

PARLIAMENTARY OVERSIGHT ON MILITARY EXPENDITURE: THE ZAMBIAN CASE

Emanuel Chungu

Introduction

This paper examines how from 1964 to 2001 civil control of the military was enshrined in the Constitution of Zambia, Constitution Act 1964, article 100. It also examines how the Zambian Parliament used its legislative powers to control the behaviour, administration and activities of the military, to legalise government's declaration of a permanent state of public emergency between 1964 and 1992 in the face of external aggression from neighbouring colonial states, and how Parliament used its powers of budgetary allocation and supervision through parliamentary committees to control defence expenditure.

It is important to note that Zambia is a former British colony which existed in a state of relative peace and had never experienced any successful military coup d'état. The Zambian leadership was fortunate in having a body of doctrines, theories and control mechanisms that were inherited from their British colonial masters.

The Zambian government applied these theories of civil control in the years after independence and improved on them by introducing a policy of integration and cooperation among the political elite, the military and the citizenry, especially when they were faced with problems of external security threats from neighbouring countries, which had not yet attained their independence.

In order to analyse the topic properly, the paper will examine the relationship between Parliament and the military by looking at the following phases of Zambian history:

- Zambia's First Republic (1964 to 1972) under the British-negotiated 1964 Constitution;
- Zambia's Second Republic (1973 to October 1991) under the modified independence constitution which ushered in the one-party participatory democratic system of government; and
- Zambia's Third Republic (from 1 November 1991) which came into being through a new constitution that brought about the reintroduction of a multiparty democratic system of government.

Definition

David Chuter in *Defence Transformation* defines civil control of the military as:

“the obedience which the military owes to civis, the state. The military is one of a number of instruments of state, of which other examples are the police, the fire service, the diplomatic service, and, in many countries, the medical service. Like these other bodies, the military has a duty of loyalty to the state, which employs it on behalf of the citizen and the taxpayer. The military, among its other functions, thus advises on the formulation of defence policy and helps to carry it out. But it does not make defence policy, of course, any more than doctors make health policy, or police officers make policy against crime.”¹

Parliamentary oversight over defence expenditure 1964 to 1991

At the time of independence Zambia’s geo-strategic position was precarious in that it was surrounded by hostile colonial states that detested the Zambian government’s foreign policy of giving bases to liberation movements fighting for the independence of their respective countries. In this situation, the independent Government of Zambia had to take the external and internal security threats of its neighbours seriously by embarking on the expansion of its military forces. Internally the new government had the responsibility of wiping out the last vestiges of racial discrimination promoted by the previous British colonial administration. At the same time the government had to unite the 73 tribes of Zambia into one united people under the motto of ‘One Zambia, One Nation’. In order to achieve these tasks the government decided to provide effective administration and political solutions of nationhood by taking effective control of Zambia’s geographic, linguistic and military problems for the maintenance of external and internal stability, law and order, national coherence and the legitimacy of the government under Dr Kenneth Kaunda’s United National Independence Party (UNIP).

Given the imbalances that existed in terms of class and ethnic representation in the Northern Rhodesia Regiment as a result of the British policy of differentiation, whereby only five out of 73 ethnic groups commanded by British soldiers dominated the military forces, the Zambian government and legislature had to come up with national policies and legislation that fitted into the new nation building motto and which aimed at harmonising civil–military relations in the country. To this effect the government passed a policy which required that recruitment into the Zambian Army be done in such a way that it provided representation to all 73 of the country’s ethnic groups. Professional status and advancement to the highest ranks in the army also changed from

being determined by race or country of origin to determination by professional conduct, behaviour and bravery. The above policies were backed by the Zambian Parliament's passage of article 100 of the Constitution of Zambia which provided for the establishment of an armed force known as the Zambia Defence Force, which "shall be non-partisan, national in character, patriotic, professional, disciplined, productive and subordinate to the civil authority as established under this constitution".² The constitution also provided that the commander-in-chief of all the armed forces in Zambia was the republican president who had formal control over appointments and the promotion of military officers to the highest ranks as well as the designation of elected civilians as constitutional heads of the Ministry of Defence.

The Defence Act, Chapter 131 of the Laws of Zambia, was framed in such a way that it provided a legislative environment that aimed at starting the process of harmonising the relations between the defence force and the civilian community right from 1964. The Act provided for:

"The creation and maintenance in Zambia of a Defence Force consisting of an Army comprising the Regular Force of the Army, the Territorial Force of the Army, the Army Capital Reserve, and the Territorial Army Reserve, and an Air Force comprising the Regular Force of the Air Force, the Auxiliary Air Force, the Air Force Reserve, and the Auxiliary Air Force Reserve; ... to provide the conditions of discharge of soldiers from the Regular Force and for their transfer to the Reserve Force; ... to provide for the composition of and enlistment of persons in the Territorial Force, for the training of persons enlisted in such force; ... for the embodiment of such Force when necessary in the public interest, for the discharge of persons from the Force and for all other matters affecting the discipline of the Force."³

The above demonstrates that apart from having an army of regular forces, the government's intention to create a reserve force that comprised retired former members of the Zambia Defence Force who could be called upon at any time for military service to supplement the work of the regular forces when the need arose, was a clear manifestation of the intention to bridge the gap between the military and civilians in Zambia. During the transition from colonialism Zambia's sovereignty continued to be threatened externally by minority regimes in South Africa, Southern Rhodesia, South West Africa, Angola and Mozambique, and internally by the Leshina and Adamson Mushala uprisings in the northern and eastern provinces, whose leaders preached against respect for government authority. Later in 1973 as a protest against the formation of the one-party state system of government in Zambia, the late Adamson Mushala led an armed rebellion against the one-party state government, which he

considered undemocratic. The government under Dr Kaunda crushed this rebellion using both military and paramilitary troops.

The above external and internal security threats forced the government to table laws related to emergency powers and to establish the Zambia Security Intelligence Service. To this effect the Emergency Powers Act empowered the republican president:

“to make emergency regulations whenever an emergency proclamation is in force: to specify the matters which may be provided for in emergency regulations; to provide for the duration of emergency regulations; and to provide for matters incidental to or connected with the foregoing.”⁴

The Act empowered the president to:

“make such regulations as appear to him to be necessary or expedient for securing the public safety, the defence of the Republic, the maintenance of public order and the suppression of mutiny, rebellion and riot, and for maintaining supplies and services essential to the life of the community.”⁵

The Act also gave powers to the president to make provision for detention and exclusion from the Republic of persons who were not citizens of Zambia and authorised the republican president to take “possession or control on behalf of the Republic of any property or undertaking”, to “authorise the entering and search of any premises” and to “provide for the apprehension, trial and punishment of persons offending against the regulations”.⁶

Other important acts passed by the Zambian Parliament related to defence management of the country were the Home Guard Act No. 32 of 1971, which made provision for the establishment, maintenance, discipline and administration of the Home Guard; the Zambia National Service Act No. 35 of 1971, which made provision for the establishment, maintenance, governance and discipline of the Zambia National Service; and the Defence Amendment Act No. 24 of 1987, which provided for the granting of honorary commissions to deserving citizens of Zambia by the republican president. It is clear from the foregoing that between 1964 and 1991, the role of Parliament in defence and security matters was to assist the executive to pass laws on the floor of the House related to the Ministry of Defence in order for the state to fulfil its responsibility of ensuring the maintenance of peace and security in Zambia.

Limitations to the oversight role

As a result of Zambia’s support for the liberation movements of her

neighbouring countries there was apprehension in the government that if defence and intelligence budgetary allocations were exposed by being debated in Parliament the country's enemies would have been in a position to assess and undermine Zambia's defence capabilities. This would have greatly undermined the government's ability to preserve and defend the sovereignty and territorial integrity of Zambia. The executive then argued that it was not in a position to define clear limits between the need for transparency in defence and intelligence services oversight and the exigencies of national security. The executive, through the republican president, therefore continued the colonial and predominant commonwealth countries' policy of government directly allocating money for defence and intelligence services secretly, without subjecting the allocation to parliamentary oversight by any of its committees or public debate during the annual consideration of the national budget. The government justified this move on the basis that security organs were shaped and managed according to exigencies of war, both hot and cold, and according to the principles of secrecy. Executive command and the demands for secrecy due to the security situation had militated against parliamentary oversight. It was argued that this helped to secure the lives of operatives and the success of security operations.⁷

In 1973, Zambia was declared a one-party state under UNIP and all opposition political parties in existence, such as the African National Congress, went into voluntary liquidation. Article 4 of the Republican Constitution made the ruling party (UNIP) supreme over all other institutions (including Parliament) in the land. All MPs now belonged to one party, UNIP, and this made it very difficult for Parliament to begin demanding the need for the House to debate defence expenditure. This was because, whereas before 1973 there were a number of democratic mechanisms – both formal and otherwise – which placed government executive and its policies under the magnifying glass, Parliament alone now played this role. Within the parliamentary framework a set of procedures and structures previously indirectly participated in the supervision of the executive over defence and security administration. They did this, for example, through the legislation process, which allowed the opposition to present amendments. After 1973 this loophole was closed as all members belonged to the same party whose policies they could not oppose and this made it difficult for the House to perform its oversight functions over defence and security expenditure.

At the same time, despite the fact that Parliament passed several acts related to defence, intelligence and emergency powers, lack of a parliamentary committee on national security and defence made Parliament ineffective in scrutinising governmental responsibilities and activities in the defence of the country. The complexity of legislation related to defence did not allow every member to examine satisfactorily the pros and cons of these laws within the narrow parliamentary timetable. Furthermore, the inadequacy of opportunities and means on the floor of the House limited the ability of Parliament to fully

discharge its important duty to probe and check the administration of military personnel and expenditure in the Ministry of Defence.

The result of this lack of parliamentary surveillance on the operations of defence personnel was that most Zambia National Service camps were operating under difficulties owing to problems relating to inadequate facilities as a result of insufficient financial resources. The government, through the Ministry of Defence, had over the years failed to carry out necessary renovations to the infrastructure. This culminated in an outbreak of typhoid at the girls' Luamfumu Camp in Mansa. The investigation carried out by a government team of doctors into the causes of the typhoid outbreak found that:

“drinking water in the camp was not treated with chlorine, ablution blocks were insufficient and that it was important to quarantine the recruits for twenty-one days. The team, then, recommended that the camp be closed.”⁸

This outbreak of typhoid as a result of lack of resources and inhabitable conditions in these camps forced the government to suspend and later completely stop the compulsory National Service Programme for all Form V school leavers. The abandonment of this military service programme demonstrated the need for parliamentary oversight and began seriously to jeopardise the improvement in relations between the military and civilians that was previously experienced.

The continued declining economic situation in Zambia, characterised by heavy external debt amounting to US\$6 billion by 1991 and the problem of food shortages, seriously reduced the capacity of the Zambian government to support effectively its defence force in terms of competitive salaries and the provision of food and proper accommodation. Soldiers' loyalty to civilians and their government was therefore seriously compromised. The suffering that the people of Zambia went through alienated them from the principles of their party and of what the government stood for. As a result, four unsuccessful military coups d'état were attempted to try and remove the one-party state system of government from office.

The first attempted coup d'état occurred in 1976. The second took place in 1980 and involved a mixture of prominent Zambian military and civilian figures, such as the late Valentine Musakanya, a prominent businessman, Brigadier General Godfrey Miyanda and the then Chief Justice Anniefield. The third attempted coup took place in 1986 and involved prominent military officers including Lt. General Christon Tembo. The fourth and most dramatic attempted military coup, involving Lieutenant Mwaba Luchembe, took place in 1990. The 1990 attempted coup d'état is the one that broke the back of the then single ruling party, UNIP. This attempted military coup was supported by both civilians and military personnel across the whole strata of Zambian society. In

the aftermath of the attempted coup the party and its government appointed a research team whose terms of reference were to find out from the Zambian people through church leaders, labour leaders, army officers, traditional healers and UNIP leaders whether the one-party state should be maintained in Zambia or not. During the research – in which the author of this paper worked as a research officer – the people of Zambia through their leaders unanimously supported the abolishment of a one-party state and called for the re-introduction of a multiparty system of government. They argued that a ‘constitution-alised’ one-party state was contrary to basic human rights, for no generation had the right to make immutable decisions for future generations without any opposition. Zambians further stated that the freedom to vote for a political party of one’s choice and the freedoms of association, assembly and speech were fundamental rights. It also became clear that freedom only for the supporters of the government and for the members of the single party, however numerous they may be, was no freedom at all. They pointed out that freedom is undeniably also for those who think differently, and its essence vanishes when freedom becomes a special privilege. On the basis of the above factors the Zambian people recommended the:

- abolition of a one-party system of government and the re-introduction of a multiparty democracy;
- supremacy of Parliament over the ruling party;
- abolition of the state of emergency and arbitrary detention of people without trial; and
- limiting of the republican president’s term of office to two five-year terms.

The coups d’état and the results of the countrywide research pressurised the then President Kaunda to reintroduce multiparty democracy in Zambia by repealing article 4 of the Republican and UNIP constitutions, which forbade the formation of political parties other than UNIP.

President Kaunda managed to crush the attempted coups d’état by having centralised control over the civilian and military intelligence units in Zambia. This allowed the president in times of crisis, such as the attempted coups d’état, to play the last card since none of his adversaries or security officers knew all the security channels that were at his disposal. For instance, it was not until September 1995 that some of the security tunnels, alternative high frequency broadcasting stations and command-and-control centres were made public by the government under the Movement for Multi-Party Democracy (MMD). The attempted political neutralisation of high-ranking military leaders, who were imprisoned for treason by President Kaunda, now also came to an end with their unconditional release from prison.

The former coup leaders realised that the only way to remove Kaunda’s one-party state from government was through the electoral democratic process of one-person-one-vote. Together with their civilian counterparts in the Zambia

Congress of Trade Unions (ZCTU), church leaders and non-governmental organisations, they fought and struggled shoulder to shoulder until the one-party state was abolished and replaced by a multiparty democratic system of government on 31 October 1991, under President Chiluba.

Parliamentary oversight over defence expenditure 1991 to 2003

Internationally this period marked the end of the Cold War between the Western capitalist states led by the United States and the communist states in the East led by the Soviet Union. This period also saw the collapse of the Soviet Union and its communist system and the abolition of apartheid in South Africa. The same period saw the abolishment of the one-party state system of government in Zambia by Parliament repealing article 4 of the Constitution and the re-introduction of the multiparty democratic system of government. All the countries surrounding Zambia which were previously under colonial regimes, such as Namibia, Zimbabwe, Angola and Mozambique, now attained majority rule. Since the country's sovereignty was no longer threatened by external and internal threats it became unnecessary for the executive to keep defence and intelligence budgets secret.

In addition, with the lifting of the state of public emergency in Zambia in February 1992, it also became unnecessary to keep a large army and therefore the government decided to introduce a programme for early retirement and retrenchment in both the defence and intelligence services. While these processes were being carried out Parliament also regained its control and functions over defence expenditure by now being allowed to debate and approve the defence allocation in the annual estimates of expenditure during the annual budgetary process. Furthermore, effective from 1992, the Public Accounts Committee of the Zambian Parliament has been considering reports by the auditor-general on defence expenditure. The first specific report of the Public Accounts Committee on Defence Expenditure was based on a Special Report of the auditor-general on the procurement of goods and services in the Zambia Army and Zambia Air Force for the period 1992 to 1998.⁹

The committee's report revealed many irregularities in the way the Ministry of Defence expended public resources as approved by Parliament. Some of these irregularities involved the following:

- Irregular purchase by the Zambia Army of 200,000 metres of African Print (chitenge) for which the Zambia Army paid K91,950,600 to Mulungushi Textiles of Zambia between April 1994 and March 1996. This print was diverted from the Central Ordnance Depot to the minister's residence. The report also reveals that there was no evidence that the commander-in-chief of the armed forces had approved the procurement and donation of the said materials. The consignment of materials to the MMD through the minister, a senior party official, undermined the implementation of the policy of

delinkage of party from government activities as the continuation of the same practice was bound to be costly to government.

- The committee also deplored the poor record-keeping in the army and called for immediate improvements in this regard. It concluded its investigations on this issue by directing the Ministry of Defence to recover the K91,950,600, to institute disciplinary action against all offenders involved in the purchase of the African Print materials and recommended improvements in record-keeping in the Zambia Army.¹⁰
- Irregularities in the purchase of uniform materials and tailoring of uniforms, the purchase of stable belts, leather belts and vehicles strikers, the procurement of tents and transport fleet, the involvement of a private company in defence procurements and other projects, the procurement of a VIP presidential aircraft as well as other irregularities in the supply of aircraft refurbishment and training services.¹¹

The committee concluded its findings by deploring the practice whereby the Army Command considered itself as being above the law and therefore not obliged to adhere to financial regulations in their financial transactions. The committee directed that the above practice should cease forthwith and that the service commands be compelled to comply with all established procedures and regulations. It also directed the strengthening of the Ministerial Tender Committee through which all purchases should be channelled for appropriate scrutiny and advice before execution. The committee observed that the above parliamentary directives were necessary to avoid the negligence and loss of public resources that had been brought to the fore in the auditor-general's report. It further directed that all funds paid to suppliers were to be recovered immediately, especially where goods or services had not been received. In addition, the committee directed that immediate and stern disciplinary measures be taken against all officers and people involved in the irregular transactions leading to loss of public funds.

The committee also expressed its concern and recommended stern disciplinary action be taken against all officers from the Ministry of Finance and National Planning who connived with defence personnel in making irregular payments of public resources. The committee urged the Ministry of Finance and National Planning to re-establish open and cordial relations with the Ministry of Defence and to offer advice which would eventually improve the ministry's operations rather than be a party to financial irregularities. The committee concluded its findings by recommending the imposition of control over the financial operations of the services. It also strongly recommended that the Defence Act be reconsidered and amended to provide for a clear chain of authority in the handling of public funds in the services.¹²

It is clear from the foregoing that the Public Accounts Committee in the Zambian Parliament has now effectively taken responsibility to scrutinise how

money approved by Parliament is being expended by the Ministry of Defence through, among others, scrutiny of their annual reports.

In order to complement the role of the Public Accounts Committee in providing checks and balances to the executive in general and to the Ministry of Defence in particular, the Zambian Parliament in 1999 empowered the Committee on Foreign Affairs to offer checks and balances on policy matters. To this effect, the Committee on Foreign Affairs changed its name to the Committee on National Security and Foreign Affairs in order to incorporate the ministries of Defence and Home Affairs in providing checks and balances on policy matters, as oversight of expenditure is already done by the Public Accounts Committee.

To this effect the Speaker annually appoints members to the Committee on National Security and Foreign Affairs for one session. The duties of the committee are determined by the Speaker or any other orders of the House to oversee the ministries of Defence, Home Affairs and Foreign Affairs. In overseeing the activities of these ministries, the committee:

- studies, reports and makes recommendations to the government through the House on the mandate, management and operations of the ministries of Defence, Foreign Affairs and Home Affairs and departments and agencies under their portfolio;
- carries out detailed scrutiny of certain activities being undertaken by the ministries of Defence, Foreign Affairs and departments and agencies under their portfolio and makes appropriate recommendations to the House for ultimate consideration by the government;
- makes, if deemed necessary, recommendations to the government on the need to review certain policies and/or certain existing legislation;
- considers any bills that may be referred to them by the House; and
- undertakes tours of selected projects and security institutions to make on-the-spot examinations of their operations.

While on tour the committee is not allowed to accept gifts given to members during their normal course of duty. This measure enables members to avoid compromising the work of the committee. The appointment of members to this committee takes into consideration:

- the constitutional obligation to have representation of all parties on the committee as in the House;
- gender sensitivity in terms of balance and representation; and
- members' qualifications, experience and preferences.

As stated earlier and looking at the terms of reference above, the Committee on National Security and Foreign Affairs provides checks and balances on policy matters, while oversight of defence expenditure is done by the Public Accounts Committee. When during its investigations the Committee on National Security

and Foreign Affairs comes across financial irregularities in the Ministry of Defence, it refers these to the Public Accounts Committee for further scrutiny. The mandate of the Public Accounts Committee is to examine the accounts showing the appropriation of sums granted by the National Assembly to meet public expenditure, to consider the auditor-general's report on the accounts of the Republic of Zambia and to exercise powers conferred on them under article 103(5) of the Zambian Constitution. Among the topics considered by the Committee on National Security and Foreign Affairs are the status of Zambia's international boundaries with her neighbours, Zambian troops serving on UN peace-keeping operations, Zambia's security concerns and their impact on foreign policy and the welfare of defence personnel.

Despite the Committee on National Security and Foreign Affairs and the Public Accounts Committee providing checks and balances on defence policy and expenditure, the two committees have, however, never been involved in defence pre-budget consultations, which is a very important component in budget formulation. Even when the defence budget is presented to Parliament for scrutiny and approval, it is never referred to the two committees for comment or input.

While the foregoing arrangements have assisted in the provision of checks and balances to defence expenditure and policy, the two committees have no powers to scrutinise the operations of the defence service as it is considered a threat to national security. The committees also have no mandate to scrutinise the operation of the intelligence wing and this has led to a popular perception that the intelligence services have abused their mandate. There is therefore a need to keep these service organisations in check by the two committees in order to restore the trust of the citizenry. It is in this light that the government's announcement on 10 January 2003, through the Minister of Finance and National Planning, that the government had directed the Director of Public Prosecutions to proceed with the prosecution of all those named in the 16 Public Accounts Committee's reports approved by Parliament for misappropriation of public funds, should be welcomed.¹³

Conclusion

Parliamentary oversight of the military in Zambia since independence in 1964 has gone through phases corresponding with the country's Three Republics. In the First Republic, from 1964 to 1971, the emphasis was on building a new military within the motto of 'One Zambia, One Nation'. This led to the creation of the Zambian Defence Force and to a legislative framework that harmonised relations between the military and civilian communities. However, threats to Zambia's security emanating from regional minority regimes led to the imposition of emergency powers and secrecy in the management of national defence. In the Second Republic, Zambia became a one-party state and this

further diminished democratic parliamentary control of the military. Whereas before 1973 there were a number of democratic mechanisms, both formal and otherwise, that placed government executive and its policies under the magnifying glass, Parliament alone now played this role. The lack of parliamentary oversight and civil control, coupled with the declining economic situation in Zambia, caused the deterioration of the efficiency and professionalism of the defence force and led to four attempted military coups d'état. Although these were successfully suppressed they contributed to the ending of one-party rule. In 1992 after the re-establishment of democracy, Parliament regained some of its control and oversight over defence. The Public Accounts Committee was empowered to debate and approve the defence allocation and to consider reports of the auditor-general on defence expenditure. The Committee on National Security and Foreign Affairs was empowered to provide checks and balances on policy matters and defence legislation. Nonetheless, the oversight powers of these committees exclude pre-budget consultation, scrutiny of operations and intelligence. Given the developments regarding collective security in the Southern African Development Community region, the need for more confidence- and security-building measures both nationally and regionally and the need for greater transparency and accountability in defence management to ensure effectiveness and efficiency, it is perhaps time that these limitations on parliamentary oversight be reviewed.

Notes

- 1 D Chuter, *Defence transformation: A short guide to the issues*, ISS Monograph No 49, Pretoria, 2000, p 27.
- 2 The Constitution of Zambia Act, 1996, article 100.
- 3 The Defence Act, Chapter 131 of the Laws of Zambia, September 1964, p 12.
- 4 The Emergency Powers Act, Chapter 108 of the Laws of Zambia, October 1964, p 3.
- 5 Ibid, article 3(1), p 3.
- 6 Ibid, article 3(2), p 3
- 7 N Thompson, *Parliamentary oversight of the security sector in the Commonwealth*, Commonwealth Policy Studies, London, 2000, pp 2, 12.
- 8 *Times of Zambia*, 25 March 1981.
- 9 Government of the Republic of Zambia, *Report of the Auditor-General of goods and services in the Zambia Army and Zambia Air Force in the period from 1992 to 31 December 1999*, Lusaka, Government Printers, 2001.
- 10 Ibid, pp 4-6.
- 11 Ibid, pp 7-29.
- 12 Ibid, pp 30-31.
- 13 *Saturday Post*, No. 2278SA58:1.