in reassessing civil control of the DOD, is whether the department can be designed, structured and organised in a manner that better aligns the SANDF and Secretariat functions, through stipulating and clarifying roles, to achieve optimal performance tempered by the need for democratic civil control. What must be acknowledged, all the same, is that whilst the armed services must be governed democratically, it can never, in itself, be a democratic institution (Cawthra *et al.*, 2003, p. 305) – and therein lies the challenge.

This study, therefore, approached the subject of defence policy, within the context of both the Constitutional imperative for civil control of the SANDF and, the overarching higher defence organisational design for the DOD. Of particular interest was the identification of those policy issues that affected the exercising of sound civil control and civil oversight, the capacity of the defence secretariat to perform the duty assigned to it, and the effectiveness and efficiency of the SANDF in conducting its ordered commitments in accordance with government policy and strategy.

2.4 Theory and Concepts

It is not the intention to undertake a detailed thematic study of civil-military relations and the concomitant concept of civil control. The focus of the study is reassessing civil control of the South African armed services which requires a more particular understanding of defence ministry reform in a consolidating democracy and the higher defence organisational design as the foundation of the defence establishment. The emphasis was therefore on the exercising of democratic civil oversight and control over a civil-military integrated DOD, the capacity of the defence secretariat to perform the duty assigned to it, and the effectiveness and efficiency of the armed services in executing ordered commitments in accordance with government policy and strategy. It remains helpful, however, as a general background for the reader, to touch on the main theories for purposes of positioning this research within the literature.

The standpoint is that it is a given that civil control is achieved when the armed services are subordinate to and accountable to the elected civil authority. It is both a necessary precondition for democratic rule, and for democratic consolidation to flourish (Croissant, Kuehn, Chambers, & Wolf, 2010, p. 950). It is important, however, not to confuse civil control of the armed services with democratic control as the armed services can never themselves be considered a democracy (Cawthra *et al.*, 2003, p. 305). Neither is the exercising of civil control over the armed services the preserve of democratically elected governments alone. Civil control is eminently possible in the absence of democracy (Cawthra *et al*., 2003, p. 305; Feaver, 1996). The supremacy of The Constitution, the authority of Parliament (Legislature) and Cabinet (National Executive) underpin the concept of civil control in South Africa as a constitutional democracy. It is for those reasons, that this study was conducted through the lens of democratic civil control.

Although considerable research has been conducted on the subject of civil-military relations, and to a lesser degree civil control of armed

services, and notwithstanding wide acceptance on the need (Bruneau, 2008; Cawthra, 2003; Chuter, 2011; Croissant, Edmonds, 1998; Kuehn, Chambers, & Wolf, 2010; Feaver, 1996; Nathan, 1994), there is little agreement on either the precise definition of civil control (Chuter, 2011; Feaver, 1999; Finer, 1962; Schiff, 1995) or the ideal model that should be applied (Bland, 1999; Bradford Jr *et al*.,1973; Bruneau, 2015; Burk, 2002; Chambers, 2011; Cottey, Edmunds & Forster, 2002; Huntington, 1957; Moskos Jr, 1973; Schiff, 1995; Williams, 2003).

Most of the mainstream theories were created in the context of industrialised states (Edmonds, 1988; Feaver, 1996 & 2003; Finer, 1975; Huntington, 1957; Janowitz, 1960; Roman & Tarr, 2001), with a particular focus on mature 'consolidated democracies' (as defined by Linz & Stephan, 1996). Whilst useful, they present examples of decidedly sophisticated models of civil control, which are more important for what they lack rather than any particular solution for South Africa.

In contrast, the literature focusing on consolidating democracies (as defined by Linz & Stephan, 1996), (see for instance Bachmann, 2014; Chambers, 2011; Heiduk, 2011; Khuehn & Lorenz, 2011; Ngoma, 2006; Zaman & Biswas 2014; Webber, 2006), although interesting, does not provide significant data as their contexts and experiences differ somewhat from those of South Africa, as a self-styled developmental country and more recent democratic transition. Even the useful expose on the governance of Namibian Defence (Mwange, 2009), although enlightening in respect to the British civil-military influences that in some way parallel South Africa's own experience, provides little by the way of a specific solution to the research problem. While this research builds our understanding from the perspective of foreign armed services, which have all experienced, to varying degrees, challenges with flawed institutional and legislative civil control arrangements, there is no apparent blueprint for a universally applicable model that can be converted directly to South Africa, with its own unique context and history. This problem is not exclusive to this study alone and Schmitter (1995, p. 536) acknowledges

the difficulty with democracies in transition, in attempting to generalise across cases and draw parallels. There is generally little value until the democracies in the study reach the 'consolidation' phase. It is at this point that distinct parallels and common threads first become evident (Schmitter, 1995). Ratchev (2011, p.1) further identifies that there is a distinct lack of empirical studies available in the literature, specifically on defence ministry reforms in a consolidating democracy context. Mostly the studies focus on civil-military relations and the transformation of the armed services.

In this study, the focus lies with transformation of the Ministry and DOD, and not as such the SANDF. The interest is in establishing democratic civil control, and its locus within the broader discipline of civil-military relations is fundamental to the debate on the mechanisms to balance civil control of the armed services with effective defence – and not the concept of civil control *per se*. The departure point is that – whilst it is acknowledged that there are a number of consolidating democracies[7] still struggling with civil control tensions between the civilian authorities and the armed services, (Freedom House, 2015) – the practice of democratic civil control has matured substantially beyond its initial purpose of simply preventing coups (Croissant *et al*., 2010, p. 950), and the conviction that states are perpetually subject to "...the threat of praetorian military intervention in domestic politics…" (Cottey, Edmunds, & Forster, 2002, p. 31). Even Huntington (1957, p.20) was moved to observe that the "…problem of the modern state is not armed revolt…"

There is, therefore, a danger that the arguments put forward – which rely on the underpinning assumption that the primary problem is the threat of military intervention in domestic political affairs – unfairly distorts the concept of civil control of the armed services, thereby encouraging governments to enforce debilitating control regimes that contribute little to advancing military efficiency and effectiveness. Feaver (2003, p.4)

[7] For example Thailand, Egypt, Kenya, Burundi and Venezuela.

moreover cautions that it is short-sighted to assume that once such a threat of military intervention or coup has been negated, it will automatically translate into an increase in civil-military cooperation and military effectiveness. Civil-military challenges will remain an issue even when civil control over the armed services is asserted (Feaver, 2003, p.4).

Take the DOD for example; although no current empirical study of civil-military relations in the DOD is available, there are persuasive arguments, albeit anecdotal, that point to serious flaws in the institutional civil control arrangements. It is through these arrangements that it is claimed the integrity of military command and discipline has been compromised and thereby the ability of the armed services to fulfil the roles and missions assigned to it (Department of Defence, 2015c, pp. 9-16 to 9-18). The establishment of the MOD alone is also no guarantee of either civil control or an effective armed service. Indeed, on further examination it is evident that the Ministry is grappling with problems in the design, structure and implementation of the various institutions that regulate civil-military relations and that appear to be obstructing the Sec Def from exercising his statutory functions and the SANDF achieving operational effectiveness (Department of Defence, 2015c, pp. 9-16 to 9-18). The central problem for the DOD is as a result no longer about the desirability or otherwise of democratic civil control, but rather in striking a balance between ‘controlling’ the SANDF and ensuring its effectiveness (Pion-Berlin, 2006).

The literature offers two broad approaches to civil control (whilst recognising that various scholars use the term ‘civilian’ interchangeably with ‘civil’), namely: ‘subjective civil control’ (maximising civilian power) and ‘objective civil control’ (maximising military professionalism) (Chuter, 2011; Finer, 1962; Huntington, 1973; Moskos Jr, 1973). These two approaches represent the extremes on a scale of possibilities with the tendency of the public to relate civil control with democratic government and military control with totalitarian government, which is not entirely surprising given South Africa’s history.

The simplest way of minimising military power would appear to be to maximise the power of the civilian polity (*civis)* in relation to the armed services (subjective control) and to reduce the size and capability of the military (and in so doing guard against a military *coup d'état*). Feaver (1996, p.154) describes this tension as "…the need to have protection *by* the military and the need to have protection *from* the military…" Reducing the capability of the DOD, however, beyond a certain point makes little sense considering the size of the defence budget and the expectations of the public that the DOD (as a public service) shall be structured and resourced to fulfil its constitutional mandate to defend and protect South Africa (Chuter, 2011; Department of Defence, 2015d). The rise of the military profession in the 1960's seemed to offer an alternative form of civil control, 'objective control' by maximising military professionalism.

Huntington's thesis, from his 1957 seminal work *The Soldier and the State*, sets out that the most effective form of civilian control of the armed services is 'objective control' which is described as "that which maximizes professionalism by isolating soldiers from politics, and giving them as free a hand as possible in military matters" (quoted in Cohen, 2003, p. 4). Further that a military professional is someone who has the intellectual skill and professional responsibility to carry out "the management of violence" (Huntington, 1973, p.506). This peculiar skill sets the military professional (officer) apart from the enlisted man and by default the civilian. Further that in accepting his social responsibility it "…impose[s] upon the professional man the responsibility to perform the service when required by society…" (Huntington, 1973, p. 506). What Huntington espouses is that the professional officer holds himself subordinate to the civilian leadership and will execute his duty, without question, when required by society.

The military officer, portrayed in Huntington's (1973) thesis, is a professional, apolitical soldier, loyal to the government of the day and belonging to an organisation with its own value framework. The armed services eschew politics and concentrate their energies on developing and

applying their functional military expertise, in what is commonly referred to as Huntington's 'institutional-separation' model. Civil-military scholars also generally refer to it as the 'normal theory of civil-military relations' (Cohen, 2003, p. 4). This position is interestingly also adopted by the DOD, which under Nathan's influence, included a section in the White Paper on Defence, 1996, on 'Military professionalism' that mirrors Huntington's thesis (Department of Defence, 1996, Sect. 29-30).

The cornerstone of objective civil control is accordingly the recognition by the state of autonomous military professionalism. Introducing objective civil control (maximise military professionalism) depends, as a result, upon the achievement of an appropriate balance in the distribution of power between the civilian and military institutions. The conundrum is of course determining exactly where this balance lies.

Finer (1962) is less convinced that the armed services can be trusted to refrain from praetorian ambitions, professional or not. Given the era in which he was writing, he identified that "…independent political activity by armed forces is…frequent, widespread, and of long standing…" (Finer, 1962, p. 3). In his summation the "…army is a *purposive* instrument… [that] comes into being by fiat." (Finer, 1962, p. 7). Given these conditions he identifies a number of features peculiar to armed services that are aligned to its central purpose, namely "(1) centralised command, (2) hierarchy, (3) discipline, (4) intercommunication, (5) *esprit de corps* and corresponding isolation and self-sufficiency…" (Finer, 1962, p. 7). The thrust of Finer's (1962, p.7) argument is that modern armed services are highly organised and usually more so than any other national department or division within the state and enjoy overwhelming superiority in the application of violence. The argument Finer (1962, p.6) advances is that given all these overwhelming advantages, the surprise is "…not why it [the armed service] rebels against its civilian masters, but why it ever obeys them."

Bradford Jr & Murphy (1973) writing in the era of the early 1970's, in a dissenting opinion, take issue with the core of Huntington's thesis, which defines the military professional in terms of someone who possesses the intellectual skill and professional responsibility to carry out "the management of violence". They argue that "the management of violence" is too narrow a definition and is essentially woefully inadequate to be applied to a defence organisation as large and complex as the United States military establishment, particularly given its global security commitments (Bradford Jr *et al*., 1973).

Bradford Jr *et al*. (1973) also challenged the second leg of Huntington's thesis, that military professionalism can be sufficiently defined in terms of its functional expertise alone. Even during this early period of the 1970s, Bradford Jr *et al.* (1973) realised that secondary 'military' tasks had a fundamental bearing on the execution of missions assigned to the armed services, and that in some cases took priority over primary missions[8]. The point they were making was that although the objective civil control approach (maximising military professionalism) was an important contribution to the body of knowledge, functional 'military' expertise alone, was insufficient to meet the needs of a modern armed service. One which had need of a wide-range of technical and management expertise to meet ordered commitments as dictated by the particular missions and in support of national security policies. As will be argued later, strong parallels are observed with the transformation project of South Africa's DOD.

Rebecca Schiff (1995) is a more contemporary scholar who likewise challenges the enduring civil-military theory that "militaries should remain physically and ideologically separated from political institutions." (Schiff,

[8] South Africa is a case in point. Following the euphoria of the first democratic elections the political climate favoured tightening control over the armed services and a smaller force over a larger one. The principal aim of the White Paper on Defence 1996 was to align defence policy with the new South African democracy and described the national strategy for defence, primary mission being protection of the state and its people, and defensive posture. A key aspect of which was a decision not to pursue a military role on the continent. This position had to be adjusted as the demand for South Africa to contribute to peace and security on the continent (and internal borderline security patrols) and provide troops and resources (secondary tasks that require widely divergent skill sets) escalated considerably to the point that it now rivals the DOD's primary mission (Department of Defence, 1996, Chapter 5, par. 19-25).

1995, p. 7). Huntington's (1957) 'institutional-separation' model has held sway for decades, particularly in the United States of America (USA) and, was exported widely throughout the world. Schiff's (1995) main challenge is that the institutional-separation' model was based on the USA experience and a "…particular standard of military professionalism…" that "…highlights military insularity, political neutrality, and conservative defense planning" (Schiff, 1995, p. 10). The crux of the problem is that this 'model' was being 'exported' to consolidating democracies that had different standards, own unique contexts, history and forms of military professionalism very different from that found in the West (Schiff, 1995, p. 10).

Like Schiff, Feaver (1999, p.235) questions the validity of linking together military professionalism and armed services subordination to civil control. More specifically he disagrees with Huntington's (1957) hypothesis in that he believes an overreliance is placed on military professionalism as being fundamental to civil control (Feaver, 1999, p.235). Schiff (1995) proposes an alternative 'concordance theory' that argues for a three-way partnership and cooperative arrangement between the government, the armed services and society, the defining aspect of which is that they should strive for a "cooperative relationship that may or may not involve separation but does not require it" (Schiff, 1995, p. 7).

Moskos Jr (1973, p.527), a contemporary of Huntington, argues for "convergence [civilianisation] of the military with the structures and values of society". Whilst recognising the role of what he calls the 'traditional' military in the all-volunteer era, there remains a danger of the organisation 'turning inward' (divergence) in the absence of broadly based civilian representation. Moskos Jr (1973, p.529) posits that the solution is a 'pluristic' (segmented) military model which "…will be both convergent and divergent with civilian society…" The key is compartmentalisation within the organisation which "…seems to offer the best promise for an armed force that maintains organisational effectiveness whilst embracing civilian values (Moskos Jr, 1973, p. 529).

Williams (2003) – whilst acknowledging the strengths of traditional western theories and models of civil-military relations, and the influence on African governments and their relationships with their armed services – concluded that many of these key concepts are limited, particularly in respect to their ability to articulate the complexities of African civil-military relations (Williams, 2003; see also Ngoma, 2006). As such he proposes that the 'western influenced' theoretical basis for the assumptions – that currently underpin the study of African civil-military relations – be reconsidered and, that a new approach, one that adapts traditional civil-military relations to render it more applicable to Africa, be adopted (Williams, 2003, pp. 277-280). What is proposed is an approach which sees a combination of objective and subjective mechanisms being utilised to secure effective civil control of the armed forces. This approach is based on a revision of the conceptual framework, to quote an earlier work of Williams (1998), of "…late modern civil-military relations theory…" adapted for the African environment (Williams, 1998, pp. 2-22).

Williams (2003) writes extensively on the various merits and demerits of western-influenced civil control models that have been applied in various degrees of success to Africa. He has in particular analysed both Huntington's 'institutional-separation model' and Schiff's 'concordance theory' and concludes that – whilst the concordance theory has much merit for application in the developing world (Williams, 2003, p. 268) – the institutional-separation model had limited application for Africa as a "model upon which an effective African civil-military relations tradition can be established" (Williams, 2003, p. 273). Williams makes a compelling argument and when viewed through this lens, it appears that the solution for the South African DOD lies more with Schiff's (1995) 'Concordance Theory' based on a three-way partnership and cooperative arrangement between the government, the armed services and society, than it has with Huntington's 'institutional-separation' theory (Huntington, 1957).

Bruneau (2006, p. 4) advances the position that the theoretical works of Samuel Huntington and Morris Janowitz, although useful in providing a grounding in civil-military relations, "…offer a level of generalisation that is too broad…" to be of benefit to the current study. What is missing in these works is specific insight into the central challenge confronting stable consolidated democracies in the 21st Century (where the right to rule is uncontested) which is regulating and balancing the relationship between the civil authority and the armed services (Bruneau, 2006, p. 4).

Ratchev (2011, p.4), in what he calls the "holy trinity of modern civil-military relations" expands upon the central challenge of regulating and balancing the relationship between the civil authority and the armed services, identified by Bruneau (2006, p. 4) above. Instead of the standard two-dimensional approached favoured in the literature (balancing civil control with military effectiveness), Ratchev (2011, p.4) proposed a new approach that includes, in addition, a third dimension 'defence efficiency'. The three key dimensions are:

- Civil *control* – performed by the National Executive
- Military *effectiveness* – in achieving ordered commitments
- Defence *efficiency* – sound resource management.

As with the two dimensional approach there will be tensions within the 'trinity' that have to be managed to find the correct balance. It is hypothesised that the 'trinity' approach is much more useful as a concept, and it is this approach which is applied in the rest of the study.

What is critical to determine within the overall debate is where the DOD fits into the argument. On the face of it there is compelling evidence that the Joint Military Coordination Committee (JMCC)[9] embraced Huntington's (1957) 'institutional-separation' model as the basis for the selection of the 'balance DOD design' (Document No. 3, 1996). This is further

[9] The JMCC was the military workgroup of the sub-council on defence, chaired alternatively by General Meiring, representing the SADF, and Siphiwe Nyanda, at the time MK Chief of Staff.

strengthened by S. Rabkin's claim that Huntington's (1993) Clash of Civilisations[10] paper had also been considered by the committee during the earlier JMCC discussions (Interview, February 15, 2016).

In a later MOD reported penned in 1996 by the Minster, the clear influence of Laurie Nathan is also evident (Document No. 3, 1996). In the report for example, in reference to the principle of 'separation of powers' [11] it was stated that the armed services were encouraged to eschew politics and concentrate their energies on developing and applying their functional military expertise. It goes further in emphasising the "…clear structural distinction between the powers of the government and the armed forces…" and that "…neither party should venture beyond these boundaries…" failing which it could endanger the foundations of the democratic system (Document No. 3, 1996; Nathan, 1996, p. 98).

The MOD report does proceed to provide some balance to this position, and in a following paragraph, it qualifies that professional military officers should be encouraged to contribute to the formulation and development of defence policy, based on their functional expertise. The *caveat* is that this should be done in a manner that does not undermine the authority of the civil decision-makers (Document No. 3, 1996; Nathan, 1996, p. 98). There is also conversely a civil role in contributing to the formulation of military strategy, for example, under the same terms.

The challenge remains how to conceptualise and then analyse civil-military relations in a consolidating democracy, where it is accepted that the power lies with the elected civil authority and the DOD respects the supremacy of that authority. Bruneau[12] (2006, p.6), proposes a

[10] Huntington, S.P. (1993). *Clash of Cultures*. Foreign Affairs Journal, Council on Foreign Relations and Foreign Affairs (US). Later republished as Huntington, S.P. (1996). *Clash of Cultures and the Remaking of World Order*. Simon & Schuster.

[11] Four principles for governance of democratic civil control and civil-military relations were approved at the joint meeting of the sub-council on defence and JMCC on 30 March 1994, and taken up by the DOD

[12] At the time of writing he was Professor in the Department of National Security Affairs at the Naval Postgraduate School in Monterey, California, and the Academic Liaison for the Centre for Civil-Military Relations.

contemporary version of Max Weber's original work on political power and bureaucracy[13], particularly regarding the armed services and its locus within state and society, known as 'New Institutionalism', as a model on which the analysis of defence institutions is loosely based. Bruneau (2006, p.6) argues that it is necessary to understand the role of institutions in order to undertake a study of how power relations are managed within a society, and in this case within the Ministry and DOD as a department of state. Institutions are defined as "…formal or informal procedures, routines, norms and conventions embedded in the organizational structure of the polity or political economy…" (Hall & Taylor quoted in Bruneau, 2006, p.6).

Bruneau's (2006, pp.6-7) New Institutionalism approach or model has the potential to be used as a framework to support this study. The approach is described in broad terms in the literature and it required extensive reworking in order to adapt it to meet with the requirements of this study– for a tool to support the analyses of civil-military relations in the DOD. The following framework of analysis (model) was developed, based on the works of Bruneau (2006, pp.6-7):

- Analyse both institutions (Def Sec and SANDF) individually, as part of the larger DOD, to acquire an in-depth understanding of each before analysing their impact on one another;
- Analyse what influences the institutions exert on actors and processes;
- Evaluate the means by which the Executive Authority exercises civil control of SANDF and the SANDF's concomitant effectiveness in fulfilling the roles and missions assigned to it;
- Analyse the extent to which a particular model copied from another country/institution and context can be translated into the DOD; and

[13] C. Wright Mills. (1958). *From Max Weber: Essays in Sociology*. New York. Oxford University Press.

- Determine how the DOD (as an institution) structures power relationships and maintains the balance between the Def Sec and SANDF – include a review of:
    - Conditions under which the transformed DOD was created.
    - Interests of the stakeholders involved in creating the institutions.
    - Influence of pre-existing institutional models on the transformed DOD.

2.5 Conclusion

That the Department of Defence is in a crisis is undeniable. The challenge for the DOD is to find an agreeable solution that will satisfy both the statutory civil control precepts and the Chief SANDF's desire for freedom from undue interference with his executive military command. The threat of military intervention by the SANDF in domestic political affairs is no longer the risk it may once have been in 1994, and therefore any attempts to overburden the SANDF with an onerous and debilitating civil control regime contributes little to advancing military utility. The key issue here is as much about the Defence Force's efficiency and effectiveness in service delivery as it is about guaranteeing civil assurance.

That the current institutional civil control arrangements have effectively compromised the integrity of military command, and thereby the ability of the SANDF to fulfil the roles and missions assigned to it, is moot. What is not debatable is that the armed services, by its own admission, are in a "critical state of decline", and unable to meet all of its ordered defence commitments (Department of Defence, 2015c, p. ix). There is no argument then that military effectiveness is highly prized. What is missing is the question of efficiency in resource management. It is for this reason, therefore, that Ratchev's (2011, p.4) expanded approach to modern civil-military relations (that although not a new concept, it is unique in specifically including the crucial third dimension of 'defence efficiency') is

preferred over Huntington's simpler two dimensional approach of balancing civil control with military effectiveness.

What is critical to the debate is where the DOD fits into the argument. On the face of it there is compelling evidence that the JMCC embraced Huntington's (1957) 'institutional-separation' model as the foundation for developing the 'balance DOD design' (Document No. 3, 1996; S. Rabkin, Interview, February 15, 2015). Numerous scholars (Bruneau, 2006; Chuter, 2011; Feaver, 1999; Finer, 1962; Moskos Jr, 1973; Schiff, 1995; Williams, 2003) have all variously challenged Huntington's central theory of 'institutional-separation'. In terms of a theoretical approach, what scholars generally accept is that, to secure effective civil control of the armed forces, requires utilising a combination of objective and subjective mechanisms. The concern with Huntington (1957) has to do with identified limitations regarding his overreliance on military professionalism as being fundamental to civil control (Feaver, 1999, p.235). Moreover, the lack of specific insight into the central challenge confronting stable consolidated democracies in the 21st Century, namely regulating and balancing the relationship between the civil authority and the armed services (Bruneau, 2006, p. 4; Ratchev, 2011).

Collectively the authors make a compelling argument and when viewed through this lens, it appears that the solution for the South African DOD lies more with Schiff's (1995) 'concordance theory' based on a three-way partnership and cooperative arrangement between the government, the armed services and society, than it has with Huntington's (1957) 'institutional-separation' model. In effect the DOD's choice of the balance DOD design reflected the influences of a 'model' that held sway during the 1960s and 70s, but has now been found wanting. A number of fundamental flaws in the design elements continue to impede the transformation of the DOD. These will need to be resolved if the DOD is to achieve its vision of "…effective defence for a democratic South Africa…" and rightfully take its place as the preeminent defence organisation on the continent (Department of Defence, 2015).

Whilst the literature on the subject of civil-military relations – and more particularly civil control of the armed services – is helpful in providing a broad framework and concepts with which to guide the study, there is no apparent blueprint for a universally applicable model that can be converted directly to South Africa, with its own unique context, history and legislation. In addition no recent empirical studies of any significance have been published which provide explicit guidance on how best to reform the DOD, particularly regarding the realignment of the functions and composition of the Secretariat with the changing Defence Mandate and the Minister's specific support requirements, to assure effective and efficient defence.

Three possible exceptions are works by Bruneau (2006), Chuter (2011) and Ratchev (2011) which have all proven useful. The study will particularly draw upon Chuter (2011) for his fresh and incisive views on civil-military relations and the functioning of integrated (civilianised) Ministries of Defence; Bruneau's (2006) 'New Institutionalism framework' (as adapted) and Ratchev's (2011) 'framework for civilianisation of the defence ministry' as well as Ratchev's (2011, p.4), trinity of modern civil-military relations approach. These models or 'tools' proved valuable in the analysis of the DOD and both were applied judiciously to the study. The chapter to follow will explore in detail the institutional dimension of civil control in the DOD and the transformation project.

CHAPTER THREE

THE INSTITUTIONAL DIMENSIONS OF CIVIL CONTROL

"…the central issue is never strategy, structure, culture, or systems. All those elements, and others, are important. But the core of the matter is always about changing the behaviour of people and behaviour changes happens in highly successful situations mostly by speaking to people's feelings." (John Kotter, The Heart of Change, 2002)

3.1 Introduction

Chapter three provides the institutional background to the development of defence policy and strategy in South Africa in general and civil control of the armed services in particular. Of specific interest is the identification of those policy issues that affected the exercising of civil oversight by Parliament and civil control by the Executive Authority and Secretary for Defence (Sec Def). The capacity of the defence secretariat to perform the duty assigned to it, and the effectiveness and efficiency of the South African National Defence Force (SANDF) in conducting its ordered commitments in accordance with government policy and strategy. Likewise what cannot be ignored, is the influence of the inherent civil-military tensions on the co-existence, power relations and working procedures within the civil control structures, principally between the main controllers, the Minister, Sec Def and the Chief SANDF.

The framework of analysis utilised as a guide to answering the research questions, is loosely based on the New Institutionalism approach, as adapted from Bruneau (2006, pp.6-7). This is in preparation for the later analysis of data to determine how the DOD structures power relationships and maintains the balance between the Minister, Def Sec and SANDF. The analysis focuses primarily on the Def Sec to understand how it functions as an institution. This includes considering the role and functions of the SANDF (as far as is relevant to the study) before analysing the respective influences on one another. Finally to evaluate the means by which the executive authority exercises civil control of SANDF and the

SANDF's concomitant effectiveness in fulfilling the roles and missions assigned to it.

For practical reasons a chronological approach was followed in presenting the data to take the reader logically through the study. Regular analysis of facts and deductions and a final chapter conclusion will bring together the main themes and highlight key issues. The chapter commences with a brief historical review of civil-military relations under apartheid which left an enduring legacy, and then moves on to the transitional phase up to 1994 followed by the post-1994 transformation of the DOD and integration of multi-party forces' up to 2002. This is necessary in order to determine the influence that the conditions under which the DOD was created, the interests of the stakeholders involved in creating the institutions, and the impact of pre-existing institutional models, had on the transformation of the DOD (Bruneau, 2006, pp. 6-7). This includes the crucial decisions, taken during the pre-1994 negotiations and in the period thereafter as the transitional democracy sought to consolidate its control over the armed services. Decisions in particular – concerning the choice of political-administrative and political-military arrangements for the higher defence organisation design for the DOD – which had a number of unintended consequences.

3.2 Civil Control under Apartheid Rule

In 1948 the National party was elected and soon afterwards it began the process of institutionalising Apartheid policy. Events began to rapidly overtake South Africa, and the years 1960 – 63 were to prove decisive. The British Prime Minister, Harold Macmillan's "wind of change" speech to Members of the South African Parliament on 03 February 1960, is widely recognised for portending the changes taking place on the continent as black majorities increasingly sought the right to rule themselves, and for drawing a curtain on the era of British colonialism in Africa (BBC News, 1960).

By 1960 the two main resistance movements, the African National Congress (ANC) and rival Pan-Africanist Congress (PAC) had both embarked on anti-pass law campaigns to protest against the passbook, used since the early 1920's to control the movement of black South Africans and restricted where they lived and could work. The heavy-handed SA Police response to the campaign set the scene for the Sharpeville massacre that took place on the 21 March 1960, and the international repercussions that followed (TRC South Africa, 1998). Foremost amongst the expressions of global outrage, was the issuing of United Nations Resolution 134 which effectively condemned the government's actions and called upon South Africa to "initiate measures aimed at bringing about racial harmony based on equality…and to abandon its policies of *apartheid*…" (UN SC/RES/134 (1960), 1960, p.3).

The government responded by enacting the Unlawful Organisations Act on 07 April 1960 that provided for organisations that threatened public order to be declared unlawful (Republic of South Africa, 1960). The state applied the Act against the ANC and the PAC which in turn forced both organisations underground and upped the ante on violent confrontation (Hamann, 2001). Ironically, the Apartheid regime's actions only served to further galvanise popular resistance against this injustice and led to the intensification of the mass mobilisation campaign (TRC South Africa, 1998). This proved to be a turning point for South Africa, and the country was to become increasingly isolated from the international community.

In 1961 South Africa declared itself a Republic, due in part to widespread condemnation of its domestic policies, and withdrew itself from the Commonwealth of Nations. In the direct aftermath, South Africa was to enter an extremely challenging period of its history, and not the least of which was the strain this decision placed on the nascent Department of Defence (DOD), given that "the primary task of the Defence Force… [is] to ensure national security" (Malan, 2006, p.144).

In the beginning, the South African Defence Force (SADF) was not directly involved in the security operations to supress dissidence. This was seen rather more as a policing action with the SADF on standby to provide assistance in the event that the South African Police required it. Given these circumstance, the immediate exigency to be overcome was that for the first time the SADF had to think and operate as an entity independent from the Commonwealth (Malan, 2006, p.145). South Africa was now entirely responsible for meeting its own national security needs and for its survival without the luxury of the embedded institutional support previously provided to the SADF, by Britain (Malan, 2006, p.145). One of the noteworthy consequences was the decision in 1966, by the MOD under P.W. Botha, to absorb the office of the Secretary of Defence post into the SADF (due in part to a breakdown in relationships between the Sec Def and Chief of Defence Force) and vest the accounting officer functions in the Commandant-General (Fourie, 1996). This status quo was set to remain until the new DOD design was unveiled in 1994 and fully implemented by April 1997.

This period also laid the foundation for the militant student movement that burst forth in the watershed 1976 Soweto student uprising and the widespread police repression that ensued in an attempt to curb the spread of resistance and civil disobedience to the rest of the country. The ANC were quick to capitalise and recruited large numbers of disaffected black students, many of whom left the country to join MK and undergo military training (Hamann, 2001, p.49). To put the widespread internal resistance in context, it must be viewed against the backdrop of the SADF's 1975-88 war in Namibia and Angola and the ensuing broader destabilisation of Southern Africa by the various national security agencies.

That the apartheid era was characterised by a system of weak civil-military relations is undeniable. Security structures were increasingly politicised and decision making became more and more centralised under the State Security system (Stott, 2002). The military also made entries into the political arena, spearheaded by the appointment of the former Chief

SADF, General Magnus Malan, as Minister of Defence in 1980 (Malan, 2006). At the time the government was convinced it faced a total onslaught directed by Moscow, across the diplomatic, informational, military and economic (DIME) domains and only a 'total strategy' could defeat it (Gutteridge, 1996; Stott, 2002).

Under P.W. Botha's leadership, South Africa's military achieved unparalleled political influence. In this task, Malan as Defence Minister, ably supported him. The 'Total Strategy' was soon to take centre stage and was to form the basis for the SADF's mounting influence on the drafting of state policy (Stott, 2002). The State Security Council (SSC) which was formed in 1972 as a statutory Cabinet committee, ostensibly to advise government on the formulation and implementation of a wide range of national security related policies, effectively entrenched the 'securocrats', positioning the military at the centre point of decision making and state power (Stott, 2002). The extension of the SSC in 1978 to oversee the National Security Management System (tasked with integrating all the various components of the broader security system) played a key role in South Africa's expansive security strategy (D'A Henderson, 1995; Nathan, 1996; Shaw, 1995). In the words of General Meiring, "…for a time it actually was a government within a government" (as quoted in Hamann, 2001, p.59).

The very strong influence and control exercised by the SSC and in contrast the effective side-lining of Parliamentary oversight was pervasive. This period is also characterised by the fact that there was no formal Department of Defence, and the Chief SADF (who since 1966 was also the head of department and accounting officer) reported directly to the Minister who in turn reported to the SSC. The Chief SADF was also a member of the SSC by virtue of his appointment (Malan, 2006). It is also marked that the combat services each had their own operational capability which they exercised under the direct command of the Chief SADF. The civil-military structure under PW Botha is presented in a diagram overleaf (Figure 1).

CIVIL-MILITARY RELATIONS CIRCA 1980s

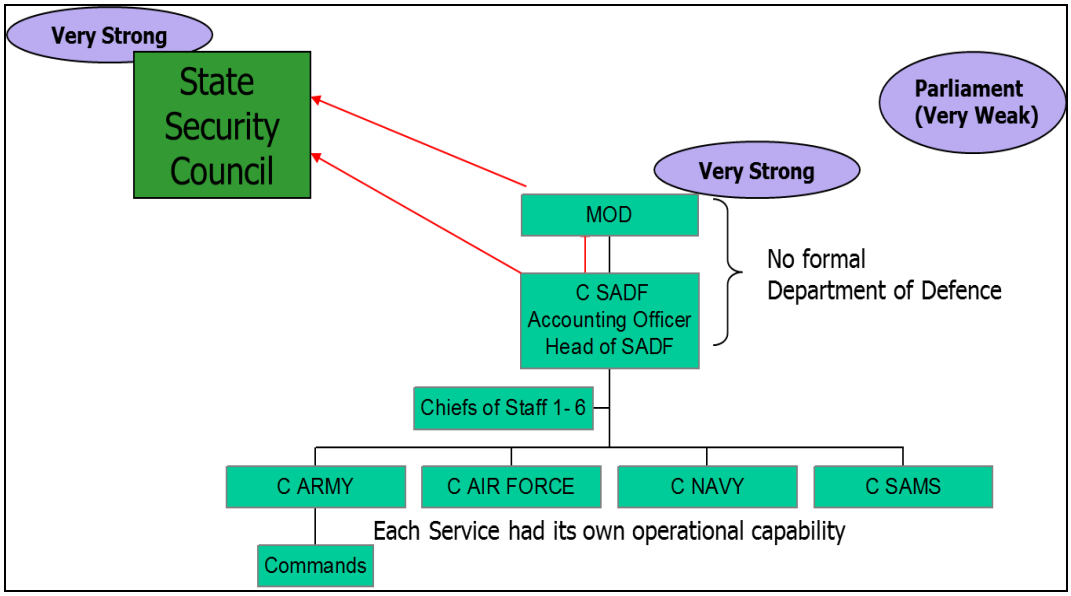


Figure 1: Civil-Military Relations under President P.W. Botha

(Source: Adapted from unpublished DOD material)

As can be observed in figure 1, the SCC was politically very strong and essentially controlled the Ministry of Defence and the SADF to the exclusion of Parliament. Parliament had as a result virtually no oversight role. Under such conditions it is easy to imagine a Chief of the armed services pledging his allegiance and that of his command, not to Parliament but rather to the SSC and President.

The organisational structure of the SADF between 1980 and 1990 detailed overleaf (Figure 2) provides an indication of the comprehensive command and control (unfettered command line directly to his forces) and thus total power vested in the Chief SADF. It will also be observed that the role of the 'Ministerial Secretariat' was merely to serve as an adjunct to the Ministry.

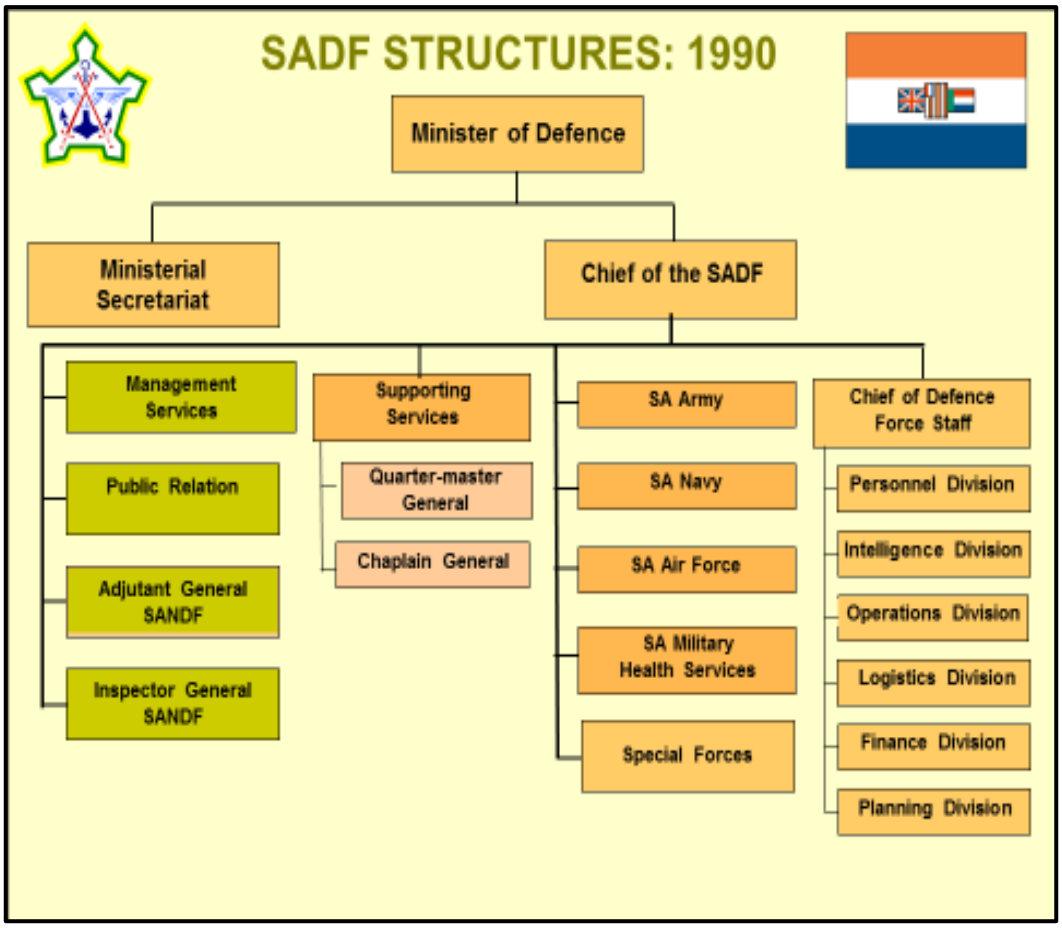


Figure 2: SADF Organisational structures circa 1990.

(Source: Adapted from unpublished DOD material)

Domestically the security situation continued to deteriorate. Following the 1984 nationwide uprising under the banner of the United Democratic Front (Gutteridge, 1996, p. 4), the state declared rolling States of Emergency between 1986 and 1989 that were characterised by increased military involvement in policy and the national security strategy. Notwithstanding some successes on the part of the anti-apartheid movement, the consensus by the late 1980s was that Apartheid rule would be ended by negotiations and not by revolution (Cawthra, 2003; Nathan, 1994; Shaw, 1994). The watershed moment for the end of the apartheid era came in 1989 with F.W. de Klerk's replacement of P.W. Botha as president – the significance of the timing which needs to be viewed against the background of the changing geopolitical situation, including Namibia's independence and shortly thereafter the fall of the Soviet Union (Cruywagen, 2014, pp. 118-119).

3.3. The Transition 1990 – 1994

On the 2 February 1990 President F.W. de Klerk took the quite unexpected step of announcing the unbanning of liberation movements[14], by all accounts a move that blindsided the SADF (Cruywagen, 2014, p. 119; Gutteridge, 1996, p.3). Cruwagen (2014, p.119) does, however, explain that the SADF's anger was more particularly directed at FW de Klerk "for acting unilaterally and without a mandate" rather than any unwavering belief in a military solution over a political one. This position was also variously claimed by Generals Meiring, Viljoen, Thirion and Malan (Cruwagen, 2014; Hamann, 2001; Malan, 2006). Given the facts it does seem to confirm the SADF's assertion, that although it did not advocate a military solution, it did wish to retain the state's strong military advantage so as to negotiate from a position of strength (Gen Meiring as quoted in Hamann, 2001).

The successful transition to democracy and lack of any extrajudicial military intervention supports the contention that the issue at the time was more about the timing of the national elections and preparing the SADF for transformation, and not an attempt to delay the inevitability of multi-party democracy. Gutteridge (1996) and Cruywagen (2014) both presented retired SADF General Constand Viljoen's reluctance to incite violence or unconstitutional actions to further the Afrikaner's claim to a self-determining 'Volkstaat', as proof of this.

The final assessment suggests that the SADF military command were dismayed with FW de Klerk for his 'indecent haste' in capitulating too readily on the dominant position held by the SADF and consequently the strong bargaining chip to use judiciously to strengthen the governments hand at the negotiating table. That F.W. de Klerk's actions caused a major breach of trust between the governing party and the SADF cannot be

[14] FW de Klerk, in an interview with Dennis Cruywagen (2014), admitted intelligence reports that the Soviets had advised the ANC that they could no longer support them, was a major consideration in decisions made by government and particularly the 'unilateral' steps de Klerk took in unbanning the ANC.

denied. This did not bode well for civil-military relations in the lead-up to the transformation of the SADF. Whatever their differences, in 1990 negotiations finally began in earnest.

The current civil oversight and control regimes particularly targeting the post-transitional South African National Defence Force (SANDF) as the military arm, had its birth in the lead-up to the 1994 democratic elections and the Interim Constitution becoming law (Republic of South Africa, 1993). There were obviously good reasons for re-imposing Parliamentary oversight – a decision that grew out of exhaustive, although not always unanimous, negotiations conducted between the main political parties, that proved to be key to the success of South Africa's first democratic elections (Gutteridge, 1996; Mollo, 2000; Nathan, 1994; Shaw, 1995).

Discussions on the shape of a new system of political-administrative and political-military arrangements for the transformed DOD in a democratic South Africa, commenced formally in 1990 with a conference on the future of the military in South Africa, held in Lusaka, Zambia (Kenkel, 2006). The next essential step was the signing of the Pretoria Minute, in August 1991, which secured the critical agreement on a ceasefire between the National Party government and the ANC (Shaw, 1995, p. 10). More importantly, this agreement was to later underpin the signing of the National Peace Accord in September 1991, to end the political violence spiralling out of control. This laid the groundwork for the convening of the multiparty forum, Convention for a Democratic South Africa (CODESA) in December 1991, attended by 19 political parties (Shaw, 1995, p. 11). Whilst the CODESA discussions, as pointed out by Williams (2000), did not contribute directly to the decisions on the future force design and structure of the future Defence Force, they did provide a critical platform for the diverse political and liberation bodies to broach their particular views on security management and defence.

A vital output of these early initiatives, was the creation of the Transitional Executive Council (TEC) in 1993 (Republic of South Africa, 1993) and, of

direct relevance to this study, the establishment of the sub-council on defence (SCD). Notwithstanding the critical function performed by the SCD, in providing strategic guidance and oversight of the armed services in the lead-up to the elections – it was the establishment of the multiparty military workgroup, the Joint Military Coordination Council (JMCC)[15] that was instrumental in kick-starting the negotiations for the design of a 'new' DOD (Document No. 1,1996). It was here that the idea began to find acceptance, across the political divide, that civil oversight of the armed services' in the future South Africa was both necessary and desirable. The importance of this epiphany at this early stage of the negotiations cannot be underestimated. This is all the more impressive given that the participating military forces represented at the JMCC were all, to various degrees, aligned to political parties and "…none of them was designed to serve a democracy and none of them had an impressive record of respect for human rights and international law…" (Nathan, 1996, p. 88).

In their deliberations *Umkhonto We Sizwe* (MK), the ANC's armed wing, were heavily influence by their experiences of civil-military relations within their own internal structures (Mollo, 2000). According to Mollo (2000) from the beginning they were indoctrinated into a system of subordination by the military wing to the political leadership. It was no mistake that the 16th June 1961, founding manifesto of *Umkhonto We Sizwe,* underlined this relationship, stating "…our members…place themselves under the overall political guidance…" (as quoted in Mollo, 2000, p.5) and in the MK Military Code as "…The political leadership has primacy over the military…" (ANC, 1985). Williams (2000, p.103) further contends that, in common with other revolutionary movements, the ANC also actively maintained control over MK – thereby securing their allegiance to the movement - by "…interpenetration of the MK leadership…" with ANC political leaders.

[15] The JMCC was the military workgroup of the sub-council on defence, chaired alternatively by General Meiring, representing the SADF, and Siphiwe Nyanda, at the time MK Chief of Staff.

The ANC's fear that "…[t]he apartheid security forces posed a major threat to destabilize the democratic transition…" (Mollo, 2000, p.1), given the National Party government's track record and the positioning of the SADF at the centre point of decision-making and state power (Stott, 2002), also weighed heavily in favour of choosing a strategy that locked the Defence Force into a binding democratic civil control arrangement.

The ANC and its backers soon came to realise during the earlier rounds of negotiations that they lacked adequate expertise on defence policy and particularly the specialised knowledge required to produce competitive policy options (Cawthra, 1997; Williams, 2002). As a result the Military Research Group (MRG) was established as an adjunct to the organisation to help the ANC and MK alleviate the capacity gap (Kenkel, 2006, p. 9). The MRG had a personnel core of approximately 10-12 people, boasting credentials from across the spectrum, from established academics, to antimilitary activists and ANC/MK operatives (Kenkel, 2006, p. 11). Rocky Williams, former MK operative and later Colonel in the new SANDF, was the group's first coordinator, later succeeded by Prof Gavin Cawthra of the University of the Witwatersrand (Kenkel, 2006, p. 11).

By all accounts, the group which met for the first time on 25 November 1991 was extremely successful during the transition, in providing "…a forum whereby researchers, academics and policy analysts could network with one another…" (Minutes of the MRG meeting, 25 November 1991) and in particular produced numerous research reports, coordinated training workshops and facilitated dialogue (Williams, 2002). Ultimately, as Kenkel (2006, pp.13-15) posited, the success of the MRG and its efforts is measured by the dominant role played by two of its core members; Laurie Nathan, lead drafter of the South African White Paper on Defence and Rocky Williams who was a key figure in the drafting of the South African Defence Review 1998.

At the practical level, however, it is evident that it took a while for the MRG's influence to filter through and make an impact on the JMCC

negotiations, particularly in raising the standard of MK's contributions. MK negotiators received very little technical support, further hampered by resource constrains within the nascent ANC command and control structures and an even vaguer political mandate (Motumi, 1995). The effect was that the manifestly poor preparation and a general lack of planning capability made it difficult for the ANC to effectively challenge the SADF's dominant defence policy positions[16] (Mollo, 2000; Williams, 1998; Williams, 2004). The one thing MK brought to the table, however, that could not be ignored, was the wide legitimacy the ANC enjoyed amongst the South African public (Kenkel, 2006; Nathan, 1994; Mollo, 2000; Williams, 1998). This was a significant bargaining chip, the power of which should not be underestimated.

Given these facts it is not surprising that the former MK officers were able to dominate the process to establish the civilian ministry of defence, notwithstanding being found wanting in other areas. Williams (2000) sums it up, when he argues that the MK officers were able to do so because, in terms of civil military relations, they had a far better political understanding of the requirement for civilian oversight in the new South Africa than did their Defence Force counterparts. Paradoxically the ruling party demonstrated a strong stake in maintaining the military dominance of the SADF right up to the end, in an attempt to ensure that they negotiated a favourable concession from a position of strength, rather than simply capitulating to a majority decision at the 27 April elections (Cruywagen, 2014; Gutteridge, 1996; Nathan, 1994; Shaw, 1995). For its part the ANC were equally successful in arguing for the exclusion of MK from the restriction on private armies, in terms of the 1991 DF Malan Accord, to similarly strengthen their own hand (in providing a fall-back position should negotiations irretrievably breakdown) (Shaw, 1995).

[16] MK were at a distinct disadvantage compared to the SADF due to weak command and control structures within SA, at the time of the negotiations, and the lack of an organisational infrastructure to support them in the preparation of position papers and the complex force planning processes (William, 2002). Cawthra (1997) argued that although the ANC's 'Marxist liberation ideology' was well developed the organisation had failed to properly adapt the framework to the demands of holding power and equally importantly they lacked expertise in defence management.

Aside from the posturing, both parties had common agreement and demonstrated a willingness to secure firm constitutional guarantees that the armed services would, after the elections, subject itself to the civil authority, notwithstanding which political party led government. It seems that both parties early on realised that a compromise decision on the new structure of the SANDF was necessary to conclude the negotiations in time to meet the 27 April election deadline.

The selection of the 'balance' approach to the new DOD design had its origins in the resolution by the TEC Sub-council on Defence (SCD) and the JMCC, that strengthening civil control and civil oversight of the armed services would be the *sine qua non* of defence transformation in the new democratic South Africa (Document No. 1, 1996). It must be appreciated that

> "…in 1994 the perception that the SADF presented a threat dominated discussions. The SADF was a purely military institution with very few civilians and little in the way of mixed civil-military skills. It was considered to be extremely powerful, had a large budget that they only superficially had to account for and for all intents and purposes reported directly through to the President" (S. Rabkin, interview, February 15, 2016).

The JMCC took the decision on 11 February 1994, after considering the SCD appointed workgroup's[17] proposal for the establishment of a new MOD. The proposal was based on an earlier study of civil control structures and approaches in operation across a number of democracies (Document No. 3, 1996). The Research focused on three levels; firstly civilian/political control; secondly MOD design; and thirdly MOD structure. The overriding message was that most emerging democracies, and certainly all mature democracies, were subject to some form of civilian (civil) control and oversight (Document No. 1, 1996).

[17] SCD appointed multi-party workgroup of military officers and researchers from a number of non-governmental organisations (NGOs) including the MRG.

Juxtaposed with the comparably more moderate approaches taken by the other specialist committees appointed to consider transformation of the rest of the Departments of State, the JMCC took a particular keen interest in enhancing control of the DOD. This was of course necessary to harnessed the potentially destructive power in the hands of the military and bring it under the sanction of Parliament. This is the classic 'civil-military *problematique*', described by Feaver (1999) and variously by others (Cawthra, 2003; Chuter, 2011; Edmonds, 1998; Huntington, 1957; Nathan, 1994, Williams, 2004). The paradox that a nation requires an armed service that is powerful enough to deter aggression and protect the state and its citizens yet not be so powerful that it threatens the state. Given the earlier argument that MK possessed a superior political understanding of civilian oversight than did their SADF counterparts, it was not surprising that they took such a firm stand. This position must, of course, be viewed against the SADF's reputation as the bulwark of the Apartheid regime's security apparatus, the real fear that the SADF presented a threat (S. Rabkin, 2016) and the general lack of civil and public oversight practiced during the Apartheid years (Cawthra, 2003).

It is beneficial, as a background to the JMCC discussions, to briefly review the unparalleled historical development of the South African higher defence organisation, with respect to key functionaries and the administrative and military command arrangements. In terms of Brueau's (2006, p.6) framework of analysis there is a cogent argument that the pre-existing institutional SADF model, and the conditions under which the DOD was transformed heavily influenced the JMCC decisions. This review is loosely based on articles by Fourie (2012[18]) and Stratford (1968) and various internal DOD documents.

[18] Prof Deon Fourie later published the article in *Scientia Militaria*. The original document sourced from the DOD private archive is an unpublished paper submitted at the request of the JMCC in March 1994, on a proposal for the re-establishment of the MOD with a civilian Secretariat. Submitted under the title of, Decline and Fall: The Death of the South African Civilian Secretariat in 1966. Fourie undertook various research assignments for the JMCC during 1993 under the umbrella of the Institute for Security Studies and IDASA.

Historical Development

The South African higher defence organisation's key functionaries evolved over time, as follows:

- Commander-in Chief. Before the country became a Republic in 1961, the Commander-in-Chief was the civilian Governor-General. After becoming a Republic, the civilian State president became the Commander-in-Chief.

- Minister of Defence. The Minister of Defence has been from 1912 to date an elected executive authority. However the MODs have not always been civilians and from 1910 to 1933 and 1939 to 1948, 1980 to 1990 and from 1994 to 1998, military officers have served in this capacity.

- Head of Department of Defence. The Under-Secretary for Defence headed the Union Defence Force from 1915 to 1967 except for the periods 1922 to 1933 and 1966 to 1967 when the head of department position was filled by the military Chief of the General Staff (incorporating the Sec Def) during the first period, and military Commandant General (incorporating the Sec Def) during the second period. In 1967 the State abolished the post of Sec Def and the military Chief of Defence Force was the head of department up until 1997. The Sec Def's have not, perhaps unsurprisingly, always been civilians. For instance from 1933 to 1937, 1939 to 1945 and from 1994 to 1998, ex-military officers have filled the post.

- Department Accounting Officer. The departmental accounting officer function has from 1912 to date been performed by the Head of Department except for the period, 1922 to 1930 when the Financial Under-Secretary was the accounting officer of the Union Defence Department, separately from the military Chief of the General Staff as Head of Department. The Chief of the Defence Force, in his additional

capacity as Head of Department from 1966 to 1997, was also the department accounting officer.

Administrative Arrangements

The administrative arrangements developed as follows:

- Separate Ministry of Defence set hierarchically over the department of defence from 1912 to date.

- Department of Defence from 1912 incorporating a civilian Secretariat, a General Staff and Administrative sections. From 1912 to 1966 military functionaries considered the Sec Def as a staff-to-line authority. However if viewed from a ministerial perspective, the Sec Def was the departmental line authority for the performance of the department of state functions.

- The SADF incorporating the DOD from 1967 to 1995. The Commandant General/Chief of the Defence Force was the **head of department, accounting officer and commander of the Defence Force.**

- The Public Service Act re-established the Department in 1995, (Public Service Act, 1994, Schedule 1). The DOD, as it now stands, incorporates the Def Sec and SANDF (both at the same hierarchical level).

What the analysis reveals is that no other liberal constitutional democracies have an administrative arrangement in which the armed services incorporate the unified combat arms as well as the department of defence. The Defence Force incorporating the DOD did not provide for the separation of policy and programme (including the budget) determination from the execution thereof or for the separation of those control measures

required to ensure transparency and accountability for the [19]economic, efficient and effective utilisation of resources. It can be safely assumed that the intrinsically flawed institutional SADF model (pre-existing) was a major factor in the decision by the JMCC and TEC to re-establish a new DOD that incorporated the SANDF, as subsequently implemented in 1995 (Public Service Act, 1994, Schedule 1).

The Military Command Arrangements

The military command arrangements (loosely based on articles by Fourie (2012) and Stratford (1968) and various internal DOD documents) developed as follows:

- Staff-to-line arrangement from 1912 to 1922 filled by Staff Officer for General Staff Duties, and later under various other titles to wit; Chief Staff Officer; General Staff Duties and Adjutant General; and Chief of the General Staff and Adjutant General.

- Command-to-line arrangement from 1922, filled by the Chief of the General Staff and Adjutant General, and later under various other titles to wit; General Officer Commanding Union Defence Force; Commandant General of the Union Defence Force (later South African Defence Force); then Chief of the South African Defence Force (later National Defence Force).

- In 1966 the Chiefs of Staff of the Combat Services (Army, Navy and Air Force) were reconfigured as Chief of the Service (e.g. Chief SA Army), each with their own Chiefs of Staff. All Service Chiefs fell under command of the Chief of the Defence Force.

The current command-in-line arrangement was originally set in Section 225 of the Interim Constitution, 1993, in that the Chief "…exercise[d]

[19] PFMA, 2010, Sec 38 (b)

executive command…" This position was, however, later modified as set out in the Constitution, 1996 (Section 202) as further detailed in Section 13 and 14 of the Defence Act 2002, Act No. 42 of 2002 as Amended (Republic of South Africa, 2002). The new wording makes the choice of optional command arrangements by the Commander-in-Chief possible. This significant legal prerogative is explored in a later section detailing the analysis of the realignment of defence functions and the transformation of the higher defence organisation.

The historical development of the South African higher defence organisation, with respect to key functionaries and the armed services' experiences with administrative and military command arrangements in past years is key to understanding how pre-existing institutional models predisposed the stakeholders in structuring power relations and maintaining the balance between the Def Sec and SANDF. As detailed hereunder the influence on the JMCC deliberations was ubiquitous.

JMCC Deliberations and Choice of 'Model' for the Transformed Department of Defence

The JMCC deliberations included consideration of a range of civil control concepts and models. These ranged from having a civilian appointed in the top post to facilitate pre-expenditure budgetary and financial control over the military; to one which was a form of *post factum* or historical accounting which exercised control by means of a combination of civilian-headed internal and external verification and audit (Document No. 1, 1996). In essence these options were either found to be too radical, in the case of a civilian as head of the defence department, or too limited in the case of *post factum* control (Document No. 1, 1996). Essentially what the parties desired was a solution that provided adequate assurance of around-the-clock civil control whilst simultaneously ensuring that the SANDF, as a military force, remain under executive military command. In the words of Nathan (1994, p.1) "...the manner in which power is exercised and controlled is as crucial as the question of who holds it."

In the end the JMCC reached agreement on a number of key overarching civil control concepts. Firstly that civil control is an essential element of democratic government; secondly that a measure of civil control is the extent to which power resorts with the civil authority (civilians); and thirdly that civil control must guarantee the subordination of the armed services to the civil power (Document No. 2, 1995). In other words that the armed services will operate at all times in accordance with the constitution and the dictates of parliament, to serve as the primary means (as the legitimate national armed services), by which the civil authority can defend the country. Over time the idea that civil oversight of the Defence Force was both necessary and desirable and the primary roles of Parliament and the Executive in exercising control through the creation of a robust Secretariat headed by the Secretary for Defence (Sec Def), began to find acceptance.

A further significant determinant was the agreement reached on the key relationships, power and control within the balance model, as set out in the DOD minutes (Document No. 1, 1996). Essentially that:

- The Minister has political control over the DOD and is to execute directing power.

- The Chief SANDF has exclusive control and command of the armed services.

- The Sec Def is the chief executive officer of the civilian component of the MOD and exercises civil control over the entire department (including the armed services).

Also worth mentioning is that the JMCC approved[20] four key principles for governance of democratic civil control and civil-military relations, namely the separation of powers, legality (legitimacy), accountability and transparency (Document No. 1, 1996). How these principles were applied

[20] Joint SCD and JMCC meeting on 30 March 1994.

in practice, through various mechanisms, to support the proposed balance model, is subject to thorough analysis in a later section. These principles were later internalised by the DOD (Document No. 2, 1995) along the following lines:

- Separation of powers. (Sometimes also referred to, in various internal DOD publications, as 'segregation of powers'). Essentially acknowledging the division between the civil and military institutions and that the armed services should refrain from involvement in politics. Equally that the civil polity should not interfere with the military chain of command and military discipline.

- Legality. The powers, structures and functions of the armed services are to be prescribed by law, chiefly the Constitution and Defence Act, and the SANDF is expected to conduct its activities within these constraints. One of the implications, post-1996, is that officers are only authorised to issue orders, and soldiers are only obliged to obey orders, within the framework of the law. In times of war they are bound by the international law of armed conflict.

- Accountability. There is an inherent requirement applicable to all national departments in a democracy, in that departments are accountable to the elected civil authority for the utilisation of resources and their actions. To prescribe the requirements alone, particularly in relation to the armed services, is not sufficient as parliament requires assurance that effective civil control is being maintained and that the armed services' potential for coercive power is properly harnessed. This is dealt with in a number of ways, typically through the oversight function of a parliamentary defence committee and through the political authority exercised by the Minister. The minister and government are in turn accountable to parliament and the electorate for the disbursement of public funds.

- Transparency. It is essential to hold the armed services accountable and this requires sufficient transparency to allow external and internal verification bodies and the electorate to readily determine that the armed services are not acting unilaterally and that they are, at all times, operating within the limits placed upon them by law. It can, therefore, be deduced that there is an inherent requirement to ensure that sufficient information is made available (notwithstanding the necessity for a degree of secrecy to protect national interests and on-going military operations for instance) to the verification bodies, in order for them to execute their duty. In executing this function the crucial role of the Auditor-General South Africa cannot be overemphasised.

The Transitional Executive Council (TEC) at the end of what was, by all accounts, extensive deliberations ratified the Minister's approval of the Balance Model Ministry of Defence[21] on the 4 May 1994 (Document No.3, 1996). The 'balance relationship' proposal was accepted by the JMCC because it made sense that it positioned the Minister to balance the independent defence policy advice and civil control by the Sec Def with the military advice and execution by the Chief SANDF. The SADF delegation for its part was "content to support the proposal because the addition of the Def Sec to make up the new DOD, left the SADF force structure largely intact" (Personal Interview, S. Rabkin, 15 February 2016). The choice as to the actual mechanisms for restructuring the old SADF to accommodate the balance model, and the political decisions regarding the establishment of the new Secretariat, was left to the incoming Government of National Unity (GNU) and Minister to decide[22] (Document No.3, 1996).

[21] "*The Minister of Defence has decided on the so-called balanced* (sic) *option for the implementation of the Department of Defence"*, proposed on 26 April by Sub-council on Defence Workgroup and approved by the Minister of Defence (JMCC/DSM/501/6 and Addendum finally dated 4 May 1994), as ratified by JMCC meeting dated 26 May 1994.
[22] JMCC meeting on 22 April 1994, Presiding Chairman confirmed, "…*the structure should be further developed in order to give the decisionmaker* (sic) *who will be the Minister of Defence and the Cabinet, the ability to choose the best option…*"

According to various scholars (Shaw, 1995; Mollo, 2000), the SADF negotiators, led by General Meiring, miscalculated in supporting the decision to allow the Minister to wait until after the elections before finalising the creation of the civilian secretariat, in the hope of striking a better deal. Against their expectations the National Party did not retain the defence portfolio in the GNU. President Nelson Mandela, in a surprise move, appointed an ANC Member of Parliament, the late Mr Joe Modise, to the portfolio. Although there is no evidence of any serious attempt by the SANDF to resistance transformation, it is clear the decision irked General Meiring and later underscored his numerous, reportedly heated, clashes with the Ministry amid accusations that the SANDF was attempting to dictate “the political and strategic agenda” (Williams , 2002, p. 21).

The TEC sub-council on defence’s decision on the balance model and in particular the proposal that the Sec Def should be the Accounting Officer of the DOD (Document No. 1, 1996) had, for those reasons, far-reaching consequences. It was later to become a key feature of the government’s drive to strengthen civil control and effect defence transformation. What was not so easily resolved, however, was agreement on the integration process, vesting of the departmental accounting functions with the Sec Def and the specific timelines for completion. In the end, notwithstanding the arguable defects, the new South African National Defence Force (SANDF) was finally unveiled and officially came into being at midnight on the 26/27 April 1994. As Nathan (1994) and Shaw (1995) cautioned, however, the transition was far from complete. Very few of the stakeholders, it would appear at that stage, were under any illusion that only time would tell how enduring the nascent SANDF design would be. This lacuna is further debated in the next section.

3.4 Defence in Transformation: Minister Joe Modise

3.4.1 Civil Control Constitutional Framework

The Constitution of the Republic of South Africa, Act No. 200 of 1993 (as substituted by Act 108 of 1996) heralded the establishment of a new democratic constitutional state. All State institutions were at the time adapting to the requirements of the new regime (Nathan, 1994). The Defence Force had, in turn, an important role to play as an instrument of state policy in contributing towards the realisation of democratic South Africa's new goals, and the priorities of Government.

Equally national security is subject to the authority of parliament and the national executive (Republic of South Africa, 1996) and it flows therefrom that defence is subject to civil oversight by parliament and civil control by cabinet. The hierarchy of authority is prescribed in the Constitution[23], (Republic of South Africa, 1996), specifically that between the Executive, Parliament and the armed services. Civil control and oversight is governed by the principles of the supremacy of the Constitution and the rule of law; and compliance to international and domestic law (Department of Defence, 2015c).

Given the SANDF's 'monopoly on violence', the promulgation of the Constitution[24] alone was not sufficient to assuage the public at large that the armed services would be bound by the doctrine of civil supremacy. It was thus necessary for the elected civil authority to demonstrate its control of the armed services in some meaningful way. It did so by instituting additional oversight and control mechanisms at both a parliamentary and executive level, and critically via programmes within the armed services itself to inculcate military professionalism and respect for civil control amongst members (Chuter, 2011; Edmonds, 1998; Nathan, 1994).

[23] Refer to Sections 198(d), 199(8), 200(2), 201(2) & (3), 202(1) & (2), 203(1) & (3) & 204.
[24] The Constitution of the Republic of South Africa, Act No. 200 of 1993.

The supremacy of the Constitution, the authority of Parliament (Legislature) and Cabinet (National Executive) accordingly underpin the concept of civil control (as so too the Defence Act (Act No. 42 of 2002), the Public Finance Management Act (Act No. 1 of 1999) and the Public Service Act (Act No. 103 of 1994)). Within this concept the President is the Commander-in-Chief and appoints the Chief SANDF and the military command. The Cabinet appoints one of its members to be responsible for defence (Republic of South Africa, 1996), designated the 'executive authority' for defence by the PFMA and Public Service Act. This is a purely political function and the Minister provides direction to the DOD and is accountable to Parliament for the DOD, as a department of State.

Section 228(1) indicates that the Minister shall be "…accountable…" to parliament for the SANDF (Republic of South Africa, 1993). This may not be significant in determining actual accountability as contemplated in the Exchequer Act as the former is political accountability whilst the latter implies financial accountability. However it does indicate the intention of the legislature to establish responsibility for Defence in a formal structure.

Section 14 (b) of the Defence Act states that the Chief SANDF "…must comply with any direction issued by the Minister under the authority of the President as contemplated in section 202 (2) of the Constitution" (Republic of South Africa, 2002). From this it can be deduced that the Minister constitutionally has the power to provide certain directions to the Chief in the exercise of his military executive command.

The key deductions are that:

- The Minister of Defence is the member of the executive principally responsible for civil control and political direction (including directions to the Chief in the exercise of his military executive command) and must, hence, be capacitated to perform these duties.

- Parliament is primarily responsible for civil oversight through its legislative authority, by scrutinising and overseeing executive action and by holding national organs of state accountable to it. Parliament is consequently required to institute Defence-specific arrangements to facilitate such oversight (Parliamentary Committees for instance). Parliament is also the highest authority for approval of defence legislation, the budget and policy.

- The Line of Command is clear, succinct and unfettered between the President, Minister, the Chief SANDF, and the military command. No other Office should stand in this line.

- Civil (political) control, in this context (as practiced by the DOD) has three components – steering control (directing effort by setting the purpose and limits for subordinate action); screening control (authorising subordinate actions according to predetermined policies, programmes and resource allocations); and performance control (checking the performance is in accordance with policies and programmes and resource allocations). In terms of civil control mechanisms, three are of interest to this study, namely oversight by Parliamentary committees, adherence to domestic and international law and the establishment of a civilian defence secretariat (Republic of South Africa, 1996). The mechanisms are briefly expanded upon below:

<u>Oversight</u>

The various Parliamentary mechanisms that support the civil oversight process reflect the key principles of transparency and accountability, including:

- Parliamentary Committees
- Joint Standing Committee on Defence
- Portfolio Committee on Defence and Military Veterans (PCD&MV)
- The Minister of Defence
- The Secretary for Defence

- The Chief of the SANDF

The respective roles and responsibilities of the Minister, Sec Def and Chief SANDF will be described in detail later, for now it is sufficient to confirm that the PCD&MV (as one example) is a National Assembly Committee of Parliament, with the primary function to oversee and monitor the work and budget of the DOD and hold it accountable. The PCD&MV are mandated through Rule 201(1) to:

> Monitor, investigate, enquire into and make recommendations concerning any such executive organ of state…including the legislative programme, budget, rationalisation, restructuring, functioning, organisation, structure, staff and policies of such organ of state… (Parliament of the Republic of South Africa, 2015).

Domestic and international law

Defence policy-making is central to the DOD's obligation to adhere to domestic and international law. Policy-making during the apartheid era was greatly militarised, in the sense that defence policy formulation was carried out in a closed and secretive environment in which little public or political consultation took place (Nathan, 1994, Shaw, 1995).

The GNU[25] instituted a major policy revision in 1996, drawing up a new White Paper on Defence (Department of Defence, 1996). The primary aim of the White Paper was to align defence policy with the new South African democracy. It also described the national strategy for defence, protection of the state and its people, its commitment to adhere to domestic and international law as well as the new force structure and defensive posture. A key aspect of which was, against expectation, the perhaps myopic decision not to pursue a military role on the continent. This position was

[25] Government of National Unity

later adjusted somewhat, however South Africa continues to act with restraint (Department of Defence, 1996, Chapter 5, par. 19-25).

Defence Secretariat

The establishment of a civilian Defence Secretariat (Def Sec), headed by the Sec Def was identified as the *sine qua non* for the exercising of sound civil control and thus defence transformation[26]. The Def Sec is established in terms of Section 204 of the Constitution (Act 103 of 1996) which provides that "A civilian secretariat for defence must be established by national legislation to function under the direction of the cabinet member responsible for defence". This was given effect by the Defence Amendment Act, 1995 (Republic of South Africa, 1995). The scope of the Sec Def, within the DOD structure, has evolved and grown substantially over the years and from humble beginnings it now includes a number of key statutory roles and functions, of which enhanced civil control of defence remains the core strategic output of the Secretariat and its *raison d'état* (Department of Defence, 2015b).

The establishment, structure, operation and performance of the Def Sec features prominently in this research paper and is indeed central to the research purpose and answering of the research questions. It is, accordingly, given detailed attention in the sections and chapters to follow. The discussions are conducted chronologically to provide the reader with a sense of how the development of the Def Sec and restructuring of the DOD unfolded over time.

Key to Civil Control

The key to civil control as exercised in the DOD, according to a senior official, lies firstly in the control of defence policy, programmes and budget. Secondly in the control of defence activities and the employment of resources according to the authorised programme and budget; and thirdly

[26] JMCC meeting dated 26 May 1994.

in strict control of the employment of forces/conduct of operations (Respondent 01, Interview, April 22, 2015). The official argues that such controls are necessary if the Minister is to give effect to the supremacy of the elected civil authority over the armed services, and to account to Parliament and the President for the DOD's performance (Respondent 01, Interview, April 22, 2015).

The Minister therefore exercised his prerogative when he ordered the restructuring of the Defence functions, by selecting, legalising (through parliamentary sanction) and implementing a higher order defence organisational design as the foundation of the defence establishment. In view of the inadequacy of the administrative and command arrangement of the old SADF[27] for effective civil control, the restructuring of the defence function to include a civilian Secretariat within the transformed DOD was paramount. This was a critical step in establishing a new democratic civil-military relations regime that Nathan (1994, p. 60) argues "…lies at the heart of the transformation of the defence force…", and was to consume much of the DOD's energy in the decades after 1994.

The overarching challenge was that the planning for the transformation of the DOD – incorporating the SANDF and a Secretariat – did not explicitly provide for the separation of policy and programme (including the budget) determination from the execution thereof. Neither for the separation of those control measures required to ensure transparency and accountability for the effectiveness, efficiency and economical utilisation of resources (Republic of South Africa, 1999, Sec 38 (b)). It has to be kept in mind that the SANDF, since 1967, incorporated the DOD and whereby the Chief SANDF was the Head of Department, accounting officer and commander of the armed services. A new approach was therefore required, one that strengthened civil control of the SANDF whilst simultaneously separating the formulation of departmental policy and

[27] Pre-1994 South African Defence Force (SADF)

programme from the preparation of forces, and the conduct of operations in execution of that policy.

The Minister's support for the JMCC/TEC approved 'balance model' as being the most appropriate organisational infrastructure through which to direct and control the performance of the defence function, had a fundamental impact on the manner and direction of the transformation process. The debate had moved on from the choice of model to how best to implement the selected approach to achieve the desired outcomes. The structural transformation to establish a new DOD that incorporated the SANDF and civilian Secretariat commenced in earnest as the transformation project gathered momentum.

3.4.2 Department of Defence Transformation Project

A brief word on terminology is necessary before proceeding. The use of the term 'Ministry of Defence' randomly interchanged with 'Department of Defence' was cause for confusion when analysing various DOD documentation. For instance in the Cabinet Minutes dated 01 March 1995[28], the committee described the Ministry of Defence as "...consisting of the offices of the Minister and Deputy Minister of Defence, the Defence Secretary and staff…and the Chief [SANDF] …and staff" (quoted in Document No. 2, 1995). Later, in Chapter 2 of the Defence Amendment Act, 1995 and in the White Paper the reorganised Department of Defence is described as comprising "the SANDF and a civilian Defence Secretariat" (Department of Defence, 1996, Sec 19).

For clarity (and to align with current DOD usage) all future references in this paper, to the 'Ministry of Defence' will be limited to mean only the office of the Minister and Deputy Minister of Defence, and 'Department of Defence' or DOD, means the Department of State as envisaged in the

[28] Cabinet Minutes 01 March 1995: Refers to Cabinet memorandum 10 of 1995 dated 17 February 1995, file number MS/S/501/10/342222, DOD. Refer to Item 5.1 of the minutes of Cabinet dated 18 January 1995.

Public Service Act, 1994, Schedule 1 (Republic of South Africa, 2007), incorporating the Def Sec and SANDF. The question of whether or not the transformation of the Ministry of Defence was adequately addressed, in relation to the overarching transformation of the DOD, and if not whether the failure was in the planning or execution, is reviewed later as part of the broader study into the implementation of the balance DOD design.

There was further a lack of consistency in describing the 'balance model'. There are numerous examples where the 'model' was variously referred to as the 'balance model Department of Defence'; 'balance model for defence management'; 'balance model Ministry of Defence' or otherwise simply the 'balance model' (Document No. 2, 1995; Document No. 1, 1996; Document No. 3, 1996). To prevent confusion and to comply with later accepted usage, the term 'balance Department of Defence design' and particularly the abbreviation '**balance DOD design**' is used throughout the rest of this paper, unless specifically described otherwise.

Minister of Defence Workgroup for the Balance DOD Design

As detailed earlier, the balance DOD design was approved by the TEC on the understanding that the actual mechanisms for restructuring the DOD to accommodate the new design and the political decisions regarding the establishment of the new Secretariat was left to the incoming government. This task fell to the newly appointed Minister of Defence, the late Joe Modise. The Minister appointed a MOD workgroup, in June 1994, to undertake the structural transformation to establish a new Department incorporating the SANDF and to create an additional civilian Secretariat taking the proposed balance DOD design advanced by the JMCC on 26 May 1994 as the accepted model (Ministerial Planning Directive dated 9 June 1994; Document No.4, 1994).

The Minister was soon under pressure to resist the efforts by Chief SANDF, General Meiring, (still smarting from the loss of the Defence Ministry cabinet post to the ANC in the GNU) to dictate the "political and

strategic agenda" for the restructuring of the SANDF (Williams, 2002, p.21). As a result there were reportedly heated exchanges within the Council on Defence (chaired by the Minister and on which the Sec Def and Chief SANDF served) that raised political tensions between the Ministry and the office of the Chief SANDF (Williams, 2002), and did little to smooth the process.

In terms of Chapter 1, Section 15(3) of the Exchequer Act, No. 66 of 1975, the Chief SANDF, as commander of the armed services, is appointed as the accounting officer and as otherwise directed by the Treasury as the Head of Department. The Public Service Act later confirmed this position (Republic of South Africa, 1994). The analysis suggests that the accepted view was that the Chief SANDF would continue as head of department. To make the balance design work, notwithstanding any political imperatives, required as a minimum the separation of the accounting officer functions (Exchequer Act, 1975) from the Chief as head of department and vesting in the Sec Def (Department of Defence, 1996). This strategy was later discovered to be legally flawed and the proposed balance DOD design would require extensive reworking before it could be finally implemented (State Law Adviser's Letter 1/1/13 dated 1 June 1995, to be read together with State Law Adviser's Letter 110/95 dated 16 May 1995 and the final opinion – State Law Adviser's Letter CSLA/160961 dated 17 October 1996) (Documents No. 21, 1995; Document No. 22, 1996).

Essentially, the DOD transformation imperative had three key objectives (Document No. 3, 1996) namely:

- Transformation of the current political-administrative arrangement in place since 1966, in which the Defence Force incorporated the DOD (including the 'absorbed' Secretariat), to a new model in which the DOD incorporates the SANDF.

- Retention of the political-military arrangement whereby the Chief SANDF has a direct command line to the Commander-in-Chief (State President), and has military executive command of the SANDF.

- Redistribution of the statutory roles, functions, and responsibilities, and ultimately the balance of power within the DOD, between the Minister as executing authority (political head who directs and controls the defence function), the Chief SANDF as head of department and commander of the SANDF, and the Sec Def as accounting officer.

The design logic advocated that the Sec Def, thus empowered, was better enabled to effect civil control of the SANDF. This presented a challenge in that even though the JMCC proposed balance DOD design identified the respective roles to be executed by the Sec Def and Chief SANDF, it only listed the main and sub-functions to be performed by the Secretariat. Nor were these functions arranged into a structural hierarchy, according to the method used by the Public Service Commission, to justify organisational structures, posts and ranks (see Republic of South Africa, 1997).

Another noteworthy issue was the restriction imposed by the Interim Constitution, in that the "Chief of the National Defence Force who **shall exercise military executive command** of the National Defence Force subject to the direction of the Minister…" (Republic of South Africa, 1993, Sect 225) and the implicit direct command line the Chief SANDF has to the State President. This political-military structure, which serves as the foundation for civil oversight and control by the Executive Authority, is prescriptive. It is thus interesting that this position was later modified, as set out in The Constitution, 1996 (Section 202) as further detailed in Sections 13 and 14 of the Defence Act 2002, Act No. 42 of 2002 as Amended (Republic of South Africa, 2002). It now reads "Command of the defence force must be exercised in accordance with the directions of the Cabinet member responsible for defence…" and it leaves out the "…shall exercise military executive command…" portion. The new wording makes

the choice of an optional command arrangement by the Commander-in-Chief possible. Quite what motivated the changes is a matter for further enquiry.

What is evident from the analysis of earlier literature is that the MOD work group, at the time, settled on a command-in-line authority (Chief of the armed services) arrangement for the DOD (Document No. 3, 1996). An arrangement in which the mandate of military executive command[29] includes both force preparation (combat readiness) and force employment (conduct of military operations), and appeared to preclude a fuller investigation of the alternative staff-to-line Chief of Defence Staff authority arrangement. This decision, was later modified; it would seem as part of the overall more progressive mind-set change that took place within the DOD.

In the staff-to-line arrangement, the Chief of Defence Staff is the principle military staff officer of the Minister and President and conveys ministerial orders and directives to the subordinate commanders, tasking them for a specific force employment engagement, on behalf of the Minister (or commander-in-chief in time of war). The thrust of this arrangement is that the force development and preparation (staff function) is clearly distinct and separated from force employment/conduct of operations (line function). This is a common approach as practiced in a number of liberal democracies such as the United Kingdom and United States of America (United Kingdom, 2009).

It does appear short-sighted not to have opened up this line of investigation at this opportunity. However, the setting and general sense of unease prevailing at the time needs to be appreciated and accordingly the heightened importance placed on stabilising the armed services,

[29] Command and control means the exercise of authority and direction over allocated forces to accomplish a mission by an arrangement of personnel, equipment, telecommunications, communications, facilities and procedures employed by a commander in planning, coordinating and controlling forces and operations (DODI 00054/2001:DOD Language Policy: Terminology)

particularly during the integration and transformation phase (Gutteridge,1996; Williams, 2002). It was probably appropriate, given the circumstances, to vest the Chief SANDF, General Meiring, with the explicit command authority to swiftly implement the organisational restructuring necessary to give to effect to Parliamentary and Executive authority over the Defence Force and to lead the SANDF through the difficult transformation process (Fourie, 1996, p. 19).

Although not as obvious, by reducing the Chief SANDF's authority incrementally over time, instead of immediately after the elections, helped assuage the concerns of many in the armed services that they would be marginalised (Mollo, 2000). Later on there is evidence of a shift in DOD dogma resulting in the cultivation of a hybridised approach that paid homage to the main features of staff-to-line authority (Respondent 01, Personal Interview, 22 April 2015). Quite why the DOD took the decision it did, at the time, and understanding the impact this may have had on the evolvement of the DOD organisational structure and alignment of functions between the main controllers is subject to later analysis.

Defining the Framework for the Division of Defence Functions

Returning to the MOD workgroup, for its part it was under instruction to treat the JMCC/TEC proposal as the approved 'framework' for the division of functions between the to-be-established Def Sec and the SANDF, within a new integrated defence headquarters. The framework of course still had to be further developed and refined. The following Ministerial planning guidelines (Document No. 3, 1996) remain useful today in assessing the baseline functioning of the Def Sec:

- The creation of the DOD must be enshrined in appropriate Legislation.
- Ensure the continuity of Defence capabilities and functioning.
- No duplications of functions were permissible in the final structure.
- Build civil-military collaboration into the management of the national Defence function – Def Sec should reflect an appropriate civilian-

military mix.

- Establish a DOD culture of civil control and military professionalism.
- Ensure a lean and clean structure and design for the proposed DOD. It should be cost effective.
- Staff the DOD with competent leadership and personnel.

The workgroup in applying the guidelines to developing and refining the design framework, constructed a range of four possible options (Document No. 3, 1996). It is worthwhile revisiting the options considered by the workgroup in order to provide the reader with a better insight into the reasoning behind the selection of the chosen option:

Option 1 – Retain the current Status Quo as practiced by the SADF (SADF incorporates the MOD).

Option 2 – The Chief SANDF reports via the Sec Def to the Minister (i.e. the United Kingdom/United States of America model).

Option 3 – The Sec Def forms part of the outer office of the Minister of Defence.

Option 4 – Both the Sec Def and the Chief SANDF are appointed at Level 16 (Director-General level) and each has control over their own areas of responsibility (i.e. the balance DOD design/compromise model).

Option 1 – Retain Status Quo

This option was quickly dismissed as being impractical (Respondent 01, Personal Interview, 22 April 2015) on the following basis:

- Emotive – in terms of South Africa's history it was deemed difficult to justify.
- It was not politically acceptable.

- Did not cater for non-statutory force (NSF) integration.
- Lacked provision for essential civil oversight capability.
- Did not make provision for the creation of a civilian Secretariat.

Option 2 – C SANDF reports via the Sec Def to the Minister

It is unfortunate that no old records were unearthed which could throw light on the debate around this particular option. However, anecdotal evidence supports the contention that the option was not popular with the military representatives on the workgroup[30] (having a civilian head of the DOD/SANDF was considered too radical) and was not vigorously pursued. A graphic illustration of the option (Figure 3) below highlights the main feature, in this case the 'subordination' of the Chief SANDF to the 'civilian' Sec Def (Respondent 01, Personal Interview, 22 April 2015).

GRAPHICAL ILLUSTRATION OF OPTION 2



Figure 3: Option 2: C SANDF reports via the Sec Def to the Minister

(Source: Adapted from unpublished DOD material)

[30] Interestingly although there is references to this option having been discussed at the JMCC, it was not proposed as a serious alternative – the committee choosing rather the safer (compromise) balance model (option 4), as ratified by JMCC meeting 26 May 1994.

Option 3 – The Sec Def forms part of the outer office

This option was based on the proposal that the Sec Def forms part of the outer office of the Minister of Defence (Respondent 01, Personal Interview, 22 April 2015), as illustrated below (Figure 4).

GRAPHICAL ILLUSTRATION OF OPTION 3

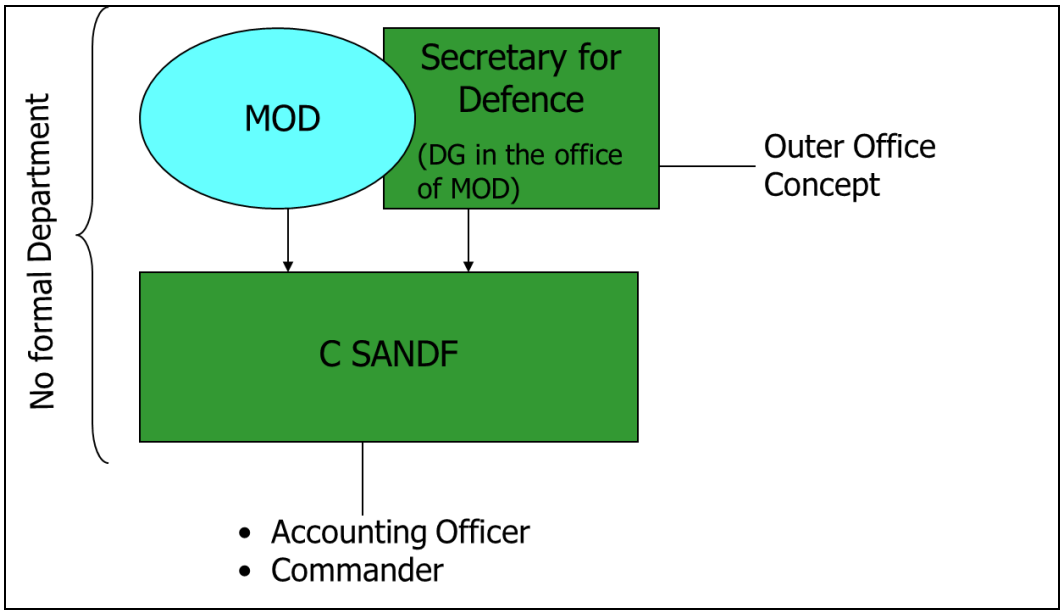


Figure 4: Sec Def forms part of the outer office

(Source: Adapted from unpublished DOD material)

The main features of this proposal are:

- The Def Sec, as a separate designated department with its own budget, is an entity on its own charged with duties required by the Minister. This is similar to the transformation initiative underway with the civilian Secretariat for SA Police Service (see Republic of South Africa, 2011). These duties would relate to assisting the Minister to exercise oversight over the armed services. The Def Sec will also provide various additional support services to the Minister.

- The budget for this new entity is to be appropriated from Parliament apart from the budget vote for the SANDF.

- No formal DOD – the SANDF will incorporate the DOD. The Chief SANDF will be the commander of the SANDF and the Accounting Officer and Head of Department for the Defence Force.

- The Sec Def will be the Head of Department and Accounting Officer for the Secretariat and the Office of the Minister (DG in the office of Minister). Section 8(a) and (e) of the Defence Act would have to be deleted.

- Separate legislation would have to be developed to establish the repositioned Def Sec, and the Defence Act would solely pronounce itself on military matters.

What is remarkable is that it is evident that the workgroup put considerable effort into developing this option. As will be obvious to the reader there are strong similarities between this proposal and the status quo, whereby the SANDF incorporates the DOD and the Chief SANDF is the Head of Department, accounting officer and commander of the armed services. What is further apparent is that this option did not provide for either the strengthening of civil control of the SANDF or the separation of the formulation of departmental policy and programme from the preparation of forces, and the conduct of operations in execution of that policy. Although the DOD did not ultimately pursue the option at the time, the analysis suggests that the DOD did indeed revisit this as a possible solution as recently as 2011. Ms S. Rabkin, in a later interview, offered the following insight:

> … the main challenge is that the outer office model makes the Ministry too powerful (estimated at approximately 200 staff), more so than any other Department of State. This proposal would not be acceptable to cabinet. Any attempt to strengthen the MOD or SANDF would not be supported politically. Cabinet has made it clear that the National Executive support is for a strong Def Sec, functioning under the Executive Authority (Minister), to exercise proper civil

oversight and control of the SANDF (Interview, February 15, 2015).

This line of investigation opens up intriguing possibilities regarding the direction that the DOD plans to take in its attempt to resolve the central civil-military conundrum, particularly the drive to realign the functions and composition of the Def Sec with the changing defence mandate and Minister's specific support requirements. No matter what the ultimate solution proves to be, this option simply cannot be ignored.

Option 4 – One Department with two heads both appointed DG level

The JMCC/TEC proposed balance DOD design (Balanced (sic) and/or Compromise model) is graphically illustrated in Figure 5 below, and highlights the concept of 'one department with two heads' and the main division of defence functions with the focus of the Def Sec on direction and governance and that of the SANDF on execution.

GRAPHICAL ILLUSTRATION OF OPTION 4

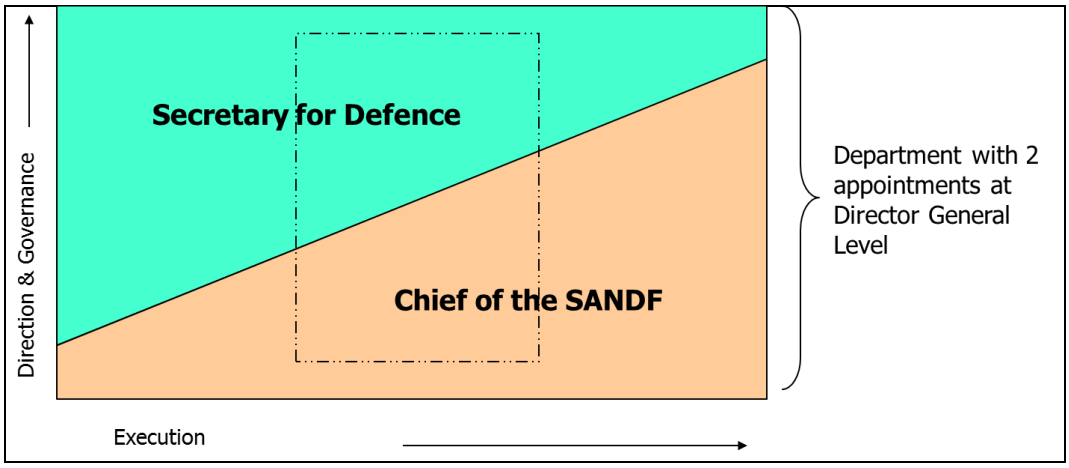


Figure 5: Balance/Compromise Model

(Source: Adapted from unpublished DOD material)

The establishment of the Def Sec with adequate capacity to perform its statutory functions was identified as the prerequisite for the implementation of the balance DOD design and it follows therefrom, effecting Parliamentary, Executive and Ministerial authority and control over the SANDF. Satisfying this objective consequently featured prominently during the workgroup's early deliberations into transforming the DOD. It is not surprising then that the workgroup strongly identified with option four – the balance DOD design. This model was a product of political compromise, with the Sec Def and the Chief SANDF remaining at the same rank level but possessing different responsibilities in terms of their constitutional and organisational mandates. The Minister went on to recommend the balance DOD design for approval by Cabinet on the 01 March 1995[31] (Document No. 2, 1995).

Ironically, perhaps, it was at this same Cabinet meeting that the first indications of concern regarding the practicality of splitting the accounting officer functions in a diarchal scheme were aired. Cabinet went so far as to task the Minister to consider, in consultation with the Minister of Finance, retaining only one head of department (vested with the accounting officer functions) for the department and to deliberate on the legislative implications[32] (Document No. 03, 1996). Quite whether the actual manifestation of the approved design was to live up to everyone's expectations, however, remains moot.

Basic Design Concepts - The Diarchy

The basic concept of the balance DOD design is that there are two distinct components within the DOD and that each component has exclusive duties, responsibilities and powers (Document No. 1, 1996). The balance DOD design is essentially a diarchal arrangement of authority, and is a

[31] *Item 2.5: Establishment of a Civilian Defence Secretariat*. (Reference is made to Cabinet Memorandum 10 of 1995 dated 17 February 1995, File number MS/S/501/10/342222, Department of Defence). "…(a) the Cabinet approved in principle that the Department of Defence be restructured; (b) the Ministry of Defence be restructured according to the requirements of a balanced (sic) model…"
[32] Ibid, par. 4.1.3.

major departure from the post-1966 DOD structure. The diarchy [33] is a system or process (rather than simply a structure) in which the senior public service (civilian) and military leaders share administrative responsibilities for the DOD. The diarchy is a concept widely applicable in the Commonwealth public service. It reflects the amalgamation of what were previously discrete entities into one Department, the Australian version of the diarchy being a good example. In this case the Secretary of Defence and the Chief of Defence Force are jointly responsible for the management of the Defence Organisation in an integrated manner. The Chief of Defence Force is primarily responsible for military operations, force preparation, and military personnel issues whilst the Secretary is responsible for resource management and civilian personnel (Australian Department of Defence, 2009).

The distinct features of the diarchy, which are drawn from the Australian example (Australian Department of Defence, 2009) are:

- The joint leadership of the department by both the Sec Def and the Chief Armed Services.
- That the command responsibilities of the armed services are not shared, but clearly defined by a chain of command between the Chief Armed Services and the Commander-in-Chief (President).
- The Chief Armed Services is the principle military adviser, whilst the Sec Def is the principal civilian advisor, to the Minister.
- The Sec Def is responsible for the financial accountability of the department.
- The Defence Act or other related legislation usually imposes civil control of the armed services by placing both the command and administrative responsibilities under the

[33] Government by two independent authorities (especially in India 1919 – 35): Oxford English Dictionary

> direction of the Minister (Australian Department of Defence, 2009).

This is however where the similarities between the Australian and South Africa DOD approach begin to diverge. With the DOD the intention was that the division of the powers and allocation thereof to each post are such that both the Sec Def and Chief SANDF have the ability to make a meaningful contribution to the attainment of the DOD goals. The power, in this design, must be balanced to ensure that neither can dominate the other. Essentially this segregation of power must warrant that there can be no unilateral or unauthorised actions by either party. The powers vested in the Sec Def and the Chief SANDF are regulated by Section 4 of the Defence Act, and are exercised under the direction of the Minister, subject to sections 202 (2) and 204 of the Constitution (Republic of South Africa, 2002). The principles, structures, responsibilities and relationships which are necessary to secure sound democratic civil-military relations between the Executive, Parliament and the SANDF, are further outlined in the Constitution (Republic of South Africa, 1996).

Establishing and building relationships between the key defence controllers, of course, requires choices to be made. Whilst the relationship between the State President and Minister of Defence are similarly structured in most liberal democracies, there is wide divergence in approach regarding the relationship between the Minister and Sec Def; and Minister and Chief Armed Services, and ultimately between the Sec Def and Chief. In the earlier pre-democratic South Africa, the major shortcoming of the highly securitised political-administrative arrangement in place between Parliament and the DOD was that the Minister’s position was that of a nominal leader. The analysis indicates that this was largely due to; firstly the Defence Force having incorporated the DOD, instead of the DOD incorporating the Defence Force; secondly the Minister’s dependence at the time, on the Chief SADF for both defence policy advice and execution; and thirdly the proclivity for the Chief to involve himself in defence political issues.

Given these conditions and the nature of the post-1994 defence transformation process, it is understandable that the Minister readily accepted the balanced relationship proposal because it places him in a position to balance the independent sources of defence policy advice and administrative control by the Sec Def with the military advice and execution by the Chief SANDF. The management of defence in a democracy necessitates the appropriate distribution of power and control between the civil and military components with checks and balances. The decision to civilianise the DOD and pursue political/civil-military integration placed the locus of control for defence administration and military operations in the Secretariat and military institutions respectively. This relationship structure does at least promote civil control. Certain administrative tasks (that require no military expertise) can be handled more cost-effectively within the Def Sec, and the Sec Def can deal with the inter-departmental political issues thus freeing-up the Chief to focus on executing defence policy, developing the military strategy, preparing forces, and conducting operations.

Options for the Design of Ministries of Defence

Chuter (2011, p.97) describes three main types of organisational structures normally applied to the design of ministries of defence, namely:

Parallel Structure – the defence functions are divided into a:

- Defence headquarters which deals with technical military issues.
- Defence ministry, largely staffed by civilians which handles political and financial issues and supports the minister.

Parallel Hierarchy – defence functions are divided into a:

- Defence HQ which is responsible only for implementation of policy.
- Ministry of defence in which there are separate military and civilian organisations arranged by functional areas.

Integrated Hierarchy – defence functions are divided into a:

- Defence HQ which is responsible only for implementation of policy.
- Ministry of defence in which there are mixed military and civilian organisations, arranged by functional areas (Chuter, 2011, p.97).

Elements from both the Parallel and Integrated Hierarchy structures are reflected in the organisation of the DOD (granted that it is unrealistic to expect an exact fit), however, what is implicit in the balance DOD design is that there is greater administrative integration between the Def Sec and SANDF (in a single defence HQ). This is by design so that defence functions are performed in interaction with each other, or in what the DOD internally refers to as a 'collaborative relationship', in an apparent nod to Schiff's (1995, p.7) theory of concordance. The locus of control for policy is based on collaboration that is the armed services collaborate in the responsibility by the Secretariat to formulate defence policy, programmes and budgets. The *caveat* of course is that civilian personnel shall not intervene with the military chain of command, the armed services should not usurp the civil responsibility to form policy; and the development of two centres of power must be guarded against (Chuter, 2011).

A distinct feature of the DOD that differs from Chuter's (2011) structures is that the Ministry is separated, one strategic decision-making level above the DOD (comprising the office of the Minister and Deputy Minister). The

DOD as a Department of State incorporates both the SANDF and Def Sec in a single integrated defence headquarters (Department of Defence, 1996) “in which there are separate military and civilian organisations arranged by functional areas” (Chuter, 2011, p.97).

Chuter’s (2011, p.97) Integrated Hierarchy is the most advanced option and for it to work would require a high level of organisational maturity. Although the analysis does suggest that efforts were made to reap the benefits from “mixed military and civilian organisations, arranged by functional area” (Chuter, 2011, p.97) it is safe to say that at the time the DOD was not yet able to achieve the required level of civil-military cooperation. The creative civil-military tensions between the two key defence controllers required more robust management, in the absence of which the strained co-existence, power relations and working procedures would continue to negate defence effectiveness and the benefits of an integrated hierarchical approach would continue to elude the DOD.

It remains interesting, given that models are only intended to simplify the explanation of what are usually highly complex designs, that the DOD selected approach to restructuring presents as a hybridised version adopting elements from both models. What is missing, however, when assessed against Chuter’s (2011, p.97) definition of a parallel hierarchical structure, is that in the balance DOD design, there is no single source of advice to the Minister that reflects both the civilian and armed services views[34]. In terms of statutory precepts the DOD has deviated from this principle by specifically structuring for two independent streams of advice – one civilian and the other military.

[34] Although this is a fact, the readers should take cognisance that the statutory Council on Defence (chaired by the Minister and on which both the Sec Def and Chief SANDF sit) was later established to resolve joint DOD issues. In addition, the Defence Staff Council, co-chaired by Sec Def and Chief SANDF is the vehicle for securing ‘joint’ agreement and to a degree acts as a ‘unified’ voice on advice to the Minister. Further in terms of statutory reporting there is a high degree of cooperation between the SANDF and Def Sec and some overarching integration by the office of the Sec Def.

What the integrated DOD head office does attempt to achieve is to make use of a combination of mixed military and civilian organisations (primarily within the Def Sec) and the rest as distinctly separate military and civilian structures, arranged by functional areas. The analysis suggests that the actual success with such an arrangement is highly dependent on the degree of collaborative effort that both institutions commit to. In the case of the DOD, good progress has at least been made with the establishment of various joint committees. Committees such as the Defence Staff Council; Defence Planning Board; and Defence Planning, Budget and Expenditure Committee; which are co-chaired by the Def Sec and Chief SANDF (or their subordinates at the lower levels) and which operate as 'joint' decision-making bodies to achieve 'collaborative' decisions.

Balance DOD Design

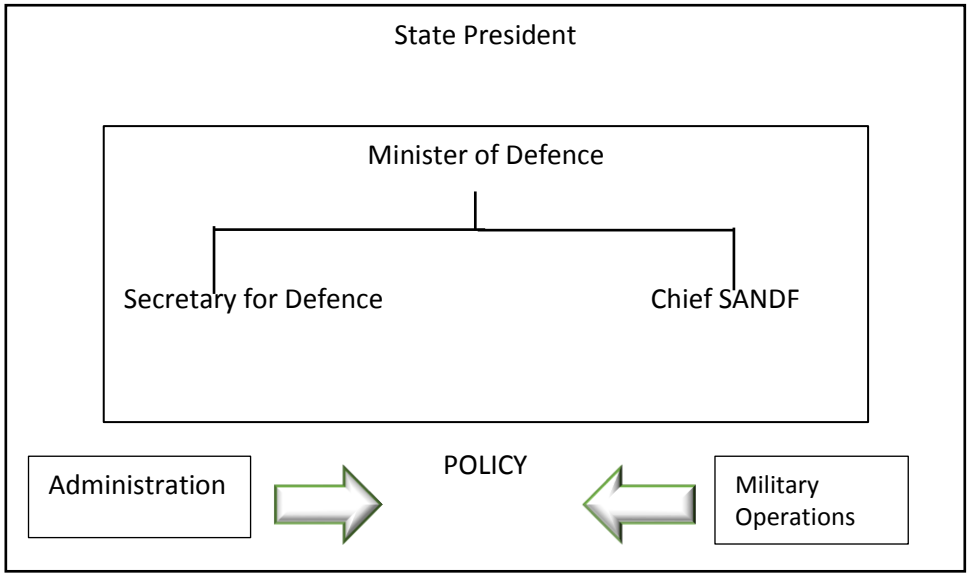


Figure 6: Balance DOD Design

The balance design as depicted in Figure 6 has the following characteristics, as broadly drawn from the Constitution, 1996 and Defence Amendment Act, 1995:

- State President. The State President as head of state, head of executive and Commander-in-Chief has a purely political function. The President appoints the military command and Sec Def, and may authorise the employment of the Defence Force in certain instances. The President, in consultation with cabinet, determines the National Policy on Defence.

- Minister of Defence. Subordinate to the President is a member of the cabinet responsible for Defence. The Minister provides direction to the DOD. This is a purely political function and the Minister is accountable to Parliament for the overall DOD, as a department of state.

- Military and Secretariat components. Under the Minister, on the same hierarchal level, is a military and secretariat component. The intention is that the Minister balances administrative and military interests under the authority of the President:

    - Chief SANDF. The Chief SANDF is the military adviser to the Minister and has executive command over the armed services. Although the Chief SANDF is subordinate to the Minister who is in turn subordinate to the President, neither the Minister nor the President exercise military command. Military command is restricted constitutionally to the level of Chief SANDF as head of department.

    - Secretary for Defence. The Sec Def is the civilian adviser to the Minister and manages a range of non-military administrative functions such as finance and procurement as well as defence policy, strategy and planning.

If this design, selected by the DOD as being the most conducive to the exercising of civil control and military professionalism, had one weakness it was the lack of clear delineation of the civil/political and military functions. On paper at least, the theory was sound. In that by means of

segregation of the broad defence functions, the other balances each party's power, and the net effect is that the relationship between the two will always revert to a state of equilibrium, or put differently the collaborative achievement of the defence outcomes. As no party is able to unilaterally execute decisions in this diarchal arrangement, the intended result was that a consultative or negotiated decision-making process would emerge supreme.

The downside to this line of reasoning was that the Sec Def had no overarching accounting or military authority and was thus limited to the attainment of agreed DOD goals. In essence the balance DOD design began to look more and more like a system designed by the military to retain the status quo (Chief exercises unfettered military command over the armed services) by curbing the authority of the Def Sec. Quite how the Sec Def was expected to exercise civil control over the SANDF, which was led by the Chief as Head of Department on the same hierarchal level as that of the Sec Def, was not particularly clear at this early stage.

One of the four principles for governance of democratic civil control and civil-military relations, approved at the joint meeting of the sub-council on defence and JMCC on 30 March 1994, and adopted by the DOD, was separation of powers. This position was also broadly set out in the Constitution, section 199 (7) where involvement in party politics and furthering or prejudicing the interests of political parties was prohibited (Republic of South Africa, 1996); and later included in the "Code of Conduct for Uniformed Members…"[35] This principle essentially argues, as captured in the 1996 MOD report on the balance DOD design, that there is a "…fundamental division between the military and the civil spheres…" and that the armed services "…should refrain from involvement in politics other than through constitutionally approved channels…" and even then limited to the attainment of military goals set by

[35] Code of Conduct for Uniformed Members of the South African National Defence Force: "…I respect the democratic political process and civil control of the SANDF; I will not advance or harm the interests of any political party or organisation…"

the government (Document No. 3, 1996; Samuel Finer quoted in Nathan, 1996, p.90). Equally that the civil authorities (civilians) should recognise the armed services' autonomous military professionalism and not interfere with the military chain of command and military discipline.

On the face of it there is compelling evidence that the DOD originally embraced Huntington's (1957) 'institutional-separation' model and that the armed services were encouraged to eschew politics and concentrate their energies on developing and applying their functional military expertise. The 1996 MOD Report goes even further in emphasising the "…clear structural distinction between the powers of the government and the armed forces…" and that "…neither party should venture beyond these boundaries…" or else the foundations of the "…democratic political system…" would be threatened (Document No. 3, 1996; Nathan, 1996, p. 98). From the above it is clear that Laurie Nathan had strong influence on the MOD's position on the development of the principles underpinning civilian control, to the degree that sections from Nathan (1996) are inserted verbatim throughout the MOD report.

Given Nathan's (1996) influence, it is understandable that some balance was provided, and the MOD report does attempt to qualifying the position regarding the strict separation of powers in that it states that this does not imply that the SANDF are necessarily just neutral participants in the relationship and that their task is to simply execute policy. Professional military officers should be encouraged to contribute, together with the civilian Def Sec personnel, to the formulation of defence policy and strategy. The *caveat* was that the manner in which the contribution was made should not undermine the civilian decision-makers (Document No. 3, 1996; Nathan, 1996, pp.90-91). The significant point that the MOD and Nathan (1996) were making, is that the pursuit of sound civil-military relations requires much more than simply separating the military and civil institutions. It was rather about collaborative achievement of the defence outcomes that is reminiscent of Schiff's (1995) theory of concordance.

That the existing DOD design did not consider an alternative military command arrangement was also readily apparent. This was evident in the fact that the Chief SANDF was – according to the Constitution, Act 108 of 1996, Exchequer Act, 1975 and Schedule 1 of the Public Service Act, 1994 – the Head of Department, Accounting Officer and executive commander of the integrated SANDF. The challenge was that to function properly, the proposed balanced design required as a minimum the separation of the accounting officer function, in terms of the Exchequer Act, 1975, from the head of department function, in terms of Schedule 1 of the Public Service Act, 1994. A start was made with the promulgation of the Defence Amendment Act in October 1995, which established the Defence Secretariat[36] (Republic of South Africa, 1995,) and made provision for the appointment of the Sec Def as Accounting Officer[37] (Republic of South Africa, 1995). What was not clear, at this time, was whether the intention was that the military component would be subordinate to the civilian secretariat in the diarchic scheme, or somehow on an equal footing in a collaborative arrangement? It is this lacuna, it is argued, that has had an enduring impact on civil control in general and defence management in particular, and is subject to analysis hereunder.

3.4.3 Implementing the Balance Department of Defence Design

The early trials with transformation did little to dissuade the DOD from pursuing the balance design option in the face of numerous conflicting interests which served to further complicate what was essentially the major restructuring of a highly complex state department. With the added pressure of not being able to interrupt normal operations of an 'organisation in motion' and that was responsible for providing effective defence (Respondent 01, interview, April 22, 2015). The civil authority's resolve to exercise effective control and align the stakeholders to this end was consequently severely tested during the early years of the transformation.

[36] Section 7A (1) (a)
[37] Section 7C (e)

It was in this period that the new Sec Def, Pierre Steyn took up office in April 1995. Steyn was a former Lieutenant General and SADF Chief of Defence Force Staff before retiring in 1993 and being appointed by Cabinet as the Sec Def designate in August 1994 (Fourie, 1996). This goes against the normal view on civil control in that ex-serving uniformed members[38] are not usually considered for appointment. The special circumstances in this case, however, need to be considered, particularly the dearth of expertise and the critical need to quickly establish the Secretariat and structure and staff the organisation (Fourie, 1996). As argued by S. Rabkin (interview, February 15, 2016)

> "…the JMCC wanted to transfer policy, finance and planning from the SANDF to the new Def Sec. When the Def Sec was established, taking control of defence policy was fairly straight forward, from almost the beginning. Transferring finance took a while longer but was ultimately successful. The challenge was with defence planning because of the strong military component and lack of suitably qualified civilians in the Secretariat to manage the function."

The Minister was also being pressured to demonstrate more tangible progress with transforming the department. Failure to do so could have threatened the hard fought gains already made with the reorganisation of a number of defence functions. A key feature of transformation was the integration of the former members of the old South African Defence Force (SADF), Umkhonto we Sizwe (MK), the Azanian People's Liberation Army (APLA) and the armed services of the TBVC states' (Transkei, Bophuthatswana, Venda and Ciskei), to create the post-apartheid SANDF. Lack of space precludes a more substantial treatment of the integration issue; however it is necessary to provide a brief overview to position the

[38] Defence Act 42 of 2002, as amended by Act 22 of 2010, Section 7 (3) states that the Sec Def may not be a serving member of the Defence Force, but is silent on ex-serving members.

integration process within the context of the broader transformation project.

It was in 1995 that the next major wave of transformation[39] commenced under the direction of the Minister (de Vries[40], 2006). The Minister took personal charge and appointed a dedicated transformation management team, headed by Maj Gen Roland de Vries as Director Transformation, to manage the process. To provide support for the transformation effort the DOD appointed a management consultancy firm, Deloitte and Touché as the official consultants and a British military advisory training team to provide bridging training and to adjudicate in personnel ranking and staffing (de Vries, 2006). The Minister was very particular in directing that the DOD leadership take responsibility for transformation and that the role of the consultants be limited to aiding in the process. Initially the prime decision making authority in the department was the Minister, assisted by the statutory Council on Defence[41]. Later responsibility for managing the transformation and process re-engineering was to shift to the newly created Defence Staff Council, co-chaired by the Sec Def and Chief SANDF (de Vries, 2006).

The DOD set about achieving a number of early transformation targets, particularly preparing the DOD for change, integration of the old SADF, TBVC and non-statutory force members in the new SANDF, development of the core defence processes and the restructuring of the defence functions. Given the challenges and air of mistrust between the predominantly civilian secretariat personnel and the SANDF. It is perhaps ironic that the key to the success of the transformation process, later

[39] The first wave of transformation commenced in January to April 1994, prior to the national elections, when the forces commenced with integration and planning activities started under the JMCC.

[40] Major General (retired) Roland de Vries served in the post of director transformation in the South African Department of Defence in the period 1995–1997 and then, until April 1999, as deputy chief of the South African Army, where he was responsible for the implementation of the army's transformation process.

[41] Council on Defence is the highest DOD decision-making body – chaired by the Minister and on which the Deputy Minister, Chief SANDF, Sec Def and the Chairman of ARMSCOR sit.

proved to have rested on a small team of trusted civilian personnel, both former MK and civilianised ex-SADF, and liberal SANDF officers, appointed by the Minister to oversee and facilitate this process (S. Rabkin, interview, February 15, 2016).

The newly established Def Sec, in replicating this success, took centre stage between 1996 and 1998, and managed, on behalf of the Minister, the successful Defence White Paper and Defence Review processes. This achievement was significant for the fact that it empowered the Minister in his dealing with Chief SANDF. Williams (2002) identified two reasons for this. Firstly the Defence White Paper and Review processes produced the blueprint for the DOD's transformation plan (the Secretariat played a dominant role in the planning, supported by Laurie Nathan and Rocky Williams of the MRG) for the next 10 years. Secondly the Joint Standing Committee on Defence (JSCD) had taken a keen interest and participated, in support of the Secretariat, in developing and approving the transformation plan. This had the effect of shifting the "locus of decision making" away from the Chief SANDF and his staff to the Ministry and Parliament (Williams, 2002, p. 21).

Vesting the Sec Def with the Accounting Officer Functions

The detailed investigation into the process and legislative amendments required for separating the accounting officer function from the head of department (Chief SANDF) and vesting with the Sec Def took place simultaneously with the enactment of national legislation to appoint and empower both the Chief SANDF and Sec Def. This was in accordance with the approved balance DOD design (Republic of South Africa, 1995).

Public Service Act section 3(3) empowers the Public Service Commission to make recommendations "(a)…regarding the …transfer of functions from one department to…any other body…; (b) regarding the establishment…of…offices or institutions; (c) regarding the control …of

departments…offices or institutions". At the time it was determined that the establishment of the office of the Def Sec as a component part of the DOD would call for the transfer of functions, amongst other requirements, and that it could be accommodated within this section, should the Public Service Commissioner approve (Republic of South Africa, 2007)[42].

The challenge was with section 7, "Function of the Head of Department". Schedule one of the Act designated the National Defence Force as the Department of State. It also indicated that the Chief SANDF was the head of department (Republic of South Africa, 2007). Whilst section 7 does not prohibit the appointment of a functionary at the same level as the head of department, it does imply that the ultimate authority (to make such a determination) rests with the head of department.

Section 7 (3) (b) specifies the responsibilities of the head of department, but does not make provision for the intended role of the Sec Def, as this is not described anywhere in this sub-section (Republic of South Africa, 2007). Any attempt to establish the office of the Def Sec would therefore have required as a minimum an amendment to the Act to legalise the appointment of the Sec Def and to delineate his responsibility and accountability to the Minister.

Section 7 (5) provided for Schedule one to be changed by proclamation by the President (Republic of South Africa, 2007). This provided a means of changing schedule one to accommodate the appointment of the Sec Def, however, it is not sufficient to address the issue of the functions of the Head of Department and the division of the responsibilities.

The legal opinion provide by the State Law Adviser regarding section 7, was that the functions indicated are the immutable responsibility of a single functionary and that the structure of the Act is such that section 7 cannot accommodate the Sec Def as a functionary, in addition to the head

[42] Public Service Amendment Act, No. 86 of 1998 and Government Notice R.589 in Government Gazette 21266 of 15 June 2000 later clarified and refined the powers of the Minister to bring the Act in line with The Constitution. The broad powers as described remain, however, applicable to the DOD.

of department (Document No. 21, 1995). This section of the Act was therefore the key piece of legislation restricting the appointment of the Sec Def and restructuring the DOD to accommodate a Secretariat. The analysis suggests that that the modern requirements for the management of the armed services in a democracy were not perhaps suitably catered for in legislation and that no provision had been made for accommodating a department of state with two heads (one as head of department and the other as accounting officer).

There was a dissenting legal opinion provide in respect of Chapter 1, sections 15 (3) and 15A (1) of the Exchequer Act, 1975, (Act No. 66 of 1975) by the State Law Adviser in October 1996, that seemed to offer hope that it was possible to split the accounting officer and head of department functions between the Chief SANDF and Sec Def (Document No. 22, 1996). The decision of the Joint Standing Committee for Public Accounts (JSCPA) in November 1996 finally put an end to the pursuit of a compromise solution (Respondent 01, interview, April 22, 2015). Acting on the advice of the Auditor-General and Director-General of State Expenditure, the JSCPA recommended to Parliament, that the functions of head of department and that of accounting officer not be separated. This was a severe blow to the transformation workgroup which had already reported to the Minister in mid-1996 that everything was in place to transfer the accounting officer function within 60 days of approval being granted by the JSCPA (Respondent 01, interview, April 22, 2015).

It later came to light that there was a concerted effort behind the scenes to argue for the Chief SANDF retaining accounting officer status for a portion of the DOD, the SANDF under his executive command[43] (in the event that the Sec Def was appointed as head of department). However, government would not be swayed and insisted that the head of department for the DOD would also be the accounting officer like every other Department of State (Ms S. Rabkin, interview, February 15, 2016). The immediate

[43] It was argued that the Chief should retain responsibility for a portion of the Defence Vote in terms of sec 15A (1) of the Exchequer Act, 1975.

implication of the JSCPA decision was that the Sec Def had to first be appointed as the head of department as a precondition for his becoming the accounting officer.

This raised several problems. Firstly, the Sec Def could only assume these responsibilities if legislation was in place to give effect to this decision and the functional staff capacities (as head of department) reported to him. Secondly the planning had already been completed for the transfer of the accounting officer functions to Sec Def together with the requisite staff capacity. No specific planning was in place at the time of the JSCPA decision for providing the Sec Def with the essential functional staff capacities to assume the head of department responsibilities (Respondent 01, interview, April 22, 2015). This meant that the Sec Def had no dedicated staff at his disposal to support him with the critical planning for his assumption of the responsibilities relating to head of department and accounting officer functions and for performing his statutory duties. As a rule the Sec Def was entitled to expect the same level of functional staff capacity which had served the Chief SANDF in his capacity as head of department and accounting officer.

Unveiling the 'New' Ministry of Defence – 1997

On the 11 February 1997, the Minister briefed the Portfolio Committee on Defence on his decision to completely restructure and reorganise the DOD to give effect to the Cabinet resolution to implement the balance DOD design (subsequent to the JSCPA November 1996 decision). This was to finally effect civil oversight (Parliamentary and Executive) and control (Minister and Sec Def) over the SANDF (Document No. 12, 1997). This entailed major restructuring of the defence function starting with the transfer of the head of department role and accounting officer functions from the Chief SANDF to the Sec Def, and the creation of a new integrated head office for the DOD (Department of Defence, 1996).

The Constitution provided the oversight mandate and authorisation for the new DOD with section 200, 201, 202 and 204 being particularly relevant (Republic of South Africa, 1996). Section 204 makes provision for the establishment of a civilian secretariat for defence "…*to function under the direction of the Cabinet member responsible for defence*", in this case the Minister of Defence (Republic of South Africa, 1996). The Defence Amendment Act of 1995 then established the Defence Secretariat and designated the Sec Def as the accounting officer of the DOD, in compliance with section 204 (Republic of South Africa, 1995).

Later in 1997 an amendment to Section 4 of the Defence Act, 1995, clarified the structural relationships between the main defence controllers (Republic of South Africa, 1997). Section 7 (c) was also amended, confirming the Sec Def as head of department as contemplated in the Public Service Act, 1994[44] and thus it followed also accounting officer of the DOD (Republic of South Africa, 1997). This, nevertheless, was only the beginning as it obliged the DOD to refocus its efforts to align the highly complex and technically challenging transformation programme with the new statutory requirements.

The transformation programme comprised various sub-programmes of which the White Paper and Defence Review efforts and the re-engineering project are of particular significance to this study. Key to transformation is of course the re-engineering of current business processes of the DOD to ensure that the Department delivered the required outputs effectively, efficiently and sustainably, within budget and other policy constraints. As a result in 1997 various teams were established and met in isolation to begin with re-engineering of the DOD business processes. A design workshop was then set up during October/November 1997 to integrate these new processes and build structures to execute the processes (Document No. 13, 1998).

[44] Proclamation No. 103 of 1994.

The DOD published the DOD Transformation Design and Migration Plan (Transformation Plan), on 09 February 1998, as a record of the workshop's output (Document No. 13, 1998). Agreement was reached on design principles, technical design guidelines, the preferred design practices and importantly the transformation force design. This was based on the 1998 Defence Review force design, but with a more judicious outlook to align with the realities of a reduced budget. It therefore differed principally in the reduction of some conventional capabilities and also in the capabilities for routine support of the SA Police in maintenance of law and order (Document No. 13, 1998).

It is not necessary to discuss all the technical outputs, however, there are a number of critical decisions that were taken, that had a fundamental bearing on the restructuring of the DOD subordinate management structures, and therefore on this study (Respondent 01, personal interview, April 22, 2015). The following decisions are drawn liberally from the Transformation Plan and interviews with two mid-level DOD officials working in the environment (Document No. 13, 1998; Respondent 02, interview, November 06, 2015; Respondent 07, interview, February 23, 2016):

The Ministry of Defence (MOD) was established as an integrated organisation comprising all the elements that together form the departmental head office and military headquarters (Department of Defence, 1998). All the elements of the MOD were, over time, migrated and are now co-located in a single building complex, ARMSCOR building, Pretoria. The DOD also underwent restructuring. A number of defence functions which were previously executed at Defence Headquarters (level one) and duplicated at level two, in the respective Arms of Service, were amalgamated into one top level administrative function at SANDF Headquarters. The plan was that this, together with the creation of the Secretariat would end the duplication of functions and associated added costs.

Essentially what the DOD had created was a new top level structure (Integrated Departmental Head Office) comprising the Secretariat and defence headquarters in an integrated organisational structure (Department of Defence, 1998). The intention was that the integrated head office (sometimes also referred to as 'integrated headquarters') would jointly manage the department administration and its armed services in an 'integrated' manner. Alternatively, put another way both the military and civilian personnel would be required to cooperate jointly in respect to the key Def Sec function of determining the defence policy and strategy. Likewise the civilian members would work closely together with the military in determining accountability and scrutinising the proper utilisation of state resources (Department of Defence, 1996).

The structure (defence functions) was rearranged into 18 reorganised divisions (Figure 7) – split so that some are the primary responsibility of the Def Sec and others the responsibility of the Chief SANDF – with certain divisions, such as Defence Intelligence and Joint Training, being shared between the two as a joint responsibility.

Additionally planning was initiated to create a Joint Operations Centre (19th Division) to enable the conducting of military operations. The role of the four Services (Army, Navy, Air Force and SA Medical Services) then reverted to that of preparing and providing combat ready forces (staff function) for employment by Joint Operations (line function) (MOD Guideline: MS/R/302/6/36183 dd 13 Dec 96), as in the example of Australia and the UK.

The fundamentally reorganised DOD macro design, as illustrated overleaf (Figure 7) had three main objectives, namely consolidation of civil control over defence, the attainment of broad representivity, and the delivery of accountable and affordable defence for South Africa.

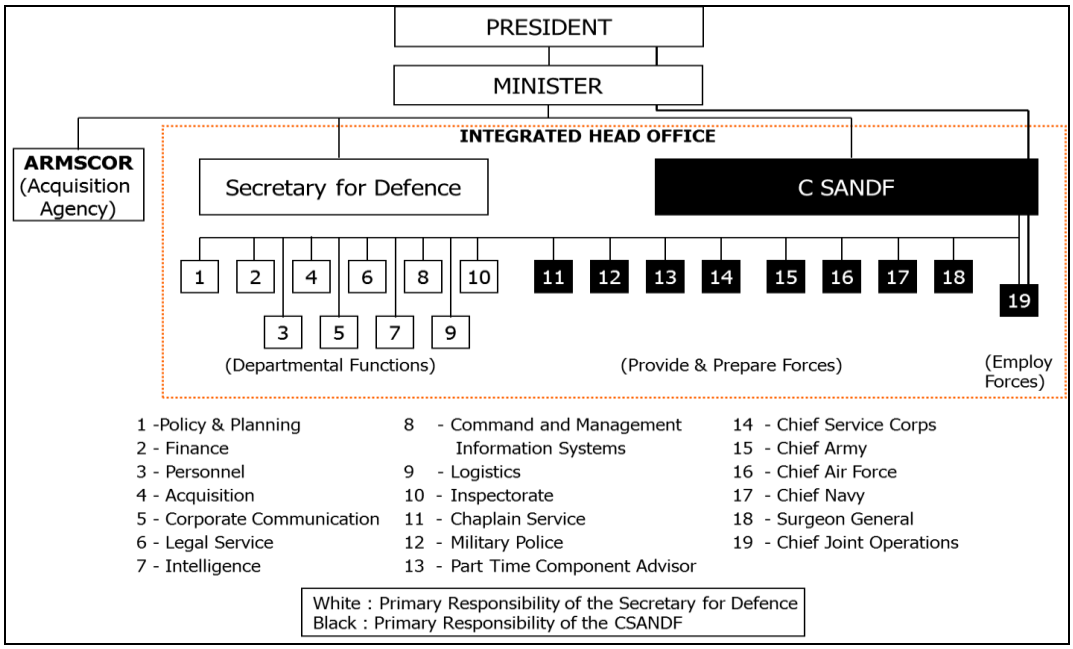


Figure 7: Macro Design – 1998

(Source: Adapted from SA Defence Review 1998)

Notwithstanding some apprehension on the part of the armed services, the changes were, at the time, generally well received (Respondent 07, personal interview, 23 February 2016). Conceptually, at least, there appeared to be a general understanding of the need for the Sec Def to play the role of both the head of department and accounting officer in a new diarchal form of accountability/leadership. Also accepted was the functional separation of the Ministry (positioned at national decision-making level 0) from the DOD (positioned at level 1) which now incorporated the Def Sec and SANDF in an integrated head office. The DOD head office is now effectively both the Departmental headquarters and the military headquarters. It is the interface between the national strategic level and the operational level. What was not so clear was the precise determination of reporting functions and lines of control between the Chief SANDF and Sec Def operating in an integrated head office.

This ambiguity was acknowledged by the DOD at the time, in the 1996 Defence White Paper, where it was clearly stated that additional studies were required to clarify the primary lines of responsibility and accountability and to determine which of the posts in the integrated

headquarters are military and which civilian (Department of Defence, 1996). The most contentious of course being the question of who 'controls' logistics.

That the Minister, Sec Def and transformation team were under pressure to show results was never in doubt. According to one official the unfortunate consequences of the rush to satisfy political expediency was that "…the principle of 'structure follows process follows strategy' was not adhered to…"[45] (Respondent 02, interview, November 02, 2015). The official further argued that

> …objectives are the starting point for developing structures. In terms of the Public Service Act and Regulations the Minister can only approve a new structure if the structure is aligned to objectives. The failure to conduct a proper analysis meant that the separation of the Def Sec and SANDF was not properly thought through before the restructuring commenced…with the result that there is a lack of proper boundary management between the Def Sec and SANDF.

As a result one of the manifestations is that

> …there is a lack of policy support in the DOD…the SANDF argues that the Def Sec is responsible to develop all Defence policies …one result of which is the chaotic state of affairs experienced in the logistics environment. Very

[45] The correct method, according to the respondent, for the development of the 1998 Macro Design was that [abridged process overview]: …firstly a systems approach should be applied during the organisational development intervention to ensure that all the sub-systems are integrated in such a manner that total congruency is obtained. The sub-systems must work in a congruent manner to ensure successful delivery of the required outputs, as the outputs delivered from the original entity to another will influence the quality of the corresponding outputs. Thereafter the process architecture of all the sub-systems in the domain needs to be developed to guide the responsibility analysis to determine the specific deliverables for both the Sec Def and Chief SANDF. The responsibility analysis then guides the development of the proposed functional and organisational structures (Respondent 02, interview, November 02, 2015).

> few log pamphlets/policies/standard operating procedures are still available, and those that are, are from two decades back…very little new has been done (Respondent 02, interview, November 02, 2015).

A full analysis of the organisational and functional strategy process lies outside of the scope of this study. It is evident though that the three main objectives for the fundamentally reorganised DOD macro design, namely consolidation of civil control over defence, the attainment of broad representivity, and the delivery of accountable and affordable defence for South Africa, had yet to be fully achieved. Unfortunately, as happens with the best of plans, the expectations were not entirely met at the time, and in hindsight proved rather ambitious.

Challenges with the 1998 Structure

This post-1998 integrated head office structure was put to the test during Operation BOLEAS[46], and whilst much of the operational details remain embargoed by the DOD, what is known is that this operation highlighted the unwieldiness of the DOD's structural configuration. Notwithstanding Chief SANDF, General Nyanda's assurance that the military objectives had been achieved (Nyanda, 1999), the SANDF's performance was heavily criticised in the media and by a number of military pundits variously as a 'bungled intervention' (Neethling, 1999).

The DOD briefed the Parliamentary defence oversight committee (and others in a joint meeting) in November 1998, in which it highlighted a

[46] 22 September 1998 South African (SADC) military intervention into Lesotho, at the request of the Prime Minister, to stabilise the country. For an excellent general analysis see Theo Neethling (1999). *Military Intervention in Lesotho: Perspectives on Operation Boleas and Beyond,* The Online Journal of Peace and Conflict Resolution Issue 2.2, May 1999. Readers are also referred to the *Report on Situation in Lesotho* (1998), Minutes of the Joint Meeting of the Joint Standing Committee on Defence; Foreign Affairs Portfolio Committee; Security & Justice Select Committee conducted on 2 November 1998, Parliamentary Monitoring Group.

number of failings made manifest by Operation BOLEAS. These shortcomings, drawn extensively from that report (Joint Standing Committee on Defence, 1998) and also on general context provided by Neethling (1999) and (Respondent 01, interview, April 22, 2015; Respondent 07, personal interview, February 23, 2016), are of particular interest to this study as they point to a number of possible structural problems in the balance DOD design, namely:

- South Africa had no clear national security policy and thus the order for a military intervention came as a surprise to many at the highest levels within the DOD. This position was further exacerbated by concomitant critical failings, specifically the lack of co-operation (and communication) with the Department of Foreign Affairs at departmental level – during the early days of the crisis and build-up to the decision to intervene militarily. This resulted in too little time for conducting a proper military planning cycle, in the absence of a contingency plan (National Security Strategy). This shortcoming was exacerbated by the failure of the Def Sec Council, Military Command Council and Council on Defence to convene and conduct a brief before the operation. The fact that the Chief SANDF, Chief SA Army and Chief Intelligence were all relatively new to their posts, having only been appointed in March, after the 'Meiring Report'[47] debacle led to the forced resignation of the previous incumbents (Williams, 2002), clearly did not assist matters. This command failure by the DOD integrated headquarters led to all of the pressure and responsibility being placed upon the nascent Joint Operations Division (recently established for employment of forces).

- The Joint Operations Division was understaffed for an operation of this kind and unable to respond effectively in such a short time. Many of the

[47] Chief SANDF, General Meiring, in early 1998, submitted an uncorroborated 'intelligence report' directly to President Mandela, without following statutory intelligence channels. The report made serious allegations against a number of prominent politicians, military officers and others and contained allegations of a baffling plot to seize power/execute a military coup d' etad. The report later proved false resulting in the irretrievable breakdown of trust between the Commander-in-Chief (President) and his military command (Williams, 2002).

experts had received all the training but lacked critical experience in such operations. The nature of the operation was also problematic. This was planned and executed as a military intervention, and not a peace-support operation. As it turned out this was a huge misunderstanding.

- No time for force preparation. It was generally recognised that there had been too little time for planning and preparation of the forces. There was too little time for deployment drills (generally the DOD works on the proviso that at least seven days are needed to prepare for a conventional operation and 8 weeks for a peace support operation). As a result the participating units were not combat ready (and consequently neither mission ready); it was discovered that stock levels of operational reserves were inadequate; and consequently the SA Army rapidly depleted its war reserves.

- The poor quality of intelligence (the responsibility of the DOD integrated headquarters) was a particular operational weakness. This manifested itself in the limited extent of intelligence liaison conducted with the Botswana Defence Force; and a minimal flow of both operational and strategic intelligence to support the operational force on the ground and the concomitant inadequate tactical/operational intelligence feedback to Defence Headquarters (to ensure they remained alert to and could react to the rapidly changing intelligence picture).

The key lessons taken from Operation BOLEAS (Joint Standing Committee on Defence, 1998), of interest to this study were that:

- The logistical function did not support rapid deployment of forces.

- Contingency planning on the strategic level must include stockpiling of operational reserves.

- Finance for logistics must be made available.

- In general there was too little time for planning and preparation of forces.

- The media war was lost earlier on and never recovered from (which was detrimental to the operation). The right people at the right level were not informed of intentions in time. There was also a lack of effective external communications – the citizens of Lesotho did not know the intentions of the SANDF/SADC intervention (were not adequately made aware of via communication/publicity campaigns).

Post-1999 Reorganisation

The one single inclusive lesson that stood out, that summed up the operational failures, was that the Chief SANDF had to be empowered to effect command and control over his forces, particularly regarding military logistics, financial systems support, operational planning and, preparing and employing forces. Also what was not widely reported at the time was the Chief SANDF's almost total exclusion of the Sec Def and his Secretariat staff from the planning of the operation. By all accounts the Sec Def was oblivious to the details of the operation, including the timelines for its execution, and was as astounded as the rest of South Africa when the news of the 'intervention' broke (Respondent 07, personal interview, February 16, 2016).

The obvious solution required the transformation team to revisit the transformation design and migration plan and make a new study of the business processes to clarify the primary lines of responsibility and accountability between the Sec Def and Chief SANDF (Respondent 04, personal interview, 23/12/15). Similarly it was critical to determine the allocation of the posts in the integrated headquarters according to primarily military or civilian functions. The DOD appointed an implementation project team to execute the task, authorised by *DOD*

Administrative Instruction: Reorganisation of the DOD's Top Structure, DS/PP/503/1 dated 27 October 1999.

One of the first decisions taken, as a 'quick fix' to empower the Chief SANDF, was to create the Joint Support Division where all support elements were 'centralised' and put under the command of the SANDF (Figure 8) (Respondent 04, personal interview, 23/12/15). The reorganised structure was an attempt to ameliorate the obvious deficiencies in operational command and control highlighted by the Operation BOLEAS intervention, particularly as it related to the different roles and responsibilities of the Def Sec and SANDF in an integrated defence headquarters. The year 1999 was also noteworthy for marking the end of Joe Modise's term, as the first Minister of Defence in the democratic South Africa, and ushering in the Honourable Mosiuoa Lekota as Minister on the 24 September of that year.

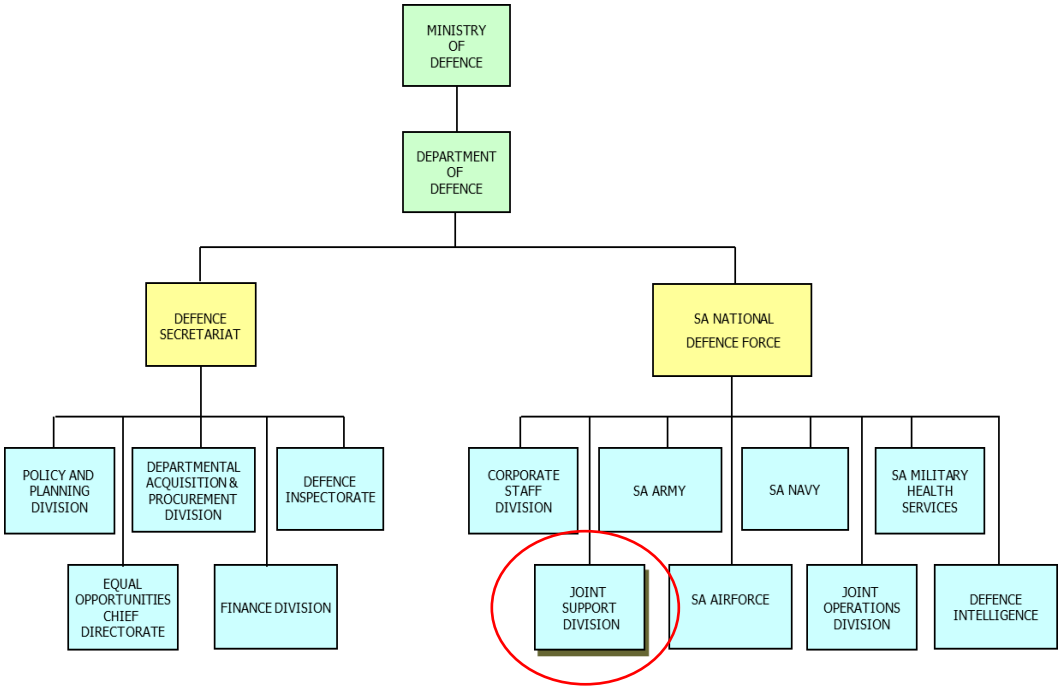


Figure 8: DOD Macro Design 2001 to 2004

(Source: Adapted from unpublished DOD material)

The high level support divisions, formations and agency that were created and/or reorganised, after 1999, and then group together under Joint Support Division, were Human Resource Support, Command and Management Information, Joint Training, Military Police, Service Corps and Logistics, are reflected below (Figure 9). The macro design was effective between 2001 and 2004.

DOD (JOINT SUPORT DIVISION) MACRO DESIGN 2001 - 2004

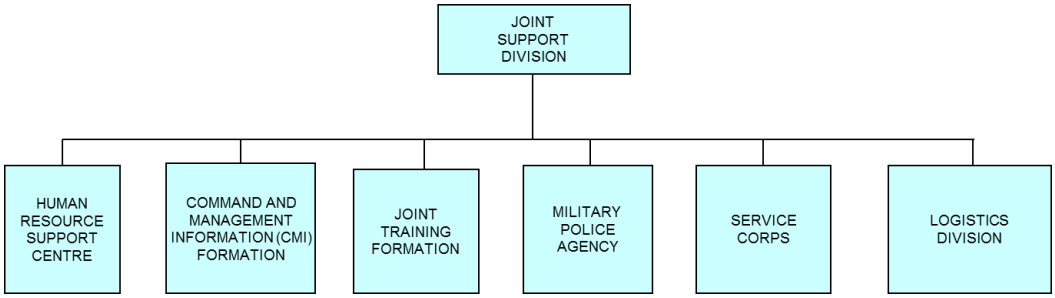


Figure 9: Joint Support Macro Structure 2001 to 2004

(Source: Adapted from unpublished DOD material)

Secretary for Defence Summoned to Appear Before the Defence Joint Standing Committee

The Joint Standing Committee on Defence (JSCD), chaired by Mr J.N. Mashimbye, summoned the Sec Def to appear before the committee on the 4 June 2001, to report on the progress with the establishment of the Secretariat since 1994 (Joint Standing Committee on Defence, 2001). By all accounts the minutes reflect a hostile reception. It appears evident that there was trepidation regarding the lack of communication on the part of the Secretariat, and consequently the committee expressed deep concern that the Secretariat was failing in its statutory duty to fulfil its oversight role (Joint Standing Committee on Defence, 2001). The Chairperson concluded, at the end of the thorough grilling, that he finally felt comfortable (after having received assurances from Sec Def and his delegation) standing-up in Parliament and stating "…that the Secretariat is

not asleep at the wheel, but is driving the car" (Joint Standing Committee on Defence, 2001, p. 6). It was apparent that the intervening seven years since 1994 had not been plain sailing for the establishment of the Def Sec and transformation of the SANDF, and ultimately the DOD.

Although the JSCD did not make specific reference to the Joint Meeting of the JSCD, held on the 2 November 1998, to receive the Operation BOLEAS report, many of the criticism levelled related to various civil-military relations challenges and civil control impediments experienced at the time, by the integrated defence headquarters and subsequent attempts at re-engineering. Evidently not all the challenges had been resolved. The JSCD critique centred on the following core issues (Joint Standing Committee on Defence, 2001), of interest to the study:

- Poor, and in some instances a total lack of, communication on the part of the Sec Def that bordered on disrespect for the JSCD and the Parliamentary oversight role that it performed over defence.

- Relating to the above was the Sec Def's failure to consult the JSCD on planned structural changes to the DOD organisation and to keep it abreast of progress. The Chair went so far as to instruct the Sec Def that in the event that envisaged changes to structure affect policy, it must be brought to the JSCD for review[48]. In this specific example, it was evident that the new organisational structure that had been tabled by the DOD was not aligned with the realities of the available budget (and thus unapproved).

- Concern that the hard fought for civil control of the SANDF was being eroded. As an example the Sec Def was heavily criticised for appointing a uniformed member of the SANDF as his deputy, during his recent absence abroad. This was seen as an encroachment on the

[48] In terms of Rule 201 (1): Parliament of the Republic of South Africa. (2015). *Rules of the National Assembly, Chapter 12: Committee System*

independence of the Def Sec in the exercising of statutory civil oversight of the SANDF, under the direction of the Minister.

- Concern that the restructuring of the logistics functions, post the 1999 reorganisation, back under the Chief SANDF had effectively emasculated the Def Sec and encroached upon the expected key role it was to perform in achieving civil control over the SANDF.

- That the JSCD was of the view that a new Defence Review was required as the circumstances had changed somewhat since 1997/98.

- The lack of capacity within the Def Sec was raised as a matter of concern. Although cognisance was taken of the efforts of Sec Def to 'civilianise' the Def Sec there were still a number of key senior posts that remained vacant, several years down the line.

The Sec Def accepted responsibility for the poor communication with the JSCD and consequent failure to keep the committee abreast of planned structural reorganisation within the DOD and submission of such plans to the JSCD for review and approval (Joint Standing Committee on Defence, 2001). The lack of proper communication both externally and within the DOD integrated head office was later to become a less than stellar feature of the transformation project that ultimately bedevilled efforts to transform the DOD and institute healthy civil-military relations and effective civil control. The stumbling block was summed up by Ms S. Rabkin as "…a Sec Def that wanted to 'control' instead of enabling the SANDF, and a Chief SANDF that feared losing power and influence if some of his divisions where transferred to the Def Sec" (Interview, February 15, 2016).

The response to the Def Sec briefing was not all negative and there was recognition of some of the successes achieved since 1994. In particular the establishment of the Secretariat, the successful promulgation of the Defence White Paper and 1998 Defence Review, transfer of the finance function from the SANDF to Def Sec concurrently with the demilitarisation

of the finance functionaries, transfer of the Acquisition Directorates from the Services to Def Sec (Acquisition Division), transfer of the procurement function from SANDF (Chief Logistics) to Def Sec (Acquisition Division) and civilianisation of the Internal Audit functionaries amongst others and the drawing to a conclusion of the integration programme (Joint Standing Committee on Defence, 2001). The enduring challenges, however, threatened to overshadow the modest successes. The primary issue at the centre of the failure to make adequate progress was lack of capacity in the Def Sec and the need to recruit and staff the Secretariat with competent people (including the appointment of a CFO). Without increasing capacity the Def Sec would continue to fail to deliver on its statutory duty to effect civil control of defence.

3.5 Conclusion

This chapter reveals an organisation in 2001, as the decade of post-democratic integration of forces drew to a conclusion, struggling with the concept of 'civil control of the armed services' with all its various implications. The analysis suggests that these shortcomings continued to impede not only the exercising of civil oversight by Parliament and civil control by the National Executive and Minister of Defence but, also the effectiveness and efficiency of the SANDF in meeting its ordered commitments. The extent to which the DOD will be able to overcome the civil-military relations and civil control challenges during the next phase of transformation, and achieve the modest transformation objectives is the subject of further debate in the chapters to follow.

One must, however, be cautious of over-simplifying the challenges confronting the DOD. Transformation from a pre-1994 military organisation to a civil-military institution is not simply about civilianisation of military posts and introducing a few structural changes in DOD. As this chapter demonstrated the DOD transformation had to confront with changing a military organisation that previously had been positioned at the centre point of decision-making and state power (Stott, 2002), a situation that

effectively side-lined Parliamentary oversight. During the earlier transitional period, the Minister also had to resist the efforts by Chief SANDF to dictate the SANDF restructuring agenda which did little to smooth the process. In addition the plan to separate the accounting officer functions from the Chief as head of department and vesting in the Sec Def was ruled to have been legally flawed and the proposed balance DOD design would require extensive reworking before it could be finally implemented. It cannot be denied that this decision created a litany of unintended consequences and on its own, was responsible for altering the conceptual basis (if not the genesis) of the original balance DOD design.

The dilemma with the balance DOD design, as the model of choice, is that for successfully implementation it is almost entirely dependent on the proper structuring of power relationships within the DOD and maintaining the balance between the defence controllers. The Minister as executing authority, the Chief SANDF as commander of the SANDF, and the Sec Def as head of department and accounting officer. If this design had one other major weakness, then it was the lack of clear delineation of the civil (political) and military functions.

On paper at least, the theory was sound in that by means of segregation of the broad defence functions, no party is able to unilaterally execute decisions in this diarchal arrangement. It is safe to say that the DOD had not at this stage achieved the required level of civil-military cooperation to make the system work and the underlying civil-military tensions between at least two of the defence controllers continued to hamper the co-existence, power relations and working procedures between the Def Sec and the SANDF. As pointed out by one senior officer,

> "…the number of divisions in the DOD is finite. The only way for the balance DOD design to work is for the Sec Def and Chief SANDF to give and take. Most importantly it is critical that parallel structures [duplicated] are not created in

> the Def Sec that mirrors the SANDF" (Respondent 05, interview, February 11, 2016).

One argument put forward is that the problem is more fundamental, in that it is the balance DOD design which is conceptually flawed (Ms S. Rabkin, interview, February 15, 2016). Many of the problems being experience with the breakdown in relations may well have to do with the design of the DOD organisationally structured around the integrated headquarters in which mixed military and civilian institutions operate in a collaborative arrangement. Ms Rabkin further ventured that "…the Constitution may have gone too far in the requirement for civilianisation of the DOD" (Interview, February 15, 2016).

These are all critical issues and whether or not the balance DOD design remains appropriate as the higher order organisational structure for the transformation of the DOD going forward, is a matter for further debate in the next chapter.

CHAPTER FOUR

ORGANISATIONAL RENEWAL POST INTEGRATION

"*The requirement to divide things into piles labelled 'political' and 'military' seems to me to be a mistake, and not to conform very much to reality. It might be better to put the question as follows: in any question that arises about the formulation or implementation of defence policy, there are some aspects where the skills of the military are needed, and some where the skills of civilians are needed."* (David Chuter, 2011, p. 82).

4.1 Introduction

A major milestone had been reached in 2002 with the completion of the formal integration of the seven different forces (five non-statutory and two statutory) on 31 March. Integration was thus no longer a factor in the continuing transformation planning, as announced by Chief Human Resources, Lt Gen T.T. Matanzima in April 2002 (Document No. 17, 2002). The relatively slow pace of transformation of the DOD, nevertheless, remained a problem. This mainly related to race, particularly in the middle management structures of the SANDF (Major – Colonel) which sat at 77.5% white personnel against Defence Review 1998 guideline of 24.5%. Overall the percentage of white personnel (as a percentage of the total personnel) was close to the guideline, at 25.4%. This was largely as a result of the large influx of personnel of colour during the integration period and the predominately Black African youth who attested in the SANDF in the years since 1994 (Document No. 17, 2002).

A review of the DOD in 2002 showed an organisation still struggling with civil-military tensions that threatened to split the DOD along civil and military lines. If this was not problems enough, there was the added threat that the armed services would be unable to fulfil the roles and missions assigned to it. The reasons are many and complex. Essentially, however, the issues centred on the balance DOD design and the exercising of civil control in a collaborative defence arrangement. On the one hand there were accusations that the Sec Def was assuming powers that he was not entitled to, particularly targeting defence resources (finance and logistics) in an apparent effort to emasculate the SANDF (Respondent 05, interview,

February 11, 2016). Moreover, on the other that the Chief SANDF was fighting to retain control over what they considered essential resources to enable the SANDF to execute operations (Ms S. Rabkin, interview, February 15, 2016). This proved to be an extremely testing and volatile period for the office of the Sec Def and its relationship with the SANDF. It was marked by deeply entrenched and patently divergent positions that, left unresolved, threatened to reverse the hard-fought labours to civilianise and transform the DOD.

4.2 Ministerial Task Team Report on the Restructuring of the Office of the Secretary for Defence

The Sec Def triggered the next major episode in the transformation programme on 27 June 2003, with the submission of a restructuring proposal to the Council on Defence. This initiative formed part of the Secretariat's commitment to the Minister and JSCD to increase capacity to enable it to deliver on its statutory responsibility for civil control of defence (Document No. 16, 2003). Whether or not it formed part of the formal joint processes taking place at the time between the various Def Sec and SANDF work groups, remains a matter for speculation. The report detailed the restructuring (reorganising) of the office of the Sec Def, ostensibly to provide capacity and improve efficiency and effectiveness across the defence headquarters (Respondent 04, interview, December 23, 2015). Regrettably the thrust of the proposal – excluding for now the new posts to be created in the Def Sec – targeted the core of the divisions for transfer over to the Def Sec (from the SANDF) that were largely part of the contentious post-1999 structural reorganisation. It must be kept in mind that the DOD had been explicitly reorganised to empower Chief SANDF, to execute command and control over his forces, by giving him direct command of his support divisions.

Tabling the proposal in June 2003, directly with the Council on Defence for approval by the Minister, after apparently having been rebutted by the

Chief SANDF at the earlier meeting of the Defence Staff Council[49], was at best a contentious strategy. At worst in was indicative of a total breakdown in the tense civil control arrangements and oversight regime. It appears that Chief SANDF was taken aback by the Sec Def's tactic and for reasons best known to the Chief; he did not challenge the Sec Def at the Council on Defence meeting. According to the Minister's office, the Council on Defence sanctioned the Sec Def's restructuring proposal followed by the Minister's approval on 16 July 2003, for immediate implementation (Document No. 18, 2003).

The Minister's perceived 'unilateral' decision unleashed a storm including a vitriolic response from Chief SANDF. The media took up the story of the apparent dispute between Chief SANDF and Sec Def stemming from what was reported as "…[Minister] Lekota's endorsement of Masilela's [Sec Def] proposal to strip Nyanda [Chief SANDF] of some of his powers in favour of Masilela, who heads the civilian section of the defence department…" (Wisani wa ka Ngobeni, Riaan Wolmarans & Sapa, 2003). The source of the private corrspondence between the Chief SANDF, Sec Def and the Minister, made available to the media, can only be speculated on.

It is not necessary to go into all of the details sufficient to confirm that the *Mail and Guardian* article (Wisani wa ka Ngobeni *et al*., 2003) provided a provocative window into the central civil-military tensions playing out in the DOD (based upon private communications between the parties). This is in effect a microcosm of the broader efforts by the state to consolidate control over the armed services and reflects the "…ongoing (sic) conflict, negotiations, and compromises between those who hold power by virtue of free and fair elections and the organizations to which society has granted a monopoly on the means of violence…" (Pion-Berlin, 2006, p. xii).

[49] Defence Staff Council co-chaired by the Sec Def and Chief SANDF and used to resolve Secretariat/SANDF matters and formulate joint advice to the Executive Authority (Minister).

At stake was the Sec Def's plan to transfer the key Human Resource and Logistics divisions to the Def Sec (the divisions would have to account to Sec Def) to "ensure internal control efficiency, compliance monitoring, evaluation, advice and reporting…" (Mr JB Masilela quoted in Wisani wa ka Ngobeni *et al*., 2003, p.1). Whilst on the other hand Chief SANDF argued that the decision "…would hamper him in discharging many of his statutory responsibilities – and would diminish the SANDF's capacity to defend the country…" (General Nyanda quoted in Wisani wa ka Ngobeni *et al*., 2003, p.1). The standoff effective pitted the Secretariat and the SANDF against each other, with the Minister, Mr Lekota, suffering the indignity of having to play referee.

The dispute playing out in public reached new depths when Chief SANDF threatened to resign if the decision was not reversed (General Nyanda quoted in Wisani wa ka Ngobeni *et al*., 2003, p.1). Certainly not a particularly commendable endorsement of the balance DOD design and it is likely that Minister Lekota had not anticipated the collapse in cooperative relations and vitriol. More importantly it revealed cracks in the civil control and oversight regime that spoke to a lack of understanding of the genesis of the balance DOD design and the role and function of the Secretariat. It you consider Ratchev's (2011, p.26) thesis the introduction of civilians in the DOD is supposed to have served as a "…powerful instrument to eliminate possible [civil-military] tensions, to speed up the consolidation of the defence organisation, and to strengthen a country's civil society." In the case of the DOD there was little evidence of any measureable progress in the intervening years since the crisis of 1998 in resolving a number of debilitating civil-military relations challenges. The DOD was a long way off internalising the modern defence paradigm based on the civil-relations trinity of civil control, military effectiveness and defence efficiency (Ratchev, 2011, p. 4)

The Minister, in consideration of the very public dressing-down playing out in media and Chief SANDF's cogent counter-arguments, accepted, it must be assumed, that a review of his decision on the restructuring of the Def

Sec was unavoidable. During late August 2003 the Minister constituted an independent Ministerial Task Team (MTT) to assist him in providing advice on the best available options. The mandate of the MTT was to study the Sec Def submission regarding the restructuring of the Def Sec, to make proposals and recommendations based on the findings, and to submit a report (Document No. 16, 2003). It is not possible to see into the mind of the Minister at the time and discern his motivation for seeking an 'independent' opinion. Other than having reference to the brief note in the MTT report which indicated, in reference to the MTT's mandate, that "…he [the Minister] needed an independent assessment of the problem to chart the way forward" (Document No. 16, 2003, p.1).

Although the 'independence' of the MTT is moot what cannot be disputed was that the Minister appointed the chairperson and all the members from outside of the DOD[50]. This decision did later; afford grounds to challenge some of the more controversial findings based on the members' palpable lack of defence insight and key knowledge regarding the application of legislative and statutory precepts to the DOD and its structures, roles and functions. Notwithstanding the presence of a few disputed conclusions, the MTT report is a substantial document extending over 64 pages (Document No. 16, 2003).

The MTT tabled its findings and observations with the Minister on the 28 October 2003. Lack of space and the limited scope of this study precludes the detailed examination of the complete report. What the analysis did identify was that there is a real need for further detailed empirical research into the whole question of defence reform and organisational transformation, which was only just touched on in the report. Having said that it remained essential to draw out a select few findings and key issues

[50] MTT members: Chairperson Ms OR Ramsingh, Deputy Director-General Office of the Public Service Commission; Members: Mr C Haak, Head of Defence Desk at National Treasury; Dr I Phillips, Special Adviser to the Minister of Public Enterprises; Mr J Ngculu, ANC MP and chairperson of the Portfoilio Committee on Health; Advocate K Myburgh, State Law Adviser, Department of Justice.

which have specific significance to this study and more particularly the reassessment of civil control of the SANDF.

Limitations

No investigation is perfect, and given the tight deadlines and resource constraints the MTT performed an admirable task. The significant limitation to their study was that the MTT was unable to conduct a more thorough "…research into the complex nature of the roles and responsibilities of the Sec Def and C SANDF…more time would have given…a better insight into the problem" (2003, p.6). Ultimately it was limited to document review and analysis of the oral presentations. This is unfortunate, given the opportunity they had and the privilege of open access granted by the Minister. It would have been useful had they fully exploiting their mandate in interrogating the evidence and all the key stakeholders, to have seen what more they could have uncovered. As it was the MTT only managed to scratch the surface of the civil-military relations and civil control challenges and never really exposed the root causes. From the Sec Def's personal notes[51], he was of the opinion that "it is clear they [MTT] have a limited view, knowledge and insight of how the DOD should operate" (Document No. 16, 2003).

Generally the MTT report was not particularly complimentary regarding the Sec Def's proposal. It did seem to overly focus on the 'personality clash' between the two main controllers and failed to delve into the deeper civil control and balance DOD design issues. By way of example the tone used in the report was not what you would expect from such an eminent group. For instance it was stated that "…the Secretary wanted his proposals to be rubberstamped at all costs…; …the haste in which he [Sec Def] used his powers and responsibilities to push the implementation of his proposals…" and "…It was also observed that the SecDef (sic) tended to overemphasize (sic) his portfolio as Head of Department…" (2003, pp.20-

[51] Sec Def's personal notes include in the margins and as an addendum to his personal copy of the MTT report on file.

28). Quite how such personal affronts directed at the Sec Def, were designed to facilitate reconciliation between the main civil control functionaries (Executive Authority, Sec Def and Chief SANDF) is unclear.

To be fair to the Sec Def and to provide some balance to the report, it is evident from a full appraisal of the content and the Sec Def's notations that his critique of the MTT report was incisive. He highlighted numerous weaknesses in the analysis and interpretations presented by the MTT, that whilst there is no evidence of any unprincipled intent, are reflective of a lack of specialised knowledge, on the part of the team, of the roles and functions of key functionaries and the individual institutions that collectively define the DOD. As a whole the value of the information gleamed from the MTT study is unpersuasive. Nevertheless, there are a few inputs regarding the balance DOD design and the role of the Sec Def in exercising 'civil control' in a 'complimentary relationship' with the Chief SANDF that were worth exploring further.

Balance DOD Design and Secretary for Defence's Duties

The MTT identified the application of the Balance DOD design as problematic. Although they were unable to fully investigate the design (given their narrow mandate) they did confirm that there were potentially crippling challenges with the application/implementation of the balance DOD design and recommended that the genesis of the approved design be revisited. Generally what they found was that while the existence of the Sec Def is fully accepted, acceptance of the complimentary role to be played in an integrated headquarters [52] was not articulated in the actions and conduct within the Department (Document No. 16, 2003, pp.23-30). It is a pity, given the earlier argument, that their findings lacks critical analytical engagement with the balance design. What is apparent though is that the conduct of the DOD personnel speaks to the lack of

[52] Civilian and military personnel required to cooperate jointly in determining the defence policy and strategy, accountability and scrutinising the proper utilisation of state resources, for example.

understanding of the *raison d'etre* of the Secretariat and reveals a breakdown in Ratchev's (2011) trinity of civil-military relations[53].

The MTT also recognised that better utilisation of comprehensive instructions and delegations were needed to create greater clarity on the roles of the Sec Def and Chief. It was recommended that where appropriate, legislation should be amended to provide for powers of further delegation to the 'delegatee' (Document No. 16, 2003, pp.23-30). Effective utilisation of delegations is a linchpin function that has crosscutting and transversal impacts across the entire integrated head office organisation. This issue is therefore returned to and analysed in detail in chapter five.

The MTT draws an interesting conclusion regarding the Sec Def's duties as Head of Department. In reference to Section 8(d) of the Defence Act, 2002, which refers to the duty of the Sec Def to "enhance civil control" by the Minister and Parliament, they state as follows:

> The translation of the constitutional imperative into the Defence Act, 2002 …might have resulted in a simplistic view by some members within the Secretariat that SecDef (sic) is in control. It appears that the words to enhance civil control are interpreted beyond the intention of the role of a civilian secretariat as derived constitutionally (2003, p.17).

Further on they conclude:

> The SecDef (sic) derives his or her functions of civil control *via* the Minister, and in this regard as head of the

[53] The paradigm of democratic defence is based on the trinity of modern civil-military relations and the need to balance the tensions within the trinity (Ratchev,2011, p.4):

- Civil *control* – performed by the National Executive
- Military *effectiveness* – in achieving ordered commitments
- Defence *efficiency* – sound resource management.

> Secretariat (sic) he or she does not have direct authority over the Department and the C SANDF (2003, p.18).

These conclusions are problematic given the acceptance of the balance DOD design and the legislative prescripts contained in the Constitution, Defence Act, PFMA and Public Service Act, which taken as a whole confirm that the Sec Def is head of department and the accounting officer for the DOD which 'includes' the SANDF, and clearly not just 'the Secretariat'. In terms of his appointment the Sec Def does indeed have 'direct authority' over the Department and C SANDF[54]. This is more specifically set out in the Defence Act (which will be analysed in detail in chapter five) which places a legal duty on the Sec Def to do so. It is rather the extent of this 'direct authority' and how it is applied via various delegations and reporting conventions that is the contested issue (in a balance DOD design and collaborative defence arrangement), and not the statutory appointment of the Sec Def per se.

Given these facts, it is a pity then that the MTT did not elaborate on their dissenting opinion. This would have provide the reader with better insight as to why they deviated so far from the accepted position on the statutory appointment of the Sec Def. What their position does highlight is that even senior government officials and parliamentarians can get it wrong in that they failed to grasp the intricacies of the balance DOD design and comprehend the genesis of the Secretariat.

The MTT report concluded that the civil-military relations within the DOD were at a low point. Specifically that as a general observation that the

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[54] **Public Service Act, 1994:** Section 7 (3)(a): Each department shall have a **head** who shall be the incumbent of the post on the establishment bearing the designation mentioned in column 2 of Schedule 1, 2 or 3 opposite the name of the relevant department or component, or the employee who is acting in that post. Section 7 (3)(b): Subject to the provisions of paragraphs (c) and (d), a head of department shall be **responsible for the efficient management and administration of his or her department, including the effective utilisation and training of staff, the maintenance of discipline, the promotion of sound labour relations and the proper use and care of State property**, and he or she shall perform the functions that may be prescribed. (Author's emphasis).

Public Finance Management Act, 1999 (Act No. 1): Section 36: Appointment as the **Accounting Officer**.
Furthermore, among other things, the Accounting Officer is to ensure the provision and maintenance of effective, efficient and transparent systems of financial and risk management and internal control in accordance with Sections 13; 29 2 (a)(b); 38; 39; 40; 41; 42; 43; 44; 45; 46; 47(1)(a); 63; 64; 65; 81 and 89. (Author's emphasis).

prevailing climate in the DOD was not conducive to a strategic, coordinated and planned approach to restructuring. Overall concern was expressed that the factors identified were detracting from the institution building and further fragmenting an already complex and difficult situation.

The MTT went on to list a number of concerns that were earlier identified by this study; particularly the poor communication, inadequate consultation and lack of a collaborative approach between the Def Sec and SANDF and the effect this had on the working relationship between the two institutions. This censure is significant for the fact that it questions the very foundation of the balance DOD design, the structuring of power relations and maintenance of the balance between the Def Sec and SANDF. The Minister was further advised that the Sec Def and Chief ought to commit themselves to enhancing autonomy (while being mindful of the need for civilian and military personnel to function collaboratively in an integrated head office) and a complimentary working relationship (Document No. 16, 2003, pp.23-30).

Work Session Following the Ministerial Task Team Report

The Minister on 21 November responded in writing to the report, notably to firstly rescind his 16 July approval to the Sec Def, and secondly to approve the MTT recommendations (Document No. 18, 2003). The DOD gathered to address the report at a departmental work session on the 23 and 24 November 2003, attended by the Sec Def and Chief SANDF together with the Service Chiefs and most of the military command as well as the Def Sec top structure.

Given that the DOD was in a budget crisis in 2003, having to deal with rising operational commitments and runaway spending, the session focused on the unaffordability of the current Force Design/Force Structure. Of particular concern was that the SANDF had become a ‘blunt end organisation’ and needed to be turned around to a ‘sharp end

organisation'[55]. The session did nevertheless make time to discuss the 'elephant in the room' being the civil-military tensions between the office of the Def Sec and the SANDF. A number of the issues raised could not be addressed immediately and were placed on the agenda of the next work session scheduled for early 2004. The core issues raised, of interest to this study, were that:

> The working relationship between the Chief SANDF and the Sec Def needs to be clarified as in the current form it leads to misunderstanding and tension. There needs to an understanding of what the equilibrium between the SANDF and Sec Def should be?
>
> [In view of the current crisis] …our responsibility is to prepare and deploy. The Balanced Model (sic) has been thrown out and Command and Control is being used… (Document No. 18, 2003, pp. 2-5).

The members agreed that it was necessary that the Sec Def, Chief SANDF and Minister provide direction to the DOD in respect to:

> Defining the roles of CSANDF and Sec Def by understanding the roles and implementation thereof. It must be determined whether the Balanced model (sic) or Command and Control are applicable… (Document No. 18, 2003, p. 6).

The members agreed that the Sec Def and Chief SANDF would engage collaboratively in reviewing the issues raised and in preparing formal direction to the DOD, in response thereto, to be presented at the next strategic work session to be conducted early in 2004. The admission by

[55] In a blunt end organisation the majority of the budget is consumed by personnel related expenses and numerous support functions leaving little over for employment of forces (sharp end) and it follows achieving the SANDF's defence mandate for protection and defence of the Republic and other ordered commitments.

the military personnel that they had discarded the ‘balance model’ in favour of command and control was a surprising admission. Understandably it was expressed more in a figurative sense as there are numerous institutional safeguards in place to prevent unilateral action by the SANDF. However, if anything it did confirmed the deep-seated mistrust that had crept in, effectively inhibiting sound civil-military relations and unquestionably, also the effectiveness of military operations.

In reviewing the minutes with a senior DOD official, he again reiterated that the central issue to be resolved was the perception by the SANDF that Sec Def had gone too far in assuming powers that he was not entitled to. His actions were indicative of a desire to provide all the ‘direction’, leaving the SANDF to only ‘execute’ (Respondent 05, interview, February 11, 2016). The military still had a mission to fulfil and in exasperation with what they perceived as stalling by the Sec Def, appeared determined to work around the civil control issues, falling back on their internal military command and control structures to get the job done. Ms S. Rabkin concurs in so far as that the Sec Def was focusing on ‘controlling’ instead of enabling the SANDF (Interview, February 15, 2016).

An interesting anecdote is that by all accounts the Chief SANDF was more than prepared to rid himself of the burden of the role of accounting officer for the complete DOD. What he did desire, was to retain only that portion of the accountability for the resources directly under his command and control, those that are operationally necessary for conducting military operations (Respondent 05, interview, February 11, 2016). Given this fact it is indeed plausible that the civil-military conflict was more about ‘process’ than it was about focusing on ‘outputs’ and ultimately enabling military effectiveness in a collaborative arrangement.

4.3 Parys Resolutions 2004

The next DOD work session was held from 16 to 19 March 2004, attended by the Sec Def and Chief SANDF, Service Chiefs, the military command as well as the Def Sec top structure. The resolutions emanating from this meeting became known as the 'Parys Resolutions' and were intended as the 'blueprint' to spearhead the restructuring of the DOD macro structure (Document No. 14, 2004).

The DOD, as directed by the Minister and subject to sanction by the JSCD, had to find a way to reach agreement with all internal and external stakeholders on a new DOD macro structure and thereafter to form and execute a cogent strategy. The solution had to be aligned to the approved balance DOD design (the genesis of which was at the time not open to reconsideration) whilst affirming the Sec Def's accountability for the entire department and statutory civil control of the SANDF, without encroaching on the Chief SANDF's chain of command and the SANDF's operational effectiveness.

The Sec Def and Chief SANDF duly delivered the promised direction to the DOD, followed by extensive deliberation. There were seven resolutions in total and the following three having been selected for further analysis (drawing from the work session minutes Document No. 14, 2004 and other supporting documents reviewed):

- Resolution One. Review the Defence White Paper of 1996.

- Resolution Two. Review the Defence Review of 1998.

- Resolution Four. The DOD structural arrangements must be revisited to enable optimal efficiency and effectiveness including the appropriate capacity for the Sec Def and the Chief SANDF.

The work session prioritised Resolution Four, followed by the review of both the White Paper and Defence Review. It had been apparent for a number of years, that the White Paper on Defence and the Defence Review 1998 were out-dated and required to be reviewed (Joint Standing Committee on Defence, 2001; Document No. 14, 2004). Fundamentally the problem was that the SANDF structure was not aligned to the Force Design and, as argued earlier, there were compelling reasons for reviewing the integrated DOD head office's civil-military arrangements (as established by Chapter 9, Defence Review, 1998). What must be appreciated is that both documents were designed and written in a different political climate and before the concept of deployments in support of peace operations in Africa was considered.

The lead writer of the White Paper, Laurie Nathan (Kenkel, 2006) was an admitted anti-militarist, and in the early years post-1994, the political climate still favoured tightening control over the armed services and a smaller force over a larger one. There was also the overarching desire by government to demonstrate, in a meaningful manner, that state resources were being reallocated to support the Reconstruction and Development Programme. The changes in the strategic arena and the governments increasing commitment to extend the umbrella of peace and security across the continent rendered the 1998 force design not only unaffordable but also irrelevant.

The further discussions centred on the organisation development and restructuring of the DOD (Document No. 14, 2004). The upshot was agreement on a 'concept 'of a single staff compartment to serve both the Sec Def and Chief SANDF based upon a requirement for an 'integrated DOD with a deployable SANDF (Document No. 14, 2004). This concept would have to be further developed by the to-be-appointed task teams and the Chief SANDF cautioned that the test will be when it comes to implementing the resolutions. Tough decisions would need to be taken and it would be impossible to satisfy everybody. Above all government's expectations should be met as far as was practical (Document No. 14,

2004). Sec Def supported the main decisions and added that the 'Parys Resolutions' would fundamentally change the direction of the Department and that implementation would be a severe "…test of leadership…" (Document No. 14, 2004).

Ministerial Instruction 13/04: Establishing the Joint DOD Workgroup

The Minister instructed the DOD to form the joint Department of Defence Workgroup (DODW), to give impetus to the 'Parys resolutions', made up of staff from both the office of the Sec Def (civilian) and Chief SANDF (Document No. 15, 2004). The main thrust of the instruction was that the DOD must enhance the effectiveness, efficiency and the economic utilisation of resources[56] without compromising the ability of both the Sec Def and Chief SANDF to account for their respective statutory obligations. This is a clear indication that the DOD was beginning to embrace Ratchev's (2011) trinity of civil-military relations. The ranking order for completion, was confirmed as being first the DOD structural arrangements followed later by the review of the White Paper on Defence and the Defence Review (Document No. 14, 2004).

The Minister followed up this instruction by issuing a number of very specific directives (to the DOD) on 25 April 2004, to clarity the outputs required in addressing the DOD structural arrangements:

- Directive 1. Sec Def, as Head of Department and Accounting Officer, should delegate specific powers to the Chief SANDF with regard to financial accountability.

- Directive 2. Chief SANDF must account directly to the Sec Def for all the resources at the disposal of the SANDF.

[56] PFMA, 2010, Sec 38 (b)

- Directive 3. Chief SANDF must command and control the SANDF, including essential resources required for operational efficiency and effectiveness.

- Directive 4. Sec Def should not interfere in the direct command and control of the SANDF.

- Directive 5. Organisational restructuring in the DOD should reflect and reinforce the distinct roles of the Sec Def and the Chief SANDF respectively, as prescribed in law.

- Directive 6. Sec Def and Chief SANDF must work together to foster unity and cohesion in the DOD.

(Respondent 04, Interview, December 23, 2015)

The Minister (as executive authority) finally demonstrated sound political leadership in issuing clear and specific direction that set the tone for the investigations to follow and the expected results. What is striking is that this was the only example on record, of the Minister clarifying, in terms of civil control precepts, what he personally envisaged the specific individual roles of the Sec Def and Chief SANDF to be, in the higher defence organisational design for the DOD. It also finally integrated the MTT recommendations with the DOD planning and staved off any lingering misconception about the role of the Sec Def as head of department and accounting officer and the nature of the concomitant collaborative arrangement with the Chief SANDF.

The DOD Workgroup went on to design and present the new macro level structures in 2005 (Figure 10). This new structure was a direct output of the DODW investigations and their attempt to align with the Minister's directives; clarifying the specific individual roles of the Sec Def and Chief SANDF in the higher defence organisational design for the DOD. At this stage the Minister had only approved the creation of the new Internal Audit Division reporting in to the Sec Def. The macro placement of the Defence

Inspectorate (planned to provide inspection services to the SANDF) still required approval. It is for this reason that it is reflected on the Central Staff setup together with Human Resources, Legal Services and Defence Foreign Relations Divisions reporting to 'both' the Sec Def and Chief SANDF. In this new macro design Sec Def would have Defence Materiel (Acquisition portion of the Logistics function) reporting to him whilst the Chief SANDF would have the Logistics Division under his direct command, even though it is part of the 'joint services' that provides support across the entire DOD.

Department of Defence Macro Design Post-DODW

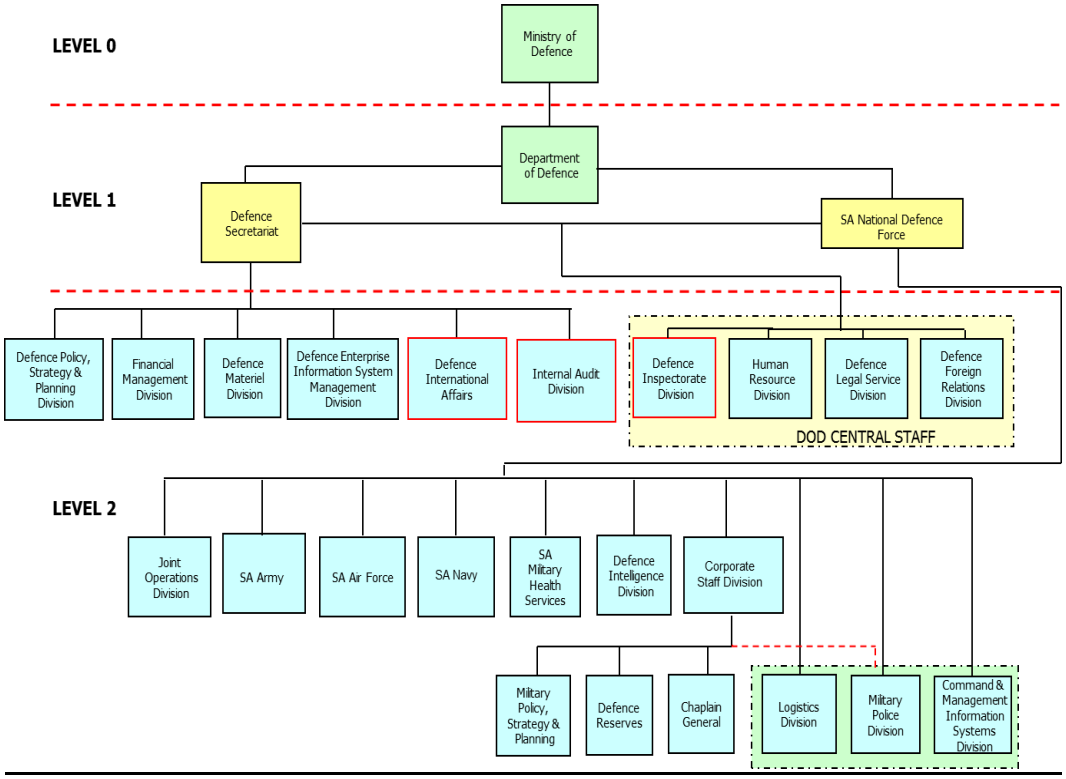


Figure 10: DOD Macro Design Post-DODW

(Source: Adapted from unpublished DOD material)

The DOD proceeded at the same time to conduct a thorough review of the requirements for restructuring the policy, strategy and planning domain. The Directorate Integrated Management Systems (DIMS) led this initiative with the main objective to resolve the relationship between the Sec Def and Chief SANDF regarding the process of providing relevant Defence

policy, strategy and planning on the one hand and Military policy, strategy and planning on the other. In terms of legislative powers, functions and responsibilities, both the Sec Def and Chief SANDF must be capacitated with a supporting capability to facilitate the implementation of the strategy and plan[57]. As will be observed in the DOD macro design (Figure 10) there is a Defence Policy, Strategy and Planning Division, within the Def Sec and duplicated within the SANDF, the Military Policy, Strategy and Planning Division. DIMS presented the report on the proposed organisational and functional structures for policy, strategy and planning in October 2006 (Document No. 23, October, 2006). Both the Def Sec and SANDF divisions were later fully implemented, staffed and are currently, at the time of writing functional.

Transformation Challenges

What is of great interest to this study is that notwithstanding the obvious challenges, the DOD continued to pursue the balance DOD design. It is not to suggest that there was a ready alternative, as argued in the earlier analysis and literature review. What is intriguing, nonetheless, is that the dominant problem experienced by the DOD[58], whilst recognising the role that the power structures play in creating civil-military tensions, is the fact that the DOD has two Level 16 posts operating at the same managerial level within the DOD. The classic example of 'two centres of power' cautioned by Chuter (2011). Both Sec Def and Chief SANDF are staffed at Director-General level and the question is even so, it does not explain why it is necessary that the Chief SANDF has the same privileges as the HOD [59] (Document No. 16, 2003, p. 9)? This state of affairs invites conflict and relates directly to one of the original design principles, that 'of

[57] Constitution of the Republic of South Africa, 1996 (Act 108 of 1996); Defence Act, 2002 (Act 42 of 2002); The White Paper on Defence, 1996; The Defence Review, 1998 and the White Paper on South African Participation in International Peace Missions, October 1999.
[58] Identified from various work sessions and workgroups/ministerial task teams that were analysed since 1998.
[59] Sec Def (the late Mr J.B. Masilela) also raised this in his personal notes and as an addendum to his personal copy of the MTT report, on file.

compromising on keeping both posts at the same level' adopted by the JMCC in May 1994[60] and ratified by the Minister and Parliament (Document No. 3, 1996). It appears that for reasons that are not readily apparent, the Minister, Parliamentary oversight committees and the DOD chose not to revisit this particular aspect of the design, during the period under review.

Ms S. Rabkin, for her part, whilst accepting that there are challenges with the appointment of the two controllers as equals, believes that the balance DOD design is not working for other reasons, in that

> …if the Sec Def wants to control then he should do so through the control of finance and nothing else. In the balance model the Sec Def's focus is wrong and achieves very little. The SANDF is controlled through legislation such as the PFMA and other Acts and in particular the Defence Act and the Constitution which has numerous checks and balances built in to 'control' the SANDF and prevent unauthorised activities. The Sec Def has a hold on the SANDF's expenditure and the Auditor General South Africa plays a critical role in controlling the SANDF (Interview, February 15, 2016).

The analysis suggests that at the time the DOD had difficulty in executing the required organisational restructuring to reflect and reinforce the distinct roles of the Sec Def and the Chief SANDF, as prescribed in law (the Minister's Directive 5). This is moreover linked to the earlier Parys Resolution that the DOD must affirm the Sec Def's accountability for the entire department and statutory civil control of the SANDF, without encroaching on the Chief SANDF's chain of command and the SANDF's operational effectiveness. Above all else it reflected a failure of the often touted 'collaborative' decision-making arrangement supposedly in place between the Def Sec and SANDF. The situation was further exacerbated

[60] Approved by the Minister of Defence (JMCC/DSM/501/6 and Addendum finally dated 4 May 1994), as ratified by JMCC meeting dated 26 May 1994.

by the Minister's difficulty, in 2003/4, in getting the Sec Def and Chief SANDF to reconcile their personal differences.

There is another less obvious problem and that is the downside of the continual restructuring is that it did not allow the organisation to mature. The Department was for that reason in a continuous state of instability as it moved from one structure to the next. Transforming the DOD under such circumstances does not inspire confidence in its members, does little to foster unity and cohesion in the DOD, leads to a decline in effectiveness and efficiency, undermines civil oversight and control and ultimately impedes effective defence. What the DOD needed was to bring some stability to the transformation programme. The best means of achieving this in future would be to ensure that the DOD structuring interventions are aligned to the requirements of the new Military Strategy to be developed.

The DOD at least made some progress, in this regard, with the release of the report on the proposed organisational and functional structures for policy, strategy and planning in October 2006 (Document No. 23, October, 2006). In the next section the period post-2009, under a new Minister, is reviewed and the more pertinent accomplishments of the continuing transformation project, that have value for this study, were analysed.

4.4 Change of 'Command' 2009: Minister Sisulu

The focus of the DOD transformation project in the intervening years, was on bedding down the Department of Defence Macro Design. With the resignation of Mosiuoa Lekota in September 2008, the Honourable Charles Nqakula was shifted across to head the ministry until May 2009 when the Honourable L.N. Sisulu was formally appointed as Minister and immediately breathed new life into the Ministry. The DOD quickly brought the Minister up to date on the transformation project and the functioning of the DOD including both the Def Sec and the SANDF institutions (Document No. 11, 2011). As with the previous period, the persistent

concern raised was about the appropriateness of the DOD structures to provide for the execution and delivery of the Defence Mandate[61]

The appointment of a new minister provided an opportunity to refocus on the transformation project and refocusing on protecting the positive gains the DOD had made up to that time. As described in chapter three, the obvious need remained to review and realign defence structures, and to clarify functions and lines of command and control. The Minister directed the Sec Def (at the time the Acting Sec Def) to initiate a new study and make specific recommendations on the structuring and positioning of the Defence Secretariat (Document No. 11, 2011).

Changing Defence Mandate and Minister's Support Requirements

In the Minister's opinion there was inadequate understanding within the Def Sec that the primary function of the Sec Def (and thus Secretariat) was to support the Minister (Document No. 11, 2011). The Minister's position appeared to be influenced by her experience in other spheres of government and directed that the functions and composition of the Def Sec be reviewed to align them with the changing Defence Mandate and the Ministers specific support requirements.

In addition the Minister was very specific that the DOD consider the following principles. Firstly that the primary function of the Director-General of the Department (Sec Def) is to support the Minister in carrying out her mandatory duties over the Department and related institutions (i.e. the entire Defence Portfolio); secondly the interfaces between the Def Sec and the SANDF must be clearly and concisely defined to prevent overlap and confusion; thirdly that the Secretariat should be streamlined, and all functions that are not mandatory within the Def Sec should be relocated or removed accordingly; and fourthly the situation must be avoided where the

[61] Constitution of the Republic of South Africa, 1996: Section 200 (2) 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.

Sec Def becomes legally accountable for resources that are not under his/her control (Document No. 11, 2011).

It is necessary to clarify that there had been no change in the Constitutional defence mandate, as set out in Section 200 (1) and (2). What the Minister and the DOD were recognising, in reference to 'the changing defence mandate' was that the SANDF's secondary tasks were in the ascendency and for all intents and purposes had become the 'primary' tasks, accounting for the majority of the ordered commitments. Briefly these tasks included the SANDF's contribution to domestic, regional and continental stability by deploying military capabilities in external peace support operations; executing internal border-line safeguarding operations; and providing safety and security related support in co-operation with the South African Police Service (SAPS). This challenge of 'mandate creep' had already been realised by Bradford Jr *et al.* (1973) in the 1970's, in relation to the US armed services, in that secondary 'military' tasks had the tendency to evolve and take priority over primary defence missions.

The challenge this presented is that whilst it is accepted that the SANDF has a Constitutional duty "…to defend and protect the Republic…" and it must therefore be structure accordingly to fulfil this mandate, it does not leave much left over in the budget for the secondary tasks. Hence the acknowledgement that the Defence Review 1998 force design was not only unaffordable but also irrelevant. Structuring the SANDF for the next great war, to confront an invading conventional army seems at best a luxury and at worst an extreme waste of finite resources.

It is very difficult to get anyone in the DOD to openly challenge the status quo and the result is that the DOD spends much of its time in discussions, seeking various ad hoc solutions, without actually addressing the core issues. Ms S. Rabkin (Interview, February 15, 2016) argued that the challenge is one of a fundamental misalignment of the defence mandate

and an overemphasis on a threat assessment that is wide of the mark. Rabkin (Interview, February 15, 2016) questions the fact that the SANDF is still fundamentally structured "…along the lines of a 17th Century army designed to face off against an enemy army in the field…we are structured for a war that will never come…" Essentially Rabkin is articulating a position shared by many in the DOD who choose to remain within the shadows.

In the introduction to this study it was hypothesised that the selected model for South Africa's transformation of the DOD and civil control and oversight regimes may well be simply inappropriate or otherwise ineffective. What is evident is that not only the choice of civil control model that is coming into question, but the entire structuring and mandate of the SANDF. Questions are being raised regarding what the actual mandate and mission of the SANDF should be, given the prominence of borderline safeguarding, support to the SAPS and foreign policy imperatives to provide peacekeeping and armed intervention forces for stabilising a patently insecure continent. Rabkin asks pointedly why

> "…are we structured for a war that will never come whilst we have the potential [to redirect our limited defence resources and] to play a tremendous role in the safety of the people and securing our borders, both land and littoral. If anything we should be redoubling our efforts to enable the SA Navy to execute its maritime strategy and to protect our littoral and Economic Zone…working together with other state departments to protect our fragile environment…the fish and other vulnerable marine life from unlawful exploitation. Not focusing on hiring, training and resourcing ground forces for conventional war…" (Interview, February 15, 2016).

The reality is that the SANDF – in light of the severe restrictions imposed on the departmental budget ceiling for the medium term expenditure framework (2016 Budget Speech, February 24, 2016) – will have to make hard choices regarding the type of operational capabilities it actually requires and the nature of ordered commitments it undertakes. This also brings home the need for the SANDF to not only provide an effective service but also to do so efficiently. A lot of faith is being placed on the Defence Review 2015 for the solution, which may prove, in hindsight, to be overly ambitious.

Department of Defence Benchmark analysis of Selected Countries

The investigation by the Sec Def, given the lack of an apparent solution from within the DOD, turned to the international practices amongst exemplary democracies. Sec Def therefore commissioned a study, the results of which were detailed in an unpublished internal Def Sec 2011 discussion document (Document No. 11, 2011). A review of the original study revealed a competent investigation on a selection of countries and the different models and approaches used to manage their respective Ministries/Departments of Defence. Extensive data sources were collected from 45 countries, across the world as part of the pre-selection phase. Four specific areas of performance were selected as the baseline criteria against which to broadly evaluate each of the selected countries, and determine its relevance for further assessment:

- The Division of Responsibilities (Structure);
- Budgeting and Financial Control;
- Policy and Strategy Formulation;
- The Management of Capital Programs.

The researchers' then applied the following selection criteria to determine which countries were suitable as candidates for full benchmarking:

- Political system. It would be of little use in studying a country that has a different political system in place than that of the RSA. The political

system in use is the primary determinant of the civil-military relationship in a country and thus the study was limited to countries which possessed a mature liberal-democratic system.

- Culture. The SANDF traces its roots back to the Commonwealth system and continues to share significant commonalities with other Commonwealth countries, and countries with a post-colonial history.

- Maturity of the Defence Establishment. Countries selected must have a defence establishment which has reached an advance level of maturity.

Countries were progressively eliminated from the study on the basis that their political systems differ completely from the RSA making comparison difficult (such as in the case of Chile for example) or that culturally the mind-sets differ (as in the case of Japan) or that ultimately, in terms of development, South Africa is further ahead (as in the case of Ghana and Uganda). This left Australia, New Zealand, and the United Kingdom as the final three candidates that were fully analysed (Document No. 11, 2011).

The methodology applied to the study was scrutinised, particularly the baseline criteria and selection criteria (Political systems, culture and maturity of defence systems) and the final choice of candidates for detailed analysis and could not be faulted. The researchers applied the methodology judiciously and the findings are supported. The study did find strong similarities with both the Australian and New Zealand approaches with New Zealand in particular presenting a number of interesting possibilities worth analysing further. What is remarkable about the New Zealand case is that in 1990 they split the then New Zealand Ministry of Defence into two separate legal entities: a Ministry of Defence headed by the Sec Def; and the New Zealand Defence Force head by the Chief of Defence Force. This effectively ended the diarchy in New Zealand (Document No. 11, 2011).

The conclusion of the study was that although there were valuable lessons that could contribute to the DOD's own transformation project, it did not reveal any Ministry of Defence civil-military models that could be translated directly to South Africa with its unique context and history. The report proposed various options for further investigation but the project was curtailed when the Minister (as the Executive Authority for Defence) formal established the Defence Review Committee on the 05 July 2010, in terms of Treasury Regulation Chapter 20. Most if not all major transformation projects were effectively put on hold awaiting the results of the Defence Review.

From the review of the original benchmarking research, it is apparent that what the researchers found daunting, in respect to the case studies, was the level of organisational maturity and the relative sophistication of the various business processes uncovered, not matched by the South African DOD. Although it was not stated as such in the findings, senior officials later admitted that the DOD, at the time, was just not organisationally mature enough to benchmark against the selected case studies (Respondent 05, interview, February 11, 2016; Respondent 07, interview, February 23, 2016). Given the passage of time since the original study and the new approach and opportunities presented by the release of Defence Review 2015, a new investigation is recommended in 2016 that could well produce fresh results of particular benefit the DOD's next transformation phase.

4.5 Defence Review 2015 (2014)

In 2012, during a cabinet reshuffle, the Honourable Nosiviwe Mapisa-Nqakula replaced Ms L.N. Sisulu as Minister. The long awaited report on South African Defence Review 2015, initiated by Ms Sisulu was initially approved by cabinet on 19 March 2014, and finally passed by the National Assembly on 7 June 2015 (Department of Defence, 2015c).

Persisting with a civil-military relationship in which the SANDF challenges the statutory functions of the Sec Def, with the result that transversal departmental efficiencies and effectiveness are severely impacted, is untenable in the end. The analysis suggests that the DOD was cognisant of this hiatus and to a lesser degree the threat it presented. It is also evident that the differing parties have put their faith in the promulgation of Defence Review 2015, to provide the national strategic level policy guidance to direct the development of the future "Defence Strategic Trajectory" with which to restore the defence capability over the next 25 years. The Defence Review proposes three interventions that, on analysis, appear to confirm the previous Minister's original directive that the primary function of the Director-General of the Department is to support the Minister in carrying out her mandatory duties over the Department and related institutions. The Defence Review presents the interventions, as the requirement to:

- Reposition the Defence Secretariat to better exercise civil control.
- Establish a legally sound defence delegation regime.
- Review and overhaul the current defence organisational structure (Department of Defence, 2015c, pp. 9-16 to 9-17).

The Defence Review Chapter four also includes a section on civil control and civil oversight and of particular relevance is section 26, Secretary for Defence, in which it confirmed that "The Secretary for Defence is the primary tool and resource for the Minister to enable him/her to exercise civil control (Department of Defence, 2015c, pp. 4.6-4.7).

The Minister, in 2015, also confirmed in her "Minister of Defence and Military Veterans Priorities for 2015-2020", contained in the *DOD Strategic Plan for 2015 – 2020*, that Organisational Renewal was a priority. With particular reference to:

- Repositioning of the Defence Secretariat/Establishing a Defence Accountability Concept.

- Establishing a Delegation Regime.
- Establishing an Organisational Structure Regime.
  (Department of Defence, 2015, p. 18).

The DOD declared that 2015 would be an active year for defence transformation (Department of Defence, 2015). In reality this proved to be overly ambitious and the Department soon realised that it required more time to undertake the military strategic planning process to develop the implementation strategy than the tight timelines provided for in the Defence Review. Realistically this means that the Department is already a year behind schedule to commence with *Milestone 1 - Arrest Decline*. The DOD therefore officially adjusted its planning timeframes and Financial Year 2015/16 (ending 31 March 2016) became the planning year to prepare for FY2016/17. The *DOD Strategic Plan for FY2017/18* must now be ready by March 2016 to allow time for engagement with National Treasury. The DOD will only succeed in its request for additional funds for implementation of milestone one in FY2016/17 if the Department tables a convincing case. It remains moot whether the state will be prepared to – or for that matter be able to, given the competing national priorities – finance the proposed funding mechanism to support the Defence Strategic Trajectory, over the next 25 years with an additional budget vote (Department of Defence, 2015c, p. 9-16).

In terms of the transformation project, there were few changes to the 2005 Post-DOD Workgroup Macro Design for the DOD (Figure 10), in anticipation of the total reassessment of the DOD undertaken in Defence Review 2015. The few additions to the 2015 DOD Macro Design, mostly at Ministerial level (in most cases merely confirming legislative reporting lines) were the new establishment of the Defence Force Service Commission and SA Military Ombud, and the reconfigured reporting lines for the Reserve Force Council, ARMSCOR and Castle Control Board, all of whom report directly to the Minister. The DOD Macro Design 2015

(Figure 11) below sets out the current organisational structure of the DOD and Ministry.

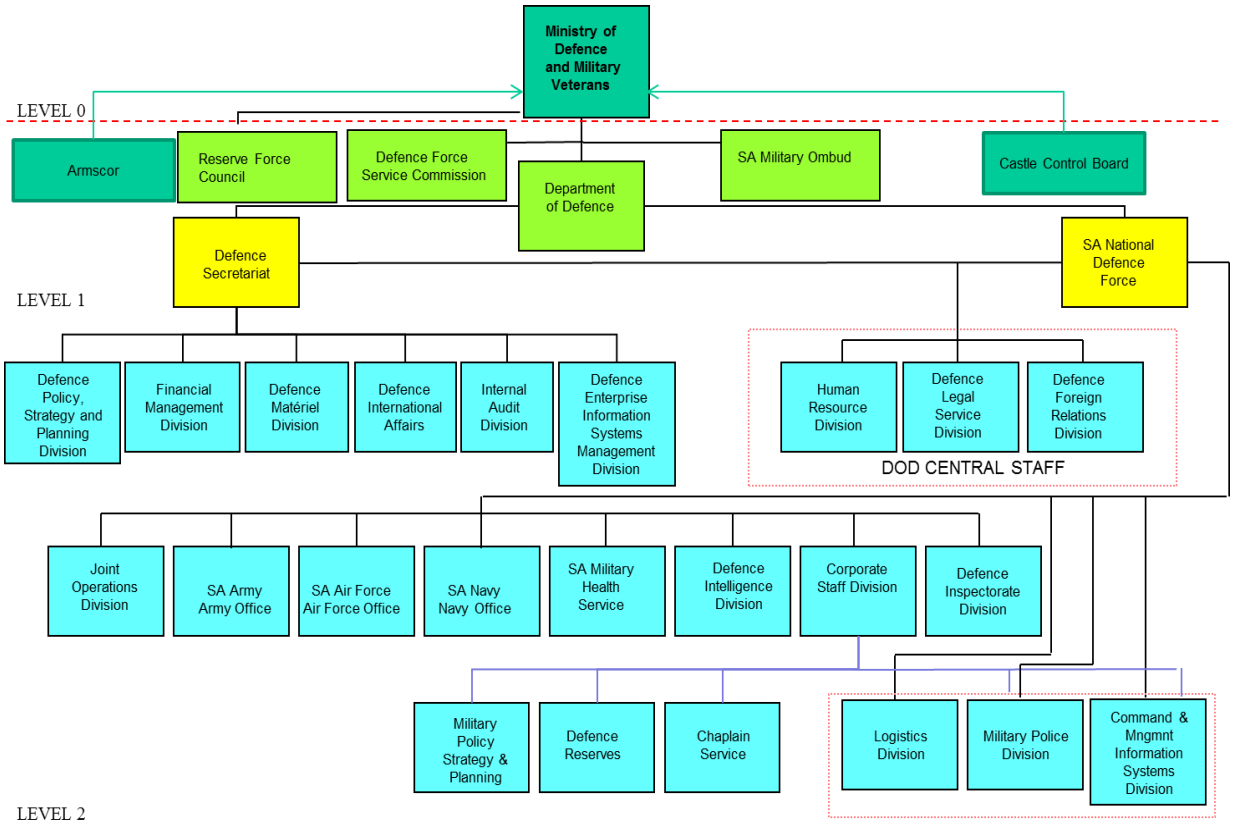


Figure 11: DOD Macro Design 2015

(Source: Adapted from unpublished DOD material)

To close this chapter it is necessary to confirm the 2015 Def Sec strategic planning Outcome, which essentially provides the mandate for the Sec Def, and that is to "…Enhance civil control of defence…" (Department of Defence, 2015). This DOD outcome is achieved through the sub-processes that involve the formulation of defence policy and strategy, defence functional (resource and compliance) policies and strategies, defence management and administration, and resource accounting. It includes the planning, budgeting, risk management, control and reporting processes (Department of Defence, 2015). The relevance of this DOD outcome is debated further in the next chapter.

4.6 Conclusion

What does this chapter say about the status of civil control of the SANDF? It is marked that between 2002, the end of the integration of former forces phase, and 2015 that civil control is still a contested concept in South Africa. The chapter opened with the Sec Def's attempt to engineer an extensive restructuring of the Secretariat, ostensibly, without the express support of the Chief SANDF. This was at best a contentious strategy and at worst it was indicative of a total breakdown in the normally tense but courteous civil-military relations and civil control regime. More particularly the Minister (as Executive Authority for Defence) played an active role in the breakdown in relations through his rush to approve the restructuring without first undertaking a thorough work-study to determine the full implications of such a realignment. Effectively splitting the civilian Secretariat and SANDF across civil control and military command lines and putting effective defence at risk.

This cycle of conflict, negotiations, and compromises between those who hold power and the armed services (Pion-Berlin, 2006), is not unique. What is critical is rather the manner in which the routine challenges to healthy and stable civil-military relations are handled. It is in this area, if there were to be a criticism, in which the DOD appeared to be failing.

Central to the entire civil control debate has been the balance DOD design around which the DOD transformation project is structured and the role of the Sec Def in exercising civil control in a 'collaborative relationship' with the Chief SANDF. What is interesting is that notwithstanding the obvious challenges, the DOD continued to pursue the balance DOD design. Whether or not there was a ready alternative remains a matter of speculation and the subject of further research. The extensive review of literature in chapter two and the Sec Def's 2011 benchmarking study demonstrated the difficulty in converting a model from a different country and circumstance directly to South Africa, with its own unique context,

history and legislation. Nonetheless what is intriguing is that the analysis suggests that the foremost problem is not, as assumed, related to the civil control mechanisms (applied in the balance DOD design) per se, but rather to the fact that the DOD has two Level 16 posts operating at the same managerial level within the DOD (in effect equals). More importantly both posts are entitled to the privileges of Head of Department[62] (Defence Act, 2002). As Chuter (2011) cautioned, the development of two centres of power, in an integrated civil-military department of defence arrangement, was problematic. Ultimately this structural arrangement has the potential for not only being the seat of the problem but also the source of the solution.

There is also clear evidence that the genesis of the Secretariat was not properly understood across all levels and divisions of the DOD and at times the incumbent Sec Def was fixated on trying to exercise 'control' over the SANDF instead of focusing on 'enabling' an effective armed services. Ms Rabkin argues that

> …if the Sec Def wants to control then he should do so through the control of finance and nothing else. In the balance model the Sec Def's focus is wrong and achieves very little… (Interview, February 15, 2016).

In a divisive environment, where there is little by the way of a common resolve and collaborative approach between the Secretariat and SANDF, it is not entirely surprising that the armed services would hold that "…our responsibility is to prepare and deploy …" and so "…[t]he Balance Model (sic) has been thrown out and Command and Control is being used…" (Document No. 18, 2003, pp. 2-5). This is indicative of a frustrated armed service, attempting to fulfil its assigned operational commitments, as best as possible, in the face of a clear lack of enabling support from the Def Sec. What is evident that it is not only the choice of civil control model that

[62] Section 7(2) and 13(2) of the Defence Act, 2002 (Act No. 42 of 2002).

came into question, but the entire structuring and mandate of the SANDF. What the actual mandate and mission of the SANDF should be, given the prominence of borderline safeguarding, support to the SAPS and foreign policy imperatives to provide peacekeeping and armed intervention forces for stabilising a patently insecure continent, remains contentious.

This chapter identified the centrality of the balance DOD design, around which the DOD transformation project is structured, to the institutional civil control regime and efforts by Sec Def to exercise civil control in a ‘collaborative relationship’ with the Chief SANDF. Given this fact, it was necessary to further engage with and analyse the Sec Def’s statutory roles and functions; the exercising of civil control in the DOD; realignment and capacitating; and the need for better utilisation of delegations and comprehensive instructions within the balance DOD design. This is addressed in the next chapter.

CHAPTER FIVE
REPOSITIONING THE DOD FOR EFFECTIVE DEFENCE

What a society gets in its armed forces is exactly what it asks for, no more no less. What it asks for tends to be a reflection of what it is. When a country looks at its fighting forces, it is looking in a mirror; the mirror is a true one and the face that it sees will be its own.
General Sir John Hackett (Quoted in Ferguson, 1987, p. 9)

5.1 Introduction

This chapter opens with a detailed analysis of the primary civil control issues under investigation, particularly the Secretary for Defence's (Sec Def's) statutory roles and functions, realignment and capacitating the Defence Secretariat (Def Sec) to better enable civil control of defence, and the need for better utilisation of delegations and comprehensive instructions within the balance DOD design. The approach followed in chapter's three and four was to first analyse the individual institutions making up the DOD since 1994, focusing on the nascent Def Sec but also importantly on the interaction and affect the Sec Def and the South African National Defence Force (SANDF) had on each other. This required reviewing the conditions under which the DOD was created, the influence of the pre-existing defence organisational model and in particular how the DOD structured power relations and maintained the balance between the Def Sec and SANDF (Bruneau, 2006, pp.6-7).

In this chapter the focus shifts to identifying and analysing the (current) statutory duties and functions of the Sec Def in detail as well as the challenges with the present structural arrangement. This includes discussions regarding various options for realigning the functions and composition of the Def Sec to restructure power relations and achieve the optimum balance between the Def Sec and SANDF. This is necessary to prepare the groundwork for presenting and analysing the findings in chapter six.

The examination of the various roles and functions of the Sec Def, as well as his or her powers of delegation, suggests that the statutory institutional arrangements for structuring power relations and maintaining the balance between the Def Sec and SANDF is at the centre of the conflict between the two institutions. As advanced earlier, this is exacerbated by the classic civil-military tensions between the civilianised Secretariat and the SANDF that affects the co-existence, power relations and working procedures.

Prominent amongst the Sec Def's statutory roles and functions is to perform civil control in the DOD (Department of Defence, 2002, Sec 8 (d)). In addition the Sec Def has an overarching control function to ensure that the SANDF follows the policies and directions of the Minister of Defence (Minister). There are, however, in practice, many challenges to these statutory roles and functions. The prime one being that the Constitution also requires that the line of command between the President, Minister and the Chief of the Defence Force and the military command, is clear, succinct and unfettered (Republic of South Africa, 1996; Republic of South Africa, 2002). For obvious and practical reasons no other office should stand in this line.

The adoption of the balance DOD design as the transformation model of choice, in which both the Sec Def and Chief SANDF are appointed at Level 16 (Director-General level) but possessing different responsibilities in terms of their constitutional and organisational mandates (Department of Defence, 2015d) is being increasingly challenged. Both are also entitled to the benefits and privileges due to a head of department, Section 7(2) and 13(2) of the Defence Act, 2002 (Republic of South Africa, 2002). It is on this foundation that the nascent DOD civil control regime was built – which is the subject of this study – and which it is argued has been identified as the underlying cause of many of the deficiencies in the DOD's existing civil-military organisational structures.

5.2 Statutory Roles and Functions of the Secretary for Defence

The roles, functions, and responsibilities of the Sec Def, as are contained in various pieces of legislation, including the Constitution, the Public Service Act, the Public Finance Management Act and the Defence Act, and are examined in detail hereunder.

The Constitution (Republic of South Africa, 1996), Section 204, makes provision for the establishment of a civilian secretariat for defence "…to function under the direction of the Cabinet member responsible for defence…", that is the Minister of Defence. Without question, therefore, it is clear that the Sec Def reports directly to the Minister.

The appointment of the Sec Def is also provided for in Section 7 (1) of the Defence Act which states that "The President must, subject to the laws governing the public service, appoint a person to the post of Secretary for Defence as head of the Defence Secretariat." (Republic of South Africa, 2002). Section 7 (2) states that "The Secretary for Defence serves …subject to the terms and conditions of service otherwise applicable to heads of department…." (Republic of South Africa, 2002).

The functions of the Sec Def are specified in Section 8 of the Defence Act. In terms of this section "…the Secretary for Defence is the Head of the Department (HOD) as contemplated in the Public Service Act, 1994 and the accounting officer for the Department as contemplated in section 36 of the Public Finance Management Act of 1999." (Republic of South Africa, 2002). Section 38 (Schedule 1) of the Public Service Act, confirms that the Sec Def is the head of the department (Public Service Act, 1994). According to Section 9 of the Public Service Amendment Act of 2007, only heads of national departments may bear the designation of Director General (Public Service Amendment Act, 2007).

The implication of this legislation is that according to Section 7 (3) (b) of the Public Service Act of 1994, the head of a department is responsible

"...for the efficient management and administration of his or her department …effective utilisation and training of staff, the maintenance of discipline, … and the proper use and care of State property...". Further section 36 (2) (a) of the Public Finance Management Act (PFMA), removes any uncertainty in that "...the head of a department must be the accounting officer…" This implies that, as an apparent unintended consequence, that the Sec Def, as the accounting officer of the DOD, is responsible for all departmental resources as well as financial, risk management and internal controls (Section 38 of the PFMA). As accounting officer the Sec Def is further responsible for exercising effective budgetary control over the whole of the DOD (Department: National Treasury, 2010).

The Sec Def also has a central role with respect to the facilitation of civil control. Section 8 (d) of the Defence Act, requires the Sec Def to perform such functions as may be entrusted to the Sec Def by the Minister, that enhance civil control over the DOD by, Parliament, the Parliamentary oversight committees and the Minister (Republic of South Africa, 2002).

In line with this requirement, according to Section 8 (e) of the Defence Act, the Sec Def "…must provide the Chief of the Defence Force with comprehensive instructions requiring the Chief of the Defence Force to issue orders and directives and to give commands..." (Republic of South Africa, 2002). What this section clarifies is that the law bestows the Sec Def with the right to issue instructions to the Chief SANDF.

This is taken a step further in Section 8 (f) of the Act where it states that the Sec Def "…must monitor compliance with policies and directions issued by the Minister to the Chief of the Defence Force and report thereon to the Minister…" The Sec Def is not only legally authorised to monitor activities in the SANDF and to report on compliance by the SANDF to the Minister's instructions, but in terms of the Act, is legally required to do so. Finally Section 8 (g) of the Act, makes the Sec Def responsible for "… discipline…administrative control…management of

employees …their effective utilisation and training" (Republic of South Africa, 2002), for the entire DOD.

5.3 Delegation of Powers

The Defence Act in Section 9 (1) provides the Sec Def with wide powers to "…delegate any power and assign any duty conferred upon him or her in terms of this Act to*…"* any employee of the Defence Secretariat, the Chief SANDF and any other member of the SANDF (Republic of South Africa, 2002). Similarly Section 44 of the PFMA provides for the accounting officer of a department to delegate any of the powers entrusted or delegated to the accounting officer (Department: National Treasury, 2010). In all such cases, Section 44 (2) of the PFMA makes it clear that exercising such a right of delegation or instruction does "…not divest the accounting officer of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty*"* (Department: National Treasury, 2010). The challenge this presents is that, for example, notwithstanding the written delegation being properly issued to a member of the SANDF, the Sec Def remains responsible for both the exercise of the delegated power and the performance of the assigned duty. This is clearly an untenable situation.

It is best explained, with the aid of a diagram (Figure 12). According to the Defence Act it is clear that only the Chief SANDF may issue orders and directive and give commands to members of the SANDF. It follows that in the military command line the duty/responsibility extends from the Chief SANDF down to the lowest levels and that there is a reciprocal accountability. Responsibility always remains vested in the highest level, but accountability can be shifted to lower levels, providing that the delegation is valid. It would follow that the Chief SANDF is responsible for all activities in the SANDF and is accountable for the correct delegations of authority and accountability to subordinates at lower levels.

However, in terms of a financial delegation from the Sec Def, for example, the person receiving the delegation may not reassign (transfer) that delegation to another. In a practical example then the Sec Def cannot delegate, once-off, to the Chief SANDF who in turn then delegates down the line of command to his subordinate commanders the exercise of the delegated power and the performance of the assigned duty. The dilemma is that the various Acts require that the Sec Def issues a delegation to each individual military commander down to the lowest level. By implication then the duty and responsibility, and power and authority over the military commanders is vested in the Sec Def and in turn the military commanders are accountable to Sec Def for the exercise of the delegated power and the performance of the assigned duty.

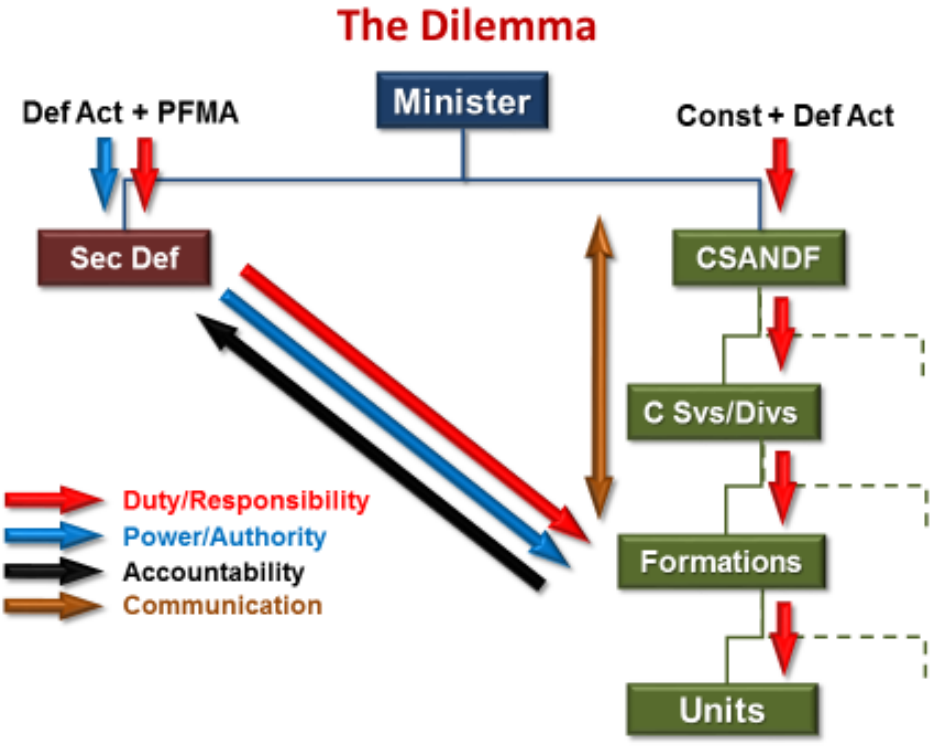


Figure 12: Delegation Dilemma

(Source: Adapted from unpublished DOD material)

Required Solution

The proposed solution originally put forward by the Minister's 2011 Def Sec workgroup (Document No. 11, 2011), as later set out in Defence Review 2015 (Department of Defence, 2015c, p. 9-17) and as confirmed by a senior DOD official (Respondent 05, personal interview, February 11, 2016), is set out below with the aid of a diagram (Figure 13). Broadly speaking the proposal calls for various Acts of Parliament to be amended to provide for the DOD as a special case (Department of State). The result of which, whereby the Sec Def (duty/responsibility in terms of Defence Act and PFMA) can delegate some of his legal responsibility to the Chief SANDF (duty/responsibility in terms of the Constitution and Defence Act) in the form of performance agreements. In so doing it is important that the accounting officer enables the Chief SANDF (person being delegated to), to fulfil the delegated responsibilities by also delegating the authority to undertake whatever is necessary to meet the responsibilities.

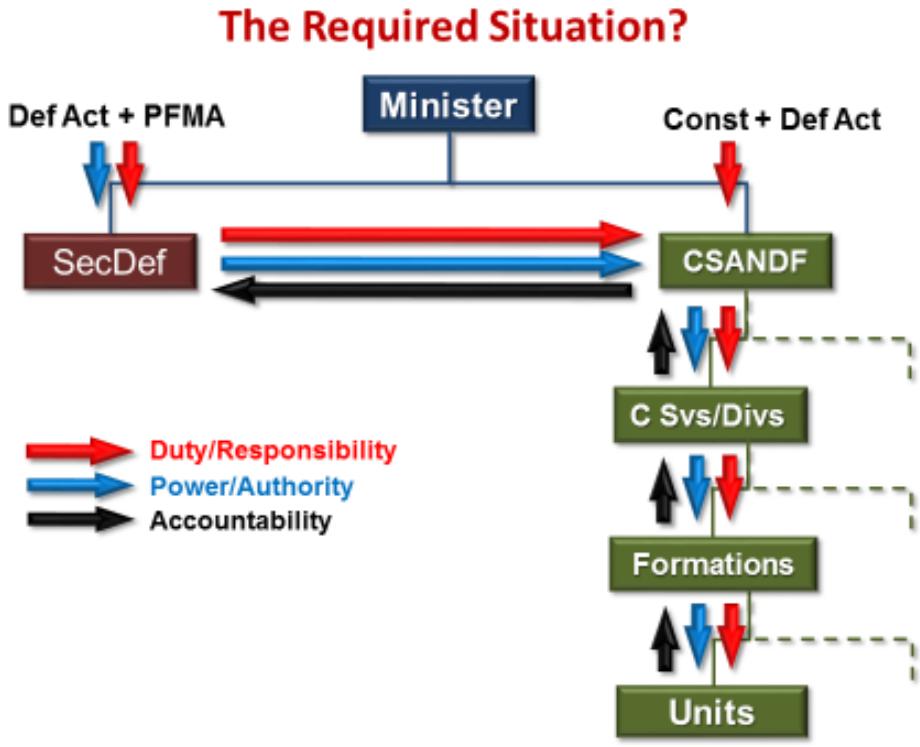


Figure 13: Required Delegation Situation

(Source: Adapted from unpublished DOD material)

The Chief must then, in turn, issue the necessary orders and instructions to formalise and implement the terms of such performance agreements throughout the SANDF. In such an example the integrity of the command line would be intact and the duty and responsibility; and power and authority would be vested in the Chief SANDF and his subordinate commanders down the command line. More importantly, the subordinate commanders would be accountable to their own military commanders and ultimately Chief SANDF for the exercise of the delegated power and the performance of the assigned duty, and not to the Sec Def.

This would require a change to the current institutional arrangement to one where the Sec Def (as set out in Figure 13), in terms of delegations, has a duty and responsibility and power and authority only in relation to the Chief SANDF (as commander of the armed services). It is then only the Chief SANDF personally that is accountable to Sec Def. As argued in chapter four, the DOD can already be considered a special case as a department of State in that it has 'two heads' and more importantly both are entitled to the benefits and privileges due to a Head of Department, Section 7(2) and 13(2) (Republic of South Africa, 2002). Given that it is recognised in law as a 'special case', there should be a strong legal argument for amending the applicable legislation to make provision for a 'special delegation regime' or performance agreements.

5.4 Core Challenges with Statutory Functions: Secretary for Defence

Three additional areas of concern with regard to the statutory functions of the Sec Def, were identified during the earlier analysis and followed up by interviews with senior DOD officials (Respondent 05, interview, February 11, 2016; Respondent 07, interview, February 23, 2016). The first relates to accounting status, the second to comprehensive instructions and the third to ensuring SANDF compliance to the Minister's directives. Each is now elaborated on.

5.4.1 Accounting Status of the Secretary for Defence

The Public Service Act, as noted above, identifies the Sec Def as the head of the department (Public Service Act, 1994, as Amended 2007). Therefore according to the Public Finance Management Act, the Sec Def (that is the Head of Department) is also the accounting officer for the DOD as a whole. The Sec Def must account for all the DOD's resources, whether or not they are under his or her control (Department of Defence, 2015c, p. xii). In the case of the DOD the Chief SANDF controls and utilises more than 95% of the resources[63]. Contrary to accepted resource accounting norms, the Chief SANDF is not accountable for such resources, but the Sec Def is. The Standing Committee on Public Accounts (SCOPA) reinforces this position by "…insisting that the Sec Def appear before them to account for SANDF assets and not the Chief SANDF…" (Ms S. Rabkin, interview, February 11, 2016)

Experience has shown that the Sec Def's accounting responsibility for the DOD's resources particularly in dealing with the various defence oversight committees of Parliament, SCOPA, the Auditor-General South Africa, as well as National Treasury – is impractical. For example, the Sec Def may have to explain poor governance over leave administration at a Defence Force unit, which does not report to the Sec Def and over which he or she has no authoritative control.

The use of delegations, as set out in the previous section, has not succeeded in solving problems with accounting for DOD resources. This practice does not conform to the resource accounting standards of the Public Finance Management Act and the analysis suggest that a more suitable system of accounting, (a new accounting concept), that is compliant, is required.

[63] Although it is difficult to be exact, it is generally accepted by the DOD that this figure is 'representative' of the fundamental ratio between assets under the direct control of the Def Sec (5%) and those under the SANDF (95%).

5.4.2 Comprehensive Instructions

The Defence Act, Section 8 (e), confers on the Sec Def powers to issue instructions to the Chief SANDF, to issue orders (Republic of South Africa, 2002). The meaning of this provision of the Defence Act has been a subject of various, and at times contentious, interpretations. The status of the Sec Def's instructions have, in practice, been challenged in some quarters of the SANDF. It comes down to the question of whether or not the Sec Def has the authority to issue instructions to the Chief SANDF. This challenge is based on the understanding that the Chief SANDF is directly accountable to the Minister of Defence. If it is a given that the Chief SANDF is directly accountable to the Minister, on SANDF matters, then it can be deduced that the Chief is not accountable to the Sec Def. However in terms of the institutional civil control structures, it has been established that this is not the case. What then are the other aspects he or she is accountable to the Sec Def for?

In Section 202 (1), the Constitution states that the "…President as head of the national executive is Commander-in-Chief of the defence force, and must appoint the Military Command of the defence force". In Section 202 (2) it further states that "…command of the defence force must be exercised in accordance with the directions of the Cabinet member responsible for defence…" (Republic of South Africa, 1996). This section clarifies that the Military Command of the SANDF (which includes Chief SANDF as head) takes directions from and reports to the Minister. In Section 13 (2) of the Defence Act, the Chief SANDF serves "…subject to the terms and conditions of service… applicable to heads of department …and must receive the benefits and privileges to which such heads of department are entitled." The Chief SANDF therefore enjoys comparable seniority to the head of department, in terms of the Public Service Act, as reinforced by the Defence Act, 2002.

It appears, therefore, that the Sec Def, who is appointed on the similar level as the Chief SANDF (that is they are equals), has no sanction to impose on the Chief of the SANDF if there is no compliance with issued instructions. Whether by design or default the practical implications are that Section 8 (e) confers a legal duty on the Sec Def to issue instructions to the Chief SANDF and yet Section 13 (2) of the same Act, is interpreted to mean that the Chief SANDF is not subordinate to the Sec Def. Due to this unresolved dispute over authority, the compromise solution (as required by the Chief SANDF) has been to issue Secretariat instructions to the SANDF under the joint signature of both the Sec Def and the Chief of the SANDF. This similarly applies to delegations issued by Sec Def, to each individual commander[64], whereby an arrangement is in place for the signed delegations to be handed through to the office of the Chief SANDF who in turn 'consigns' the delegations to his subordinate commanders (Respondent 05, interview, February 11, 2016). The fact that its primary purpose is to serve as a face-saving exercise for the Chief SANDF, is not missed on anyone, and more importantly does not alter the Sec Def's statutory powers, duty and accountability for performance in any manner.

5.4.3 SANDF Compliance to the Minister of Defence's Directives

As argued above, although the Sec Def has a statutory function to ensure that the SANDF complies with the Minister's directives, the lack of any sanction makes this function impractical. Previous attempts to exercise this function were frustrated by the command line of the SANDF, as investigated and presented in chapter four. Therefore in practice, the SANDF is directly accountable to the Minister of Defence for compliance to the Minister's instructions, which is in conflict with the Defence Act, Section 8 (e) & (f), (Republic of South Africa, 2002).

The Sec Def is also responsible, in Section 8 (g), for the "…discipline of, administrative control over and management of employees…" (Republic of

[64] As indicated in the previous section, the various Acts oblige the Sec Def to issue a delegation to each individual military commander, personally, down to the lowest level.

South Africa, 2002). This section of the Defence Act confers on the Sec Def powers that lie in the jurisdictional area of the Chief SANDF. The powers of the Sec Def with regard to discipline, administrative control and management of the employees are, in practice, limited to the Defence Secretariat's personnel. The discipline and control of all SANDF employees lie within the domain of the Chief of the SANDF. To further complicate matters Section 200 (1) of the Constitution directs the State to structure and manage the SANDF "…as a disciplined military force".

Defence Review 2015, in alignment with this imperative, goes further in advising the DOD to institute a revised "cohesive military disciplinary system" (Department of Defence, 2015c, p. 9-18). Because of this confusion and the need to clarifying the roles and responsibilities for the discipline of members of the SANDF, the DOD has proceeded to draft a Military Discipline Bill which seeks to provide for the proper administration of the Military Justice System in the Defence Force[65]. Attaining this Constitutional imperative will be no easy task. Given the level of disagreement regarding the discipline and management of DOD employees, in terms of Section 8 of the Defence Act, it can be expected that any proposed legislative changes will be subject to thorough scrutiny, in terms of parliamentary oversight processes, before any amendments are passed.

5.5 Alternative Approaches Civil Control of the SANDF

There were several broad problems and deficiencies identified above. Firstly that the interfaces between the Secretariat and the SANDF are not clearly and concisely defined, which in turn causes confusing overlap of functions and responsibilities. In particular those functions relating to accounting status as head of department, issuing of comprehensive instructions to the Chief SANDF and ensuring SANDF compliance to the

[65] The Bill was approved by the DOD during FY2012/13 and forwarded to the Office of the State Law Adviser (OSLA) for provisional certification. Certification, as a prerequisite to the Parliamentary approval process of the Bill, is still awaited from the OSLA.

Minister's directives (Defence Act 42 of 2002, Sec 8 (a);(e);(f);(g)). Secondly a situation whereby the Sec Def is legally accountable for the utilisation of resources that are controlled under the SANDF is entirely undesirable. Thirdly there seems to be differences of opinion within the Def Sec as to whether or not a primary function of the Sec Def, and it follows the Secretariat, is to support the Minister in carrying out her Mandatory duties over the Department. This being the case, then in this function at least, the Def Sec currently falls significantly short of effectively supporting the Minister. The reasons for this include structural, capacity and system inadequacies which collectively render the Def Sec unable to fulfil this role.

This line of analysis opens up intriguing possibilities regarding the direction that the DOD should take in its attempt to resolve the central civil-military conundrum, particularly the drive to realign the functions and composition of the Def Sec with the changing defence mandate and Minister's specific support requirements. No matter what the ultimate solution proves to be, whatever option is selected will inevitably require a rethink of the genesis of the balance DOD design, and necessitate various amendments to the Defence Act; the Public Service Act, as Amended 2007; and the PFMA.

5.5.1 Desired DOD Accountability and Staff Liaison Structure

The question remains, what would the ideal situation look like? In an extensive interview with a senior DOD official, who is currently engaged with the Defence Review implementation process (Respondent 05, interview, February 11, 2016), he shared some of the current thoughts on the matter. What must be clarified is that at this stage the deliberations taking place within the Department are only conceptual. As pointed out in the previous chapter much of the earlier studies into the realignment and repositioning of the Def Sec were put on hold, awaiting the approval of Defence Review 2015.

What the official was able to confirm is that independent (but more importantly interdependent) Def Sec and SANDF Workgroups have been establish, in terms of the Defence Review Implementation Plan, to expedite the organisational renewal (Respondent 05, interview, February 11, 2016). At the time of writing in February 2016, the terms of reference were still being confirmed. It was, however, possible to conclude from an analysis of Defence Review 2015 that the terms of reference for the Def Sec Workgroup will need to broadly cover the guiding research questions, established for this study, namely:

- How should the Defence Secretariat be repositioned and capacitated to better enable civil control of defence and to perform the duty assigned to it?

- How can the organisational structure be modified to clarify the responsibilities and realign the functions of the Minister and the accounting officer (Sec Def)?

- What is the requirement for a new accountability concept within the DOD?

The senior official described the main outcome of the Def Sec Workgroup as "…a restructured/ re-engineered/ reorganised DOD Headquarters..." (Respondent 05, February 11, 2016). It is suggested that to achieve this outcome will require the Def Sec Workgroup to deliver on at least three outputs:

- Reposition the Ministry of Defence;
- Reposition the Def Sec; and
- Re-engineer and/or otherwise adjust the balance DOD design to reflect the reorganised DOD

That a new DOD accountability and staff liaison structure is required has been thoroughly argued, what is not so clear is how such a structure would be organised and operate. The analysis advocates, given that it is not possible to be specific without first conducting detailed work-studies to verify and design the necessary business processes to make the system work, that a number of key requirements can be identified. The following requirements are drawn from the interview with Respondent 05 (Interview, February 11, 2016) and the earlier analysis from chapters three and four of this study. These are discussed below with the aid of Figure 14.

DOD Accountability and Staff Liaison Structure

In terms of the proposed framework one of the design principles is to retain the balance DOD design (with modifications). What this means is that all the core design principles are adhered to and that the model remains aligned to the Constitutional imperatives for parliamentary oversight exercised through the political office of the Minister as Executive Authority. The DOD would continue to incorporate the SANDF and consist of a Secretariat (headed by the Sec Def as head of department and accounting officer) and the Chief SANDF as commander of the armed services.

The intention is not to go into the detail of the various organisational functions and sub-processes. What is necessary to take away from the analysis is rather an understanding of the key features. If there is one explicit feature, then it is the unfettered command line. The line of command (marked in red) runs from the President, through the Minister (in times of war bypassing the Minister directly to the Chief SANDF) to the Chief SANDF who, in turn, has unfettered executive command over his subordinate services and divisions. Neither the Sec Def nor any other civilian official stands in the way of this unbroken command line.

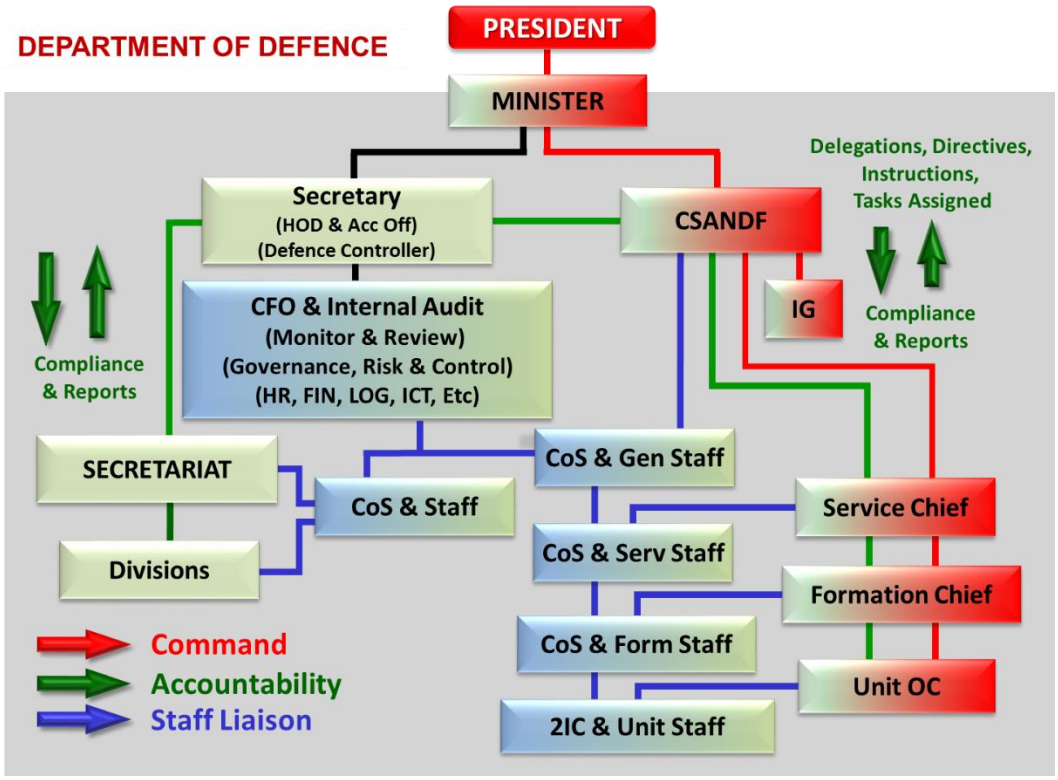


Figure 14: Desired DOD Accountability and Staff Liaison Structure

(Source: Adapted from unpublished DOD material)

In terms of accountability (marked in green), the Chief SANDF remains directly accountable to the Sec Def, as head of department and accounting officer, for all the statutory requirements as set out in the various Acts. The difference is that no other member of the SANDF will have any direct accountability to the Sec Def. The Chief SANDF is responsible for all activities in the SANDF and is accountable for the correct delegation of authority and accountability to subordinate levels. The Chief SANDF via his subordinate commanders who in turn will be accountable up the chain of command, directly to the Chief, will issue all delegations, directives, instructions and tasks assigned.

To provide for the critical staff liaison functions between the Def Sec staff and staff of the SANDF (without impinging on the integrity of the chain of command), a formal staff line (marked in blue) would need to be established within the SANDF. This is achieved by appointing a Chief of Defence Staff who is responsible for all nine of the Staff divisions (J 1-9),

reporting to the Chief SANDF. This structure will free up the Chief SANDF to drive execution. The Chief of Staff structures will be repeated at every level of the SANDF down to unit level and in terms of the model, the critical liaison function between the SANDF and the Def Sec would then be managed in a joint integrated manner at the highest level. It must be kept in mind that Def Sec civilian staff will continue to serve, as part of the staff line, integrated with their armed services' colleagues at the various subordinate levels of the DOD and that there is no attempt in the proposed structure to exclude them. What is intended though is that they remain outside of the military command line.[66] There are also, for practical reason, still a number of uniformed members of the SANDF who serve in posts within the Def Sec.

Collectively then, the proposed staff liaison structures, would, in an integrated DOD headquarters, manage all the financial; governance; risk and control; human resource; logistics; information and communication technology; functions and processes. The Sec Def would remain accountable for the entire DOD, exercising civil control, compliance and reporting.

5.5.2 Outer Office Model

Various DOD workgroups have deliberated on different options, as presented in chapters three and four, for realigning the functions and composition of the Def Sec and to structure power relations to achieve and maintain the optimum balance between the Def Sec and SANDF. The principle that was applied to structuring the power relationship between the Def Sec and Chief SANDF was whether subjective, objective or collaborative control was to be exercised, using the parameters of decision-making levels and the nature and extent of the functions to be

[66] This is of course not an exact science and it is a civil control challenge experienced by all the armed services of liberal democracies. For practical reasons the Defence Act and Regulations makes provision for a disciplinary system that obligates civilians serving in military units to obey the instructions of their military superiors and likewise for military personnel in the Def Sec to obey the instructions of their civilian superiors in the performance of their duty.

performed. Ultimately (given that it is neither desirable nor possible to totally exclude some degree of objective and subjective civil control) the DOD settled on the ‘collaborative relationship’ option as being the most appropriate for the South African situation.

In this relationship, the distribution of functions between civil and military components recognises the exclusivity of certain functions, that is either civil or military or vice versa. It also recognises that certain functions resorting under the civil component require military collaboration. For example the locus of control for policy is based on a collaborative relationship. In this sense the armed services’ collaborate in the Def Sec’s civil responsibility to form defence policy, programmes and budgets, whilst the armed services in turn develop military doctrine and strategy in accordance with defence policy, programmes and budgets. The Minister balances this state of creative tension. The locus of control rests with the civil (political) component to ensure civil control and to protect military professionalism.

In terms of civil-military relations theory, at least, the collaborative relationship is widely endorsed. The problem, however, as has been argued, lies in the execution. In the case of the DOD it has been seen that problems arise when the interfaces between the Def Sec and the SANDF are not clearly and concisely defined, which in turn causes ambiguous overlap of functions and responsibilities. In particular with regard to those functions relating to accounting status as head of department, issuing of comprehensive instructions to the Chief SANDF and ensuring SANDF compliance to the Minister’s directives. Probably unique to the DOD is also the situation whereby the Sec Def is legally accountable for the utilisation of resources that the SANDF controls (the resources reside under the SANDF and over which the Sec Def has virtually no control).

Outer Office Model

There have been different alternatives to the balance DOD design proposed over the years. One particularly enduring alternative was the approach or concept/model if you like, generally known as the 'Outer Office Concept' that was introduced in chapter three (Figure 4). In this concept the Sec Def shifts to the Ministry to head the outer office of the Minister of Defence, as a separate designated department with its own budget. The outer office is charged with the duty to assist the Minister to exercise oversight over the armed services and provide various additional support services to the Minister (Document No. 11, 2011).

This is a radical departure from the established balance DOD design and it has a number of significant features that need to be further described. They are:

- The SANDF and DOD become one entity. There is no formal DOD as the SANDF will incorporate the DOD. The Chief SANDF will be the commander of the SANDF, the accounting officer and head of department for the Defence Force (and it follows the incorporated DOD).

- The Sec Def will be the head of department and accounting officer for the civilian Secretariat and the Office of the Minister (Director-General in the office of Minister). Section 8(a) and (e) of the Defence Act would have to be deleted.

- All duties that are deemed functional to the execution of military tasks and missions assigned, are then migrated to the SANDF, including Defence Materiel and Finance.

- Separate legislation would have to be developed to establish the repositioned Def Sec as Director-General in the office of Minister, and the Defence Act would solely pronounce itself on military matters.

- The implications of the above changes are that the applicable legislation (including the Defence Act, Public Service Act & PFMA) would have to be amended accordingly. Furthermore a rationalisation study would need to be conducted within the SANDF to determine capacity requirements, structural repositioning and the like to ensure alignment.

As will be observed there are strong similarities between this proposal and the previous pre-1994 structure, whereby the SANDF incorporated the DOD and the Chief SANDF was the Head of Department, accounting officer and commander of the armed services. The motivation for proposing this alternative approach, drawn from an interview with a senior DOD official (Respondent 05, interview, February 11, 2016) was as follows:

> It resolves the issue regarding how to reposition and capacitate the Def Sec to better enable civil control of defence and to perform the duty assigned to it.
>
> It resolved the question regarding how the organisational structure could be modified to clarify the responsibilities and realign the functions of the Minister and the accounting officer (Sec Def).
>
> The outer office (Sec Def) will assist the Minister to exercise oversight over the armed services and provide various additional support services to the Minister. The Minister is thus duly supported.
>
> The Sec Def will no longer be legally accountable for the utilisation of resources that the SANDF controls.
>
> It will resolve the problem that has surfaced due to the interfaces between the Def Sec and the SANDF not being clearly and concisely defined which in turn causes confusing overlap of

> functions and responsibilities. This will eliminate those challenges with the functions relating to accounting status as head of department, issuing of comprehensive instructions to the Chief SANDF and ensuring SANDF compliance to the Minister's directives.
>
> All duties that are deemed functional to the execution of military tasks and missions assigned, are then migrated to the SANDF, including Defence Materiel and Finance. Accountability of the Chief SANDF for all the resources of the SANDF will finally be clarified and a new accountability concept will no longer be required.

There are of course a number of challenges to this concept. The primary concerns are that this option did not provide for either the strengthening of civil control of the SANDF or the separation of the formulation of departmental policy and programme from the preparation of forces, and the conduct of operations in execution of that policy. It is also a rejection of the current central design precept of the balance DOD design, in that in this proposal the SANDF will once again incorporate the DOD (the SANDF and DOD become one entity) and the Chief SANDF becomes omnipotent as the head of department, accounting officer and commander of the SANDF.

A mid-level DOD official (Respondent 07, interview, February 23, 2016) further cautioned that

> …the Ministry is already bloated with personnel – well in excess of the structure approved in the Ministerial Handbook – and the Minister has been challenged to account for the additional staff…

Ms S. Rabkin (interview, February 15, 2016), also offered the following insight regarding the proposal

> …the main challenge is that the outer office model makes the Ministry too powerful (estimated at approximately 200 staff), more so than any other Department of State... Cabinet has made it clear that the National Executive support is for a strong Defence Secretariat, functioning under the Executive Authority [Minister], to exercise proper civil oversight and control of the SANDF… [if any change is required then] the Def Sec should become the fully fledged department of state and the SANDF the operational arm for execution of policy.

The key driver for considering a new civil control 'model' is of course the Minister's principal directive to review and align the functions and composition of the Def Sec with the changing defence mandate and the Minister's specific support requirements. Particularly that the primary function of the Sec Def, and it follows the Secretariat, is to support the Minister in carrying out her mandatory duties over the Department[67]. Whilst remaining open-minded, a senior official cautioned that it may be too soon to speak of restructuring and that a more successful approach may well be "…to instead of restructuring the DOD macro-organisational level – rather make better use of instructions, delegations and performance agreements to manage the power relationships…" (Respondent 05, interview, February 11, 2016).

[67] Includes but not limited to enhancing the Minister's ability to exercise civil control over the defence function; performing such functions as may be entrusted by the Minister; exercising powers vested through the Constitution and other statutes; assisting and supporting the Minister, as principle policy adviser, in contributing to the formulation of government's security policy and adapting the defence policy to best pursue national interests; responsible to the Minister as key mechanism in coordinating and compiling all relevant instruments through which the employment of the SANDF is authorised; determining ministerial priorities and strategic guidelines on defence matters; determining for the Minister strategic direction, accountability mechanisms and oversight over all defence public entities, including defence acquisition/procurement of defence matèriel; providing the Minister with parliamentary and cabinet administrative and coordination services; provide Minister with legal services; and engaging with defence stakeholders and managing inter-governmental liaison (Defence Review 2015, p.9-16 to 9-17, 2015).

Ms S. Rabkin (interview, February 15, 2016) takes a similar view in that

> …the problem is not realignment of the Def Sec but of the functions/functioning. There is a lack of military knowledge amongst the civilian staff…and the civilians must have military knowledge either before appointment or they must be required to attend properly scheduled orientation programmes, like the one that Wits University presented in the early years of transformation with Prof Gavin Cawthra. It was an excellent course and the participants left with knowledge that they could immediately apply …

Ms S. Rabkin (interview, February 15, 2016) goes on to argue that if the DOD wants to transform then the design priorities are that

> …we need a lean and effective, efficient integrated defence headquarters with appropriate civilian/military appointments as required by the posts…there is no need for an extensive civilian component particularly if it creates duplication in structures…

5.6 Analysis

That the Department of Defence is in a predicament is undeniable. The challenge for the DOD is to find an agreeable solution that will satisfy both the statutory civil control precepts and the Chief SANDF's desire for freedom from undue interference with his executive military command. Central to the entire civil control debate has been the balance DOD design, around which the DOD transformation project is structured, and the role of the Sec Def in exercising civil control in a 'collaborative relationship' with the Chief SANDF. Notwithstanding the obvious flaws in the balance DOD design, choices for an alternative are limited. The most compelling of which, certainly from the point of view of the armed services and probably the Minister, is the Outer Office concept. Whether or not the

Secretariat, as an institution, is quite so supportive remains moot.

The point is though that such a radical transformation does not currently enjoy the support of the national executive and it is unlikely, given the results from the earlier analysis and the clear support expressed for a strong Def Sec exercising civil control under the direction of the Minister, that it would find acceptance with cabinet. The dilemma with the current balance DOD design, as the 'compromise model', is that for successful implementation it is almost entirely dependent on the proper structuring of power relationships within the DOD and maintaining the balance between the defence controllers. The Minister as executing authority, the Chief SANDF as Commander of the SANDF, and the Sec Def as head of department and accounting officer. The lack of decisive leadership at ministerial level – that is a culture of wishing problems away – also played a role in accelerating/aiding the corrosion of civil-military relations. The ambiguity of legislation throughout the period under review, only served to make matters worse.

The other major design weakness identified is the lack of clear delineation of the civil/political and military functions. As observed this leads to poor delineation of the interfaces between the Def Sec and the SANDF and consequently friction around the overlap of functions and responsibilities. The earlier analysis presents a clear picture of a DOD struggling with civil control tensions that manifested in open defiance by the SANDF, concerning those Sec Def functions relating to accounting status as head of department, issuing of comprehensive instructions to the Chief SANDF and ensuring SANDF compliance to the Minister's directives. That the transformation of the DOD is not yet completed, can be in no doubt.

The collectively the arguments advanced (Ms S. Rabkin, February 15, 2016; Respondent 05, February 11, 2016; Respondent 07, February 23, 2016), suggested that there was a lack of consensus regarding the solution for achieving effective defence. The question, reduced to its basic elements, is whether the solution lies with the realignment of the functions

and composition of the Def Sec or whether with improving the structuring of power relationships within the DOD and maintaining the balance between the defence controllers. In particular Ms S. Rabkin (February 15, 2016) argues that the

> …Def Sec is provided for in Constitution so why do we want to change or realign the Secretariat. Rather the [identified] military divisions can be migrated to Def Sec with personnel... military personnel retain rank and overall career management but are deployed/attached to Def Sec for a period and then return to the SANDF. For the period attached they report in to their civilian supervisor and take instructions. This is already happening in a number of posts in the CDSM [Chief Directorate Strategic Management in the Def Sec]...so why would we want to now realign…those calling for realignment of roles and functions [of the Def Sec] do not understand the military [DOD]…

Finally the analysis suggests that there is a lack of unanimity within the Def Sec as to whether or not a primary function of the Sec Def, and it follows the Secretariat, is to support the Minister in carrying out her Mandatory duties over the Department. That being the case, then delivering on the Def Sec Workgroup's key outcome of "…a restructured/ re-engineered/ reorganised DOD Headquarters..." (Respondent 05, February 11, 2016) will continue to elude the DOD.

5.7 Conclusion

Historical challenges with balance DOD design and transformation of the DDO, as well as role identification, inter-organisational coordination, clearly defined jurisdiction, clear delineation of the civil/political and military functions and personality clashes between the civilian and military institutions of the defence organisation are, of course, neither new nor unique to SA. On paper at least, the theory was sound. In that by means

of segregation of the broad defence functions, the other balances each party's power, and the net effect is the collaborative achievement of the defence outcomes. As no party is able to unilaterally execute decisions in this diarchal arrangement, the intended result was that a consultative or negotiated decision-making process would emerge supreme.

The dilemma with the current balance DOD design, is that for successful implementation it is almost entirely dependent on the proper structuring of power relationships within the DOD and maintaining the balance between the defence controllers. As we have previously noted this cycle of conflict, negotiations, and compromises between those who hold power and the armed services (Pion-Berlin, 2006), is not exclusive. The weakness, in the case of the DOD, is rather the apparent failure to deal adequately with the routine challenges to healthy and stable civil-military relations. It is in this capacity, if there were to be a criticism, in which the DOD appeared to be failing.

This chapter opened with a detailed analysis of the primary civil control issues under investigation, particularly the Sec Def's statutory roles and functions, realignment and capacitating the Def Sec to better enable civil control of defence, and the need for better utilisation of delegations and comprehensive instructions within the balance DOD design. This included a thorough analysis of the challenges with the present structural arrangement and various discussions regarding different options for realigning the functions and composition of the Def Sec to restructure power relations and achieve the optimum balance between the Def Sec and SANDF. What this suggested is that the statutory institutional arrangements for structuring power relations and maintaining the balance between the Def Sec and SANDF are at the centre of the conflict between the two institutions. As advanced earlier the underlying cause of many of the deficiencies in the DOD's existing civil-military organisational structures is because of the powerful influence exerted by these tensions

on the co-existence, power relations and working procedures between the Def Sec and SANDF.

The roles, functions, and responsibilities of the Sec Def, as are contained in various pieces of legislation, including the Constitution, the Public Service Act, the Public Finance Management Act and the Defence Act. Any proposed changes to the statutory roles, functions and responsibilities would therefore require extensive amendments. Given that the DOD (as a Department of State) is already a 'special case' then there is probably grounds for a compelling legal argument for amending the applicable legislation to make provision for a 'special delegation regime' or performance agreements. Above all else this single issue is perceived as being part of the ubiquitous solution to the core challenge of structuring power relations and maintaining the balance between the Def Sec and SANDF.

The central research question to be answered is how the functions and composition of the Defence Secretariat should be realigned – whilst enhancing the civil control regime and the integrity of military command – with the changing defence mandate and the Minister's specific support requirements, as a means to achieve effective defence. What is undeniable is that, notwithstanding compelling evidence of a problem, and the benefit of an extensive analysis of alternative approaches and models such as the DOD accountability and staff liaison structure and outer office concept, the immediate solution remains elusive.

It is obvious that change is both necessary and urgent. The next chapter offers an interpretation of the findings of this study and attempts to answer the research questions.

CHAPTER SIX
CONCLUSIONS

The military's focus on equipping and training to win wars inevitably will conflict with the need for elected officials to serve the wider policies of the state. Civil-military harmony requires political institutions that are capable of formulating a rational foreign policy and maintaining a military establishment adequate to support state policy.
Thomas-Durell Young (1996)

6.1 Chapter Outline

This chapter offers an interpretation of the findings of the study in terms of the research questions and the fundamental theoretical concepts. It also comments on the methodology and data collection process, restrictions and challenges. The chapter opens with an introduction to the central research question the study attempted to address, confirms the research purpose, discusses each research question in detail and presents the research findings. The chapter also reviews the application of 'Bruneau's' 'New Institutionalism' framework to the DOD (in a South African context) and identifies and discusses theoretical lessons from the analysis.

6.2 Introduction

The balance DOD design has a chequered history in South Africa and one of the enduring questions is whether there is an alternative civil control model that can be translated into the DOD, copied from another country/institution and context (Bruneau, 2006). A review of the literature suggests otherwise. Whilst the collected works on the subject of civil military relations, and more particularly civil control of the armed services, were helpful in providing a broad framework and concepts with which to guide the study, there was no blueprint for a universally applicable model that could simply be converted to South Africa.

The DOD's 2010 study to benchmark international practices fared little better. Although the study did find strong parallels with both the Australian and New Zealand approaches the conclusion was that notwithstanding

some lessons for the DOD's own transformation project, it did not reveal any pre-eminent Ministry of Defence models that would translate directly to South Africa (Document No. 11, 2011). New Zealand in particular presented a number of interesting possibilities (the New Zealand Ministry of Defence is split into two separate legal entities: a Ministry of Defence headed by the Sec Def; and the New Zealand Defence Force head by the Chief of Defence Force) that could offer insight into a new solution for the DOD's own transformational challenges. The limited scope of the study did not allow for a detailed analysis and thus it is highly recommended that this model be further investigated as a detailed case study.

As a whole, the combined literature sources present various models of civil control of armed services that whilst useful in the sense that they provide evidence of common challenges and some interesting results, they lack any particular solution for South Africa. They shed little light on the DOD's specific challenges with its apparently flawed institutional and legislative civil control arrangements, and it proved difficult to identify a particular model from another country and context that had the potential to be converted directly to South Africa, considering its own distinctive history and legislative system. As has been debated, there is room for including traditional civil-military relations theories and models, providing that they are 'reconceptualised' and adapted to render them more applicable to Africa (Williams, 2003), with a shift in emphasis from authoritarian civil control to 'governance' of the armed services to enable effective defence.

It is recognised that the liberal versus security equilibrium in a democracy is a delicate one, the universal problem being how to balance the related interests and consequences. The necessity to provide the national executive, in a constitutional democracy, with the power to meet challenges to national security on the one hand, must be balanced with the need to uphold civil and political liberties on the other. Moreover to achieve a state of civil control requires that the power resorts with the civil authority, and the armed services are subordinate to that authority. There is no disputing that the Defence Force operates in accordance with the

Constitution and wishes of Parliament and are not an end in itself but the primary means that the civil authority can use in defence of the country. Caution should, however, be exercised to ensure that the control measures do not usurp or interfere in operational matters, the military chain of command or military discipline. They should rather, be aimed at the integration of the SANDF into a democratic society, strengthening mutual trust between the public and armed services and promoting a sense of loyalty within the armed services in serving the country. Nevertheless, in the case of the DOD, whether by design or omission, it is replete with a number of civil control measures that continue to impede not only military effectiveness but also the sound functioning of the DOD.

It has been established that to exercise civil control in a democracy, requires a department of defence structure (including in this case a Ministry of Defence) together with all the various oversight mechanisms and institutional processes required to ensure the subordination of the armed services to the national executive, restrain the coercive power of the military and promote effective and efficient defence. Higher defence organisational design is thus the foundation of the defence establishment and reflects the choice of an appropriate political-administrative and political-military arrangement. The historical development of the South African higher defence organisation, with respect to key functionaries and the armed services' experiences with administrative and military command arrangements is key to understanding how pre-existing South African Defence Force (SADF) institutional models influenced the stakeholders in structuring power relations and maintaining the balance between the Def Sec and SANDF(Bruneau, 2006).

In applying Bruneau's (2006) framework, the starting point was to understand the conditions under which the transformed DOD was created, the interests of the stakeholders involved in creating the institutions, and the relative influence of the pre-existing SADF institutional model on the transformation of the DOD. This aspect was exhaustively analysed in the main body and the findings were that these cogent characteristics had an

enduring legacy that continues to influence the DOD today. In particular the influence on the Joint Military Coordinating Council (JMCC) deliberations was persuasive.

In 1994, the Sub-Council on Defence (SCD) approved the JMCC proposal for a Balance Model of civil control. This decision was derived, in the absence of a viable 'imported' model, from studies of civil control theory and international practices, and a strong desire to impose tight control over the armed services. Without the support of the SADF and *Mkhonto we Sizwe* (MK) the JMCC negotiations would have collapsed and there would have been no agreement reached, at the time, on the transformation strategy for the SADF.

The positions of the ANC and MK on civil oversight and control of the future Defence Force were not in dispute. The challenge was, rather, to bring the SADF on board. Surprisingly the concept of civil control by the elected polity in a democracy, was not the deal-breaker for the SADF that it was expected to be. As has been pointed out by Fourie (2012) South Africa had a long history with the experience of civil control, and the SADF whilst not always embracing the concept, were at least familiar with it. The SADF were not therefore suspicious of the moves to implement civil control as they accepted that it was a normal approach adopted by liberal democracies, worldwide.

The SADF delegation for its part was also satisfied with the balance DOD design proposal; because the changes to the DOD left the SADF force structure largely intact (S. Rabkin, interview, February 15, 2016). The balance DOD design may not have been the 'perfect' choice; however, given the circumstances of the transitional democracy and the very real concern that the SANDF would use its considerable coercive power to entrench its dominance, it later proved to have been the best of the options available at the time.

What the analysis did reveal is that no other liberal constitutional democracies have an administrative arrangement in which the armed services incorporate the unified combat arms as well as the department of defence. The Defence Force incorporating the DOD did not provide for the separation of policy and programme (including the budget) development from the execution thereof or for the separation of those control measures required to ensure transparency and accountability for the economic, efficient and effective utilisation of resources. [68] The need to create a new DOD that incorporated the SANDF, even in the absence of a 'perfect' civil control model, was thus a major driver of the transformation project.

It is understandable that the Minister readily accepted the balanced relationship proposal because it placed him in a position, in theory at least, to balance the independent sources of defence policy advice and administrative control by the Sec Def with the military advice and execution by the Chief SANDF (both appointed at the same level). The management of defence in a democracy necessitates the appropriate distribution of power and control between the civil and military components with checks and balances. The decision to civilianise the DOD and pursue political/civil-military integration placed the locus of control for defence administration and military operations in the Def Sec and SANDF institutions respectively. At the departmental level the balance is set through structuring power relations and maintaining the balance between the MOD, Def Sec and SANDF institutions (Bruneau, 2006). This particular aspect, however, proved highly contentious and difficult to achieve.

The one unanticipated consequence that was to have a debilitating and enduring effect on the genesis and functioning of the balance DOD design, was the failure to separate the head of department from the accounting officer functions and the difficulty with the statutory establishment of the Def Sec. This proved to be a highly complex issue because it involved the

[68] PFMA, 2010, Sec 38 (b)

laws of other departments. Initially the MOD workgroup attempted to establish the Def Sec through a liberal interpretation of the related laws. Parliament later terminated this process, on advice of the State Law Adviser, and confirmed that the accounting officer functions would not be separated from that of head of department. The decision meant that the Chief SANDF could not continue as head of department and that the new Sec Def was to be appointed in his stead.

At a stroke of a pen, this decision forever altered the genesis of the balance DOD design. No longer would the 'balance' in the design, as was anticipated by the JMCC, be maintained by splitting the head of department function (Chief SANDF) from that of accounting officer (Sec Def). The effect of this decision was that the success of the balance DOD design became almost entirely dependent on the mechanics of structuring power relationships within the DOD, efforts to maintain the balance between the defence controllers and managing the heightened civil control tensions between the Sec Def and Chief SANDF.

The unintended result of which was that according to the Public Finance Management Act, the Sec Def as the head of department is also automatically the accounting officer for the entire DOD, as a department of state. The Sec Def must account for all the DOD's resources, whether or not they are under his or her control. This situation, unintended or not, real or imaginary, established a relationship in which the Chief SANDF was placed in a 'subordinate' position to the Sec Def. Thus setting the scene for the adversarial civil-military tensions that were later to plague the DOD.

The collaborative relationship in an integrated defence head office is widely endorsed, the problem, however, lay in the execution. In the case of the DOD problems arose due to the failure to clearly and concisely define the interfaces between the Def Sec and the SANDF, which in turn caused confusing overlap of functions and responsibilities. In particular with regard to those functions relating to accounting status as head of department, issuing of comprehensive instructions to the Chief SANDF

and ensuring SANDF compliance to the Minister's directives (Defence Act 42 of 2002, Sec 8 (a);(e);(f);(g)). Probably unique to the DOD is also the situation whereby the Sec Def is legally accountable for the utilisation of resources that the SANDF controls.

What the study highlighted was that the ultimate challenge for the DOD could be reduced, in simple terms, to finding an agreeable solution that would satisfy both the statutory civil control precepts and the Chief SANDF's desire for freedom from undue interference with his executive military command. Central to the entire civil control debate has of course been the balance DOD design, around which the DOD transformation project is structured, and the role of the Sec Def in exercising civil control in a 'collaborative relationship' with the Chief SANDF. There is ample consensus that the balance DOD design has failed to live up to expectations and that it has proven difficult to establish and maintain the optimum balance between civil control and the integrity of military command, to assure military effectiveness. What is equally obvious is that even after more than two decades of transformation and democratic consolidation, the DOD has yet to complete its transformation. If Defence Review 2015 is anything to go by then it can be expected that the process is set to continue for at least the next 25 years.

Notwithstanding the obvious flaws in the balance DOD design, choices for an alternative have proven elusive. There are a number of solutions identified by the study, however few if any served as the complete answer. What the analysis does suggest is that additional solutions will have to come from the DOD itself, preferably in a joint venture with the broader network of South African consultants and defence analysts, as the design would need to take into account the unique circumstances, dynamics and legislative prescripts that govern civil control of the SANDF. What is obvious is that for the DOD there is still much work to be done?

6.3 Reassessing Civil Control of the Defence Force

The purpose of this study was broadly to reassess civil control of the SANDF and more particularly to determine how to realign the functions and composition of the Def Sec – whilst enhancing civil control and the integrity of military command – with the changing defence mandate and the Minister's specific support requirements, as a means to achieve effective defence. This also sums up the central question this study set out to answer. Typically it proved much more difficult to answer this question than initially anticipated.

It must be obvious to the reader by now that the DOD is, relatively speaking, a large highly complex department of state (78 011 employees as at 31 March 2015) (Department of Defence, 2015d, p. 117), comprising two core integrated institutions, the Def Sec and SANDF, with multiple decision-making levels and an extensive national and international presence. Added to this is the provision of forces, in support of foreign peacekeeping operations and internal borderline security, as an output of the SANDF's ordered commitments. All this adds up to a challenging environment for any department of state to transform as radically as required of the DOD. This is particularly true when one considers that the transformation occurred whilst the Department continued to operate as a 'department in motion'.

A framework was applied, to reassessing civil control of the South African armed services and analysis of the data, based on the work of Bruneau (2006, pp.6-7). It made sense to structure the study in a chronologically manner, covering chapters three and four, to provide the reader with a point of reference as the argument developed. The approach was also to present and analyse the data consistently throughout chapters' three to five. The broad framework applied to the study was to:

- Analyse the extent to which a particular model copied from another country/institution and context could be translated into the DOD.

- Determine how the DOD (as an institution) structures power relationships and maintains the balance between the Def Sec and SANDF – including a review of:

    - Conditions under which the transformed DOD was created.
    - Interests of the stakeholders involved in creating the institutions.
    - Influence of pre-existing institutional models on the transforming DOD.

- Analyse both institutions (Def Sec and to lesser degree the SANDF) individually, before analysing their impact on one another.

- Analyse what influences the institutions exert on actors and processes.

- Evaluate the means by which the Executive Authority exercises civil control of SANDF and the SANDF's concomitant military effectiveness.

Generally the framework worked well. It was applied judiciously throughout the chapters' three to five, to guide both the research and the integrated analysis per chapter. There were a few minor adaptations made to the framework, during the study, largely due to the narrow research scope. The Def Sec and SANDF were individually analysed in chapters three, four and five, as part of the larger DOD, however, the limits of the study did not allow for equal treatment of both institutions. The scope, therefore, was by research design, limited to acquiring an in-depth understanding of the Secretariat as an institution, and to a lesser degree the SANDF, as some knowledge was necessary in order to gauge their relationship with one another, and to determine the extent of influence exerted on the actors and processes Bruneau (2006, pp.6-7). In this the study succeeded. It is acknowledged that the lack of a more comprehensive

treatment of the SANDF is a restriction that was planned for in the research design. This presents an opportunity for conducting a further empirical study, over a longer period and with a wider scope. The section that follows seeks to address and answer the key research questions.

6.3.1 Repositioning and Capacitating the Defence Secretariat

The entire question of how should the Def Sec be repositioned and capacitated to better enable civil control of defence and to perform the duty assigned to it, took the study in directions not anticipated at the outset. The question, although well formulated, probably omitted to anticipate the depth of data and complexity of the integrated/cross-cutting transformation processes executed over more than two decades. To address the question required not only reviewing the genesis of the balance DOD design, the history of transformation in the DOD, but more particularly identifying and analysing the statutory duties and functions of the Sec Def in detail as well as the challenges with the present structural arrangement. This includes investigating various options for realigning the functions and composition of the Def Sec to restructure power relations and achieve the optimum balance between the Def Sec and SANDF.

The rationale for the balance DOD design has been exhaustively debated in the preceding chapters. The key challenge originated with the pre-existing SADF design and the inadequacy of the administrative and command arrangements for effective civil control, and that it did not provide for the separation of those control measures required to ensure transparency and accountability for the effectiveness, efficiency and economical utilisation of resources (Republic of South Africa, 1999, Sec 38 (b)). The overarching approach was to divorce the military command and control structures from the direct interface with political issues on the one hand and on the other to leave those functions which require no military expertise in the hands of the civilian personnel within the department.

The Minister is the executive authority responsible and accountable for the defence function. The Minister therefore required a Department, as the organisational infrastructure through which to direct and control the performance of the defence function, that complies with the post-democratic Constitutional and legislative requirements for civil control and oversight. At the time the balance DOD design met these requirements.

The organisational structures required to support the Minister are discussed in more detail in paragraph 6.3.2 below, for now it is sufficient to confirm that the department must perform three broad functions:

- Advice to the Minister regarding the Defence policy, strategy, programme and budget.

- Execution of the programme according to government policy.

- Ensuring transparency and accountability for the effective, efficient and economical utilisation of resources.

To ensure effective ministerial direction and the exercise of civil control the formulation of defence policy, programme and budget must be separated from development and preparation of forces and the conduct of operations to execute that policy. Separation is required because the Minister is responsible and accountable for the determination of the defence policy and programme as advised jointly by the Sec Def and Chief SANDF. It follows that the Sec Def and Chief SANDF are responsible for the execution of the approved DOD policy and programme. Although they are distinguishable institutions, the two are physically collocated and organisationally interactive in the process of defence management.

The study supports the key finding that the DOD is adequately managing the first two broad functions (advice to Minister and execution of defence

programme). This is not to say that there are no problems. The challenges though have more to do with structuring the power relations between the two main controllers (Sec Def and Chief SANDF) who enjoy the same seniority and privileges as head of department than any confusion regarding who is responsible for which functions[69]. The Sec Def as accounting officer has a clear statutory responsible for finance and according to the PFMA the DOD's Chief Financial Officer must report to the accounting officer (Sec Def). The main dispute

> …is about what the Chief SANDF reports. The Chief currently reports on finance directly to Sec Def [for the statutory reasons argued above] but on everything else directly to the Minister, with Sec Def in support of course. This creates tension between the controllers because the Chief does not want to report to Sec Def… and only does so grudgingly on finance… (Ms S. Rabkin, interview, February 15, 2016)

Another official confirmed that

> …the Chief SANDF has a mind-set problem regarding the role and function of the Sec Def and will not report to a civilian. The Chief only wants to report to the Minister. To my mind the Chief lacks understanding of the concepts of [and differences between] reporting, monitoring and civil control… (Respondent 02, interview, November 06, 2015).

The analysis suggests that challenges with role identification, inter-institutional coordination, clearly defined jurisdiction and personality clashes between the civil and military institutions of the DOD are neither

[69] This does not in any way detract from the argument that there is dissatisfaction with regard to those Sec Def functions relating to accounting status as head of department, issuing of comprehensive instructions to the Chief SANDF and ensuring SANDF compliance to the Minister's directives, that are dealt with as a special case.

new nor unique to SA. The problem is rather the key role-players failure to cogently deal with the inherent civil-military tensions. Legislative ambiguity has only served to exacerbate an already tense situation. Further fuelled by a lack of decisive leadership at ministerial level – a culture of wishing problems away – that also played a role in accelerating the corrosion of civil-military relations. Left unresolved the simmering civil-military tensions continue to impede military effectiveness and would need to be resolved as part of the overall defence review.

It is with regard to the third broad departmental function (ensuring transparency and accountability for the effective, efficient and economical utilisation of resources), that the problems are foremost and demonstrate an area of least success in respect to civil-military collaboration. The study supports the finding that the current use of delegations in the DOD has not succeeded in solving problems with accounting for DOD resources. This will require an extensive review of the DOD's internal processes regarding the utilisation of resources and the need for better use of delegations and comprehensive instructions within the balance DOD design. This issue is dealt with in detail in paragraph 6.3.3 below.

Ultimately what the study finds is that it is more about how the Def Sec should be capacitated rather than being repositioned to better enable civil control of defence and to perform the duty assigned to it. Structural issues are clearly a factor and should indeed be dealt with in the broader DOD reorganisation as part of the implementation of Defence Review 2015. In terms of capacity it is evident that the core functional structures are in place within the Def Sec and the recommendation would be for the DOD to focus, in the interim, its energies on enabling more efficient performance of these functions. It is important to recognise that policy, programme and financial functions are common to all state departments and are, by all accounts, being performed competently by civilian civil servants. Notwithstanding the fact that civil control is still a contested concept in the DOD, in terms of purely organisational business process, there should be no reason why civil servants, in conjunction with the

military functionaries (collaborative arrangement), cannot perform these functions in the DOD.

It is recognised that this will require the DOD to train and develop additional functionaries as specialists according to their functional employment. Mostly the DOD should train and develop civilians in the processes of government and public administration (policy, programme and finance) and train the military personnel in the process of planning, commanding and controlling military operations. The key to success though will be to determine the extent of cross-functional training and exposure required to enable the civilian-military teams to work collaboratively on defence policy, strategy, programme, finance and departmental administration.

6.3.2 Modifying the Organisational Structure and Realign Functions

The study finds that there is a lack of consensus regarding whether the solution for effective defence lies with modifying the macro-organisational structures to clarify the responsibilities and realign the functions of the Minister and the accounting officer (Sec Def) or with improving the structuring of existing power relationships within the DOD. Both options have merits and are not mutually exclusive. The challenge for the DOD is to find an agreeable solution that will satisfy both the Ministers support requirements and the Chief SANDF's desire for freedom from undue interference with his executive military command.

The analysis suggests that at the centre of the dispute is a differences of opinion as to whether or not a primary function of the Sec Def, and it follows the Secretariat, is to support the Minister in carrying out her Mandatory duties over the Department. There is no disputing that the Sec Def as Director-General of the DOD (as a department of state) has a clearly defined responsibility to the Minister. It is rather the extent of the support functions to be performed on behalf on the Minister, which are in question. In this function at least, there is agreement that the Def Sec

currently falls short of effectively supporting the Minister. The reasons for this include structural, capacity and system inadequacies which collectively render the Def Sec unable to fulfil this role.

Notwithstanding the obvious flaws in the balance DOD design, choices for an alternative are limited. The Outer Office concept, as the solution to clarifying the responsibilities and realigning the functions of the Minister and the accounting officer, for all its motivation, is unlikely to be accepted as a 'replacement' of the balance DOD design. As argued at some length in chapter five, the Outer Office concept is not currently endorsed by the national executive. Its value lies rather in exposing the DOD to a radically different approach, whilst controversial, it does offer a glimmer of opportunity for considering a different way of 'doing business'. Further analytical enquiry may well succeed in unlocking new ideas and approaches that could form the basis for the next range of solutions for the DOD's ongoing transformation.

For example one idea that warrants further investigation (Ms S. Rabkin, interview, February 15, 2016), is the organisational restructuring whereby the Def Sec evolves into a fully functional department of state and the SANDF becoming the operational arm. The Def Sec would need to shed all superfluous functions and become lean and highly efficient whilst the SANDF would focus on execution and reporting on operational ordered commitments. The obvious benefits would be that the budget for the SANDF would be 'ring-fenced' and more visible in respect to performance in execution of ordered commitments. The funds would no longer be hidden inside the larger DOD organisational structure where they are consumed by the non-deployable 'blunt-end' tail. Any possible wastage would also be more visible. Ultimately it should be easier to confirm exactly what funds are available for deployments in support of national foreign policy and the limits of what South African can actually afford.

6.3.3 New Accountability Concept for the Department of Defence

The key question was whether the DOD requires a new accountability concept within the DOD. The inescapable fact drawn from the analysis was that accountability is at the heart of the exercise of sound civil control. Accountability was determined as the ability to be able to measure and assess performance against objectives and to clearly attribute accountability (answerability). In the context of the study on the DOD this means:

- Leaving the military operations to the SANDF, subject to the control of the Minister (to fulfil the constitutional requirement for the subordination of the military forces to the authority of Parliament), and making them fully accountable for those activities (civil control – performed by the National Executive).

- Clearly defining military outputs, that is the provision of operationally capable forces (military effectiveness - in achieving ordered commitments and defence efficiency – sound resource management) (Ratchev, 2011, p.4).

- Clear separation of macro and functional policies, and attaching the relevant civil and military roles thereto.

- Applying accepted business criteria in evaluation and assessment of performance of those responsible for departmental resources.

It is in the aspect of accountability that the DOD has not performed particularly well. This was identified as being at the root of many of the civil control tensions and imbalances in the structured power relations between the Sec Def and Chief SANDF. Secondly a situation whereby the Sec Def is legally accountable for the utilisation of resources that are controlled under the SANDF is entirely undesirable.

The requirement for a new DOD accountability and staff liaison structure has been thoroughly argued in chapter five. What is not so clear is how such a structure would be organised and operate. The detailed analysis lies outside of the scope of this study (with its focus on the Def Sec and not SANDF per se). Having said that it is necessary to define the problem and offer a brief analysis of the findings. The overarching problem was defined as the fact that the current delegation regime compromises military command and control. The accounting officer delegations to SANDF members and posts makes it impossible to maintain the integrity of the line of command. The implications are that the delegate remains accountable to the Sec Def instead of the next highest authority in the line of command. Legally the command line cannot therefore be accountable for the non-compliance with delegations by their subordinates. This makes it almost impossible for the command line to account for the performance of members against those delegations. The universal principle is that the commander/manager can only be held accountable if he has both the responsibility and the authority necessary to fulfil his obligation. In other words responsibility and accountability must be commensurate.

What can be deduced from the findings is that regardless of the corporate structure that is pursued for the DOD, the following considerations would have to be taken into account. Firstly recognition that the military organisation is a hierarchical one and whilst the armed services must be governed democratically, it can never, in itself, be a democratic institution (Cawthra *et al.*, 2003, p. 305). Secondly responsibility and accountability must formally cascade down the command line and thirdly the command line must be free from outside influence. To achieve this recommendation would require the amendment of the Defence Act to provide for a delegation system in which the powers and duties can be delegated down the command line – one step at a time along the command line – with commanders at all levels being responsible and accountable for their resources.

The study supports the finding that the Chief SANDF is responsible for all activities in the SANDF and should be accountable for the correct delegation of authority and accountability to subordinate levels. The Chief SANDF via his subordinate commanders who in turn will be accountable up the chain of command, directly to the Chief, should issue all delegations, directives, instructions and tasks assigned. The study therefore supports the finding that the investigation of a new accountability concept by the DOD, is both overdue and necessary.

6.4 Insight on data collection and challenges

Efforts to track down a complete and detailed record of the entire DOD transformation process, proved elusive. Various attempts were made to try to locate records in 'official archives', however this proved less than successful. For a number of reasons, the maintenance of standard record keeping, in terms of a central registry that logged all internal documents produced by the DOD, had not continued in the same manner, as prior to 1994. Based on largely anecdotal evidence, there are a number of explanations for this.

There is some evidence to indicate that the restructuring of the DOD and technological progress made with the availability of personal computers meant that more of the key senior personnel were typing and distributing internal documents themselves (in a number of cases via email or the internal DOD intranet facility (LAN)). As a result recordkeeping of documents received and dispatched from the various sections, were largely managed at the individual office or section level. The problem with this arrangement was that not all documents were itemised and transferred across when there was a handover between the departing official and the new incumbent. The consequences of which is a large gap in records.

A particular troubling example is the recordkeeping for the various earlier internal reviews conducted by the department on both the Defence White

Paper, 1996 and Defence Review, 1998. Very few of the original records could be unearthed. This proved to be more than just an inconvenience for the researcher as one senior official who was intimately involved with Defence Review 2015 complained that the absence of records materially hampered the work of the workgroup. Specifically what was missing was a detailed empirical record that demonstrated critical analytical engagement and reasons for the failure of Defence Review 1998 (Respondent 03, CDSM work-session, 01 December, 2015). The fact that many of the original personnel who worked on the implementation of these reviews, are retired and unavailable or are otherwise no longer employed by the DOD, served to exacerbate matters.

The researcher was fortunate, notwithstanding the above challenges, to discover at least one senior DOD official who had managed, remarkably as it seems, to amass a collection of extremely useful documents. These were hard copies of various military restricted papers (DOD minutes, correspondence and parliamentary records/submissions since about 1995) and electronic (scanned) copies of more recent documents from about 2006 (Respondent 01, April 12, 2015). Although incomplete as a record, and non-collated, it went some way to allowing the researcher to piece together the outline of the DOD transformation process.

In general the researcher also experience first-hand how fallible memories are. Due to the time that has elapsed over more than two decades and the high turnover in personnel the few available respondents who participated in the transformation, were only able to provide a snapshot of their experiences. No one person seemed to have a full picture of the transformation process since inception. Very few, if any, have attempted to conduct a proper empirical study of the entire civilianisation process that was central to the transformation of the DOD and the effectiveness and efficiency of civil control of the SANDF. Greater reliance was thus placed on primary documentary sources and using key respondents to fill in the gaps, provide confirmation and validate reliability.

6.4.1 Restrictions

The DOD keeps formal minutes of all statutory committee and council meetings, for record and audit purposes. However, only those personnel with the required security clearance levels can access the minutes, once authority has been provided based on a need-to-know basis, which also covers research projects approved by the DOD. This restriction is based on the fact that serving officials, both civilian and uniformed, are require to maintain their security clearance. Part of the restrictions placed on personnel by that clearance is that they may not divulge classified material to anyone not possessing an equivalent clearance. This is a definite limiting factor. It is therefore probable that numerous additional records exist that are still to be discovered. The relatively short six month timeframe provide for this study and as a result the limited scope, did not allow time or space for extending the search.

This presents an opportunity for a new more expansive study that can broaden the base of data sources and include military restricted documents. It must be cautioned though that the formal process, even for serving DOD personnel, to secure permission to conduct post-graduate research on current restricted data, is bureaucratic although not impossible. A primary requirement is to demonstrate, by means of official correspondence, that the sponsoring university faculty and research supervisor support the post-graduate research study. Secondly that the results/findings are of some material benefit to the DOD or at least contribute meaningfully to the general body of knowledge.

6.5 Concluding Comments

What the study highlighted was that the ultimate challenge for the DOD could be reduced in simple terms to finding an agreeable solution that would satisfy both the statutory civil control precepts and the Chief SANDF's desire for freedom from undue interference with his executive military command. Central to the entire civil control debate has of course been the balance DOD design, around which the DOD transformation project is structured, and the role of the Sec Def in exercising civil control in a 'collaborative relationship' with the Chief SANDF. There is ample consensus that the balance DOD design has failed to live up to expectations and that it has proven difficult to establish and maintain the optimum balance between civil control and the integrity of military command, to assure military effectiveness. What is equally obvious is that even after more than two decades of transformation and democratic consolidation, the DOD has yet to complete its transformation. If Defence Review 2015 is anything to go by then it can be expected that the process is set to continue for at least the next 25 years.

Answering the central research question with respect to realigning the functions and composition of the Defence Secretariat with the changing Defence Mandate and the Minister's specific support requirements, whilst striking the optimum balance between civil control and the integrity of military command, proved highly challenging and offered varying results. Although the study could not deliver comprehensive solutions, it did fundamentally succeed in providing a new empirical study, detailing the DOD transformation project, as it evolved chronologically over more than two decades. It also succeeded in providing numerous new insights and perspectives into the civil control challenges confronting the DOD.

That civil control remains a contested concept within the DOD is not in doubt. The solutions may be elusive; however, the DOD cannot afford to stop now. There is still much work ahead of the DOD, if it is to finally strike the optimum balance between civil control and the integrity of

military command and in so doing assure effective defence. There is strong evidence that the solutions lie more with how the Def Sec should be capacitated rather than the current focus on repositioning to better enable civil control of defence and to perform the duty assigned to it. Structural issues are clearly a factor and should indeed be dealt with in the broader DOD reorganisation as part of the implementation of Defence Review 2015. Nonetheless, there is a strong argument presented that instead of restructuring, better use should be made of performance agreements, delegations and detailed instructions. The DOD can already be considered a special case as a department of State with its 'two heads', both being entitled to the benefits and privileges due to a Head of Department, Section 7(2) and 13(2) (Republic of South Africa, 2002). Given that it is recognised in law as a 'special case', there should be a strong legal argument for amending the applicable legislation to make provision for a 'special delegation regime' or performance agreements, as a solution to the DOD's immediate needs for providing an effective armed service.

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APPENDIX A

Respondents Interviewed

Respondent 01: Senior DOD official, 12/04/2015.
Respondent 02: Mid-level DOD official, 24/11/2015.
Respondent 03: Senior DOD official, 01/12/2015.
Respondent 04: Retired Senior official, 23/12/2015.
Respondent 05: Senior DOD official, 11/02/2016.
Respondent 06: Ms S.R. Rabkin, Defence Analyst DDSI, ARMSCOR,15/02/2016.
Respondent 07: Mid-level DOD official, 23/02/2016.