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COVID-19: The greatest test of defence in South Africa's democracy yet

Ray Hartley and Gregg Mills have written that an "[Iron Curtain](#)" is falling on South Africa's freedom. Ferrial Haffajee [describes](#) government's recently established [curfew](#), in the fight against the spread of Covid-19, as "an unnecessarily draconian method likely to be abused by law enforcement police, traffic police and soldiers who have been criticised by the UN human rights office for being heavy-handed." [Nic Cheesemen](#) and Jeffrey Smith inform us that, "In countries like Rwanda and South Africa, the measures put in place to stop the spread of the virus are among the most restrictive in the world." These authors say, "Civil society must fight back."

In the midst of the Corona virus pandemic and President Ramaphosa's [decision](#) to "employ" an [additional](#) 73 180 members of the South African National Defence Force (SANDF) to help contain the spread of the virus, it is arguably more important than ever before in South Africa's democratic history, that South Africans consider and meditate on the [responsibility](#) that comes with freedom.

In Africa, the military has seldom proven to be freedom's friend. I have written [elsewhere](#) that the military has been one of the biggest obstacles to Africa's democratic development and therefore, the freedom of Africa's people.

In February, the SANDF held its ninth Armed Forces Day (AFD), celebrating "[25 Years of Defence in Democracy](#)". South Africa will be one of [few African countries](#) to claim such a milestone with any degree of credibility. In the context of Africa's civil-military relations, therefore, South Africa has thus far shown itself to be one of few exceptions to the continent's status quo. The Covid-19 pandemic has already and will potentially continue to test this.

What is 'defence in democracy'?

The notion of 'defence in democracy' originates from within the wider ambit of [civil-military relations](#). The civil-military relationship in any country, whether democratic or not, is concerned with two things.

The first is the establishment and upkeep of a military that is able to fulfil its security responsibilities. At minimum, this involves protecting the state against external aggression, intrusion or invasion. To this end, the military is equipped with arms and expertise to manage violent conflict, defend against attacks on state apparatus, and conduct warfare. The greater a military's capacity to fulfil these tasks, the greater the potential it has to act to the detriment of its host society, whether of its own accord, or at the behest of an undemocratic leader.

The second concern of the civil-military relationship is therefore to exercise the necessary control over the military so that it does not use its arms and expertise against its controlling authority or wider society. In the extreme, the latter takes the form of a [military coup](#).

The [civil-military dilemma](#) refers to the tension between equipping the military with destructive power and [guarding against](#) an abuse of that same power.

Where a government's goal is to pursue democratic development, the concern with that country's civil-military relationship extends beyond having a capable and controlled military. The additional concern is with 'defence in democracy' – ensuring the actions and operations of the military and the control over the military, reflect [democratic values](#) and protect human freedom.

The SANDF as key domestic player

The SANDF is a key player in South Africa's political landscape, if only because of the realities that make for the civil-military dilemma.

During his [first address](#) as Commander-in-Chief at AFD 2018, President Ramaphosa praised the SANDF, who, according to him, had "confirmed the depth of the roots of our democracy and the flourishing of constitutional order." Ramaphosa attributed his peaceful transition to power, following the resignation of former president, Jacob Zuma, to the fact that, "our defence force is led by wise women and men who abide by the idea of the supremacy of the Constitution and the Rule of Law."

I have argued [before](#) that President Ramaphosa was overly generous in this assessment. The danger inherent in his unqualified praise is its ability to foster the false belief that the [absence of a coup](#) or violent transition of power is the hallmark of democratic civil-military relations. It therefore downplays [other essential requirements](#) for 'defence in democracy'. This downplaying can have a detrimental impact on democratic control of the armed forces and by implication, [democratic consolidation](#).

While South Africa has not fallen victim to a coup, as is the case with [most other](#) African countries, there are aspects of the country's defence force, and the country's civil-military relations more broadly, that are cause for concern. We know the following, for example:

- 1) [South Africa's defence capability](#) has been and remains under immense strain. The ability of the SANDF to execute its constitutional mandate of defending and protecting the republic, its territorial integrity and its people is under question.
- 2) Clearly, the SANDF is under control, both [institutionally](#) and in [de facto](#) terms. However, whether the [control](#) and [deployment/use](#) of the SANDF has always been democratic is questionable.
- 3) Furthermore, a number of [reports](#) have brought into question the extent to which military leaders have succeeded in cultivating in the SANDF, the depth of military professionalism necessary for a flourishing constitutional democracy.

The SANDF in the fight against Covid-19

The Covid-19 pandemic creates the potential for the accentuation of each of the challenges currently facing defence in South Africa's democracy.

The legality:

The contradiction between [South Africa's Constitution](#) and the country's [Defence Act](#), [already noted](#) by constitutional law expert, Pierre de Vos, potentially challenges the legality of internal SANDF deployments, for purposes other than supporting the police. This includes the current deployment undertaken in the fight against the spread of Covid-19.

[Further concerns](#) exist around the constitutionality of the procedures that were followed in circulating President Ramaphosa's [second deployment letter](#); the letter's subsequent approval; the nature of the parliamentary discussions around the additional deployment; and, the implications of all this for South Africa's separation of powers.

During the parliamentary briefing on the additional deployment of military personnel, SANDF Chief of Staff, [Lieutenant-General Lindile Yam](#), told parliamentarians that, "You're not our clients. We are not the police. We take instructions from the commander-in-chief."

Yam's words suggest a failure to understand that while the President is the Commander-in-Chief, the law requires that he answer to the democratically elected representatives of the people. Parliament is responsible for holding the President, his ministers, and the state departments over which they preside, to account. This is why in the first place the President must communicate to Parliament in writing any decision to deploy the military.

If South Africa's parliamentarians are not clients of the SANDF, then nor are the citizens that parliamentarians in theory represent. Yam's comments are irresponsible. They flout the democratic ideal that the military exists in service of the people, they disregard [the oath to defend the people of South Africa](#), and they contradict the notion of a "[People's Defence Force](#)" – a marketing slogan of the SANDF's own making.

The adoption of his view to any significant degree across the rest of the defence force, could cultivate an intensely adversarial atmosphere with the real mass deployment of soldiers on South Africa's streets. This can have potentially disastrous consequences for South Africa's civil-military relations and the country's democracy as a whole.

Already, [William Gumede](#) has written, "The organisational culture of the police and army, which clearly is based on humiliation, aggression and abuse should be thoroughly shaken up to focus on compassion, human rights and decisions based on common sense." [Zaheera Jinnah](#), speculates "whether the police and the army will abide by the Constitution, or will be tempted to go rogue." She writes, "South Africa's armed forces are notorious for being inefficient – and unnecessarily violent."

[Finally](#), "The Joint Standing Committee on Defence did not challenge or rebuke" Yam for his comments. This confirms the concern raised in a [study](#) that the quality and robustness of parliamentary oversight of South Africa's defence force has been in decline. The Covid-19 pandemic [aggravates](#) this shortfall.

The practicality:

A number of commentaries prior to and during the Covid-19 pandemic have cautioned against and warned of the [challenges](#) associated with the internal deployment of the SANDF, whether it be for the purposes of [fighting crime](#), assisting with [humanitarian work](#), or both. A notable exception is [Martin Rupiya](#), a former Lieutenant Colonel in the Zimbabwe Defence Forces. Under current conditions and depending on the extent to which Covid-19 spreads and how government manages the virus, it is [possible](#) that government will use the SANDF to fight crime, [however this may be defined](#), and assist with humanitarian work.

Conventionally, governments train and equip militaries for the application of force against external enemies, not to police or protect communities. For this reason, [Andrew Fauli](#) has warned that state abuses during military deployment, "could match the threat of Covid-19 itself."

President Ramaphosa recognizes this, which is why he said during his [inspirational address](#) to military personnel on the day of the first Covid-19 military deployment, that, "This is not a moment for 'skop and donder'".

Unfortunately, but unsurprisingly so, incidents [reported](#) since President Ramaphosa's address have [shown](#) disregard for his appeal and have affirmed the concerns expressed by commentators on South Africa's civil-military affairs.

The greatest test yet?

[Scholars](#) have warned of how Covid-19 presents political leaders with an opportunity to undermine democratic freedoms. Furthermore, the emergency powers that governments impose during times of crisis, including in established democracies, "are [rarely reversed or curtailed](#) when a crisis inevitably recedes."

In principle, the military, because of what it is trained for, and with the instruments of coercive force at its disposal, holds the greatest potential for enforcing [political decisions](#) that citizens would [otherwise reject](#), and sustaining their enforcement beyond a period of time that is necessary. In South Africa, as is the case [elsewhere in the world](#), this risk escalates relative to the size of the military force deployed.

In his second deployment letter, President Ramaphosa has instructed the deployment of a number close to the SANDF's entire [personnel strength](#), most of whom are uniformed members. Defence analyst, Helmoed Heitman, is correct in his [assessment](#) that while the deployment of virtually the entire SANDF has been approved, this is only a precautionary and preemptive authorization that allows for the prompt and real deployment of troops from anywhere in the country, if the need arises.

[Mathurin Houngnikpo](#) observes that, "In many [of Africa's] former autocracies, the military has concentrated on internal order, or been deeply involved in political life, sometimes preying on the society rather than protecting it."

Should it become necessary for the South African government to follow through with the second SANDF deployment, to its fullest extent, the challenges facing defence in South Africa's democracy will be exacerbated. Furthermore, the use of the SANDF in this manner, will reflect to a greater degree the internal order function of the military in other African countries. This is why Covid-19 will potentially be the greatest test of civil-military relations in South Africa's democratic history.

[Peter Knoope](#) highlights, "The need for a functioning non-corrupted law enforcement, conflict resolution and management system...to prevent anger and frustration from being used for political mobilisations. In the present situation, all these systems function under stress."

As is the case with many other organisations across the world, military and otherwise, the SANDF is [not properly prepared](#) for Covid-19. To be fair, the same is likely to be true of its foreign counterparts, albeit to different degrees. Still, the lack of the SANDF's readiness adds to the risk of things going wrong should the military come under increasing pressure and stress as it performs tasks for which it is not adequately prepared.

[Francois Vrëy and Hussein Solomon](#), of the Security Institute for Governance and Leadership in Africa (SIGLA), describe the scenario where the SANDF is required to play a more intrusive role or enforce martial law as "a particularly dangerous outcome," since it may expose "the real impact of [underfunding the military for years](#)." Such a prospect is even more unsettling in light of [Knoope's](#), "Eight Reasons Why Covid-19 May Lead to Violence," most, if not all of which are applicable to South Africa.

If South Africa is to avoid the realities characteristic of civil-military relations in other parts of the continent, and [during apartheid South Africa](#), South Africans will need to consider and meditate on the [responsibility](#) that comes with freedom. This responsibility includes holding the country's politicians and its defence force to account, by whatever legal and peaceful means necessary.

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