Public Submission to the Parliamentary Portfolio Committee on Defence and Military Veterans on the Military Veterans Bill

The comments and recommendations of the Institute for Security Studies (ISS) in relation to the Military Veterans Bill (B1 – 2011) and the Report of the Ministerial Task Team on Military Veterans are outlined below.

MILITARY VETERANS BILL

General comments

According to the Preamble of the South African Constitution, South Africans are called upon to "honour those who suffered for justice and freedom in our land". In light of this commitment in the foundation document of South Africa’s democracy, the ISS would like to commend the Department of Military Veterans Affairs for drafting a Bill that envisages:

• Redress for past inequalities and unfair discrimination in the provision of benefits to military veterans;
• A more coordinated and holistic approach to managing the affairs of, and benefits accorded to military veterans;
• A specific focus on providing support and benefits to military veterans with disabilities; and
• A means test to determine military veteran eligibility.

The ISS is nonetheless concerned that the Bill does not appear to take into account the need to balance the benefits prescribed to military veterans with benefits allotted to other sectors of society that also made sacrifices and contributed significantly to the democratisation of South Africa (see Section 3(1)(a) of the Bill). For example, there are thousands of South Africans that engaged in concerted protest action, defiance campaigns and war resistance, which were also important contributions to ending apartheid. However, benefits have largely not been provided these South Africans. Further to this, the benefits for military veterans envisaged in this Bill are likely to surpass the compensation awarded to the victims of human rights abuses through the Reparations Committee of the Truth and Reconciliation Commission.

Specific comments and recommendations

Definitions

Section 1(1)(a) of the Bill defines a “military veteran” as a South African citizen who “rendered military service to any of the military organisations, statutory and non-statutory, which were involved on all sides of South Africa’s Liberation War from 1960...”
to 1994”. As this definition is linked to benefits, its broad scope may result in administrative delays and legal contestations. For example, does the definition include: former members of self-defence units and self-protection units; former members of TBVC military formations; and national servicemen (conscripts)?

**Recommendation**

- Provide a list of former and existing military organisations whose members can be defined as military veterans.

**Benefits relating to military veterans**

Section 5(1) provides a list of benefits for military veterans, including “(f) facilitation of or advice on business opportunities”. Research on the reintegration into civilian life of former combatants and military veterans indicates that there is value in governments providing some financial and technical support for those former combatants and military veterans that seek to start their own businesses. Typically support for small business creation and development has been provided, with the most success being derived in cases where former combatants and military veterans with entrepreneurial attributes and business acumen were targeted.

Contrary to the “Principles of Best Practice” (paragraph 8.10.3) outlined in the Task Team report, “the setting aside of a portion of tenders for military veterans by the state and its agencies” is not widely practiced. The US government, for example, is one of the few governments that make provision for such support, but only in the form of tightly controlled preferential tendering for small businesses owed by military vets who were disabled in the line of duty. In this regard, Section 15(g) of the US Small Business Act (15 U.S.C. 644g), provides that the US President must establish a minimum goal of 3 percent for participation by “service-disabled veteran businesses” in federal government contracting, and section 36 of that Act (15 U.S.C. 657f), gives government contracting officers the authority to reserve certain procurements for service-disabled veteran businesses.

**Recommendation**

- As this benefit can be broadly interpreted, “business opportunities” should be defined in the Bill.

**Certain powers and duties of the Department**

Section 7(d)(iv) requires the Department to “research, define, investigate and promote military veterans’ affairs on an integrated basis”. This subsection is vague and ambiguous.

**Recommendation**

- This subsection requires further clarification.

**Appointment of members of Advisory Council**

According to Section 13(1)(a), “the Minister must appoint not fewer than 10 persons to serve on the Advisory Council.” International research on demobilised former combatants and military veterans indicates that the needs of male and female military veterans differ.
Recommendation

• Gender representation should be a consideration in the selection of members of the Advisory Council.

RECOMMENDATIONS OF THE MINISTERIAL TASK TEAM ON MILITARY VETERANS

As the one of the main aims of the Bill is “to give effect to recommendations made by the Ministerial Task Team on Military Veterans ("the Task Team") to Cabinet”, the ISS would like make the following observations with regards to this report.

Reliability of the Findings and Recommendations of the Task Team Report

In order for relevant policy and legislation to be designed and implemented, these documents need to be based on accurate data and sound analysis. Such data and analysis is generated by means of an appropriate research design and internationally accepted social science research methods. In presenting the research findings, general accepted ethical practice entails the inclusion of sufficient details on the research design and method, which will enable other parties to verify the findings and judge the accuracy of the research findings. In short, poor research results in poor policy and legislation.

It is not possible to provide a comprehensive analysis of, and detailed comment on the policy recommendations of the Task Team, as the publicly available report is silent on the research design and methodology that was employed in order to formulate the recommendations. The only reference to methodology is in the introductory section of the report, which indicated that: “the Task Team conducted case studies and examined best practice”, and suggested that best practice had been pursued in “Algeria and the USA”. However, no criteria for determining “best practice” was stipulated. The report also makes reference to Angola, Uganda and Zimbabwe.¹

It is also generally accepted practice for research of this nature to include a literature review in which reference is made to relevant studies and publications. The report makes no indication that a literature review was undertaken, and only references three documents: a media statement by the South African President (2009); the South African White Paper on Defence (1996); and the South African Defence Review (1998).

This absence of information begs the following critical questions:

1) The United Nations has developed Integrated Disarmament, Demobilisation and Reintegration Standards (IDDRS) is widely regarded as the international standard on reintegration support for former combatants and military veterans.² Did the Task Team consult the IDDRS during the course of their investigations?

2) There is an extensive body of literature on military veterans and the support that governments have provided to them. Did the Task team take this literature into account prior to formulating their recommendations?

¹ In a MS PowerPoint presentation to the Parliamentary Portfolio Committee on Defence on 1 September 2010 by the Deputy Minister of Defence and Military Veterans, Mr TSP Makwetla, it was indicated that the cases of Australia, Canada, Germany and the Multi-Country Demobilization and Reintegration Program were also considered. This information should have been included in the report.

² This information is located at: http://unddr.org/iddrs/framework.php.
3) Since 2000 there have been a number of detailed research reports on military veterans and socio-economic reintegration in South Africa by the Centre for Conflict Resolution, the Centre for the Study of Violence and Reconciliation, the ISS and Strategy and Tactics. Did the Task Team consult these reports prior to formulating their recommendations?

4) The accuracy and credibility of research findings are directly related to the representative nature of the research sample. How was the Task Team’s research sample of military veterans determined, and was it representative of all the views, needs and concerns of military veterans in South Africa?

Absence of Baseline Data

The Task Team report does not include any, or references to baseline data on military veterans. It is the view of the ISS that such data should have been included and referenced in the report, as effective policy on military veterans cannot be designed or implemented in the absence of accurate data on the scope and range of the military veterans problem.

Reports in the *Business Day* of 7 March and 8 March 2011 make reference to a leaked document from the Department for Military Veterans on the costing of the implementation of the Bill. The document allegedly provides some key baseline data on the number and age distribution of current military veterans that are possibly eligible for benefits.

It is the view of the ISS that the following baseline data, for example, should have been included in the report:

- Number, gender and age distribution of current military veterans that are possibly eligible for benefits (as well as future projections);
- Number of military veteran dependents;
- Current benefits and compensation (including type and financial value) provided to military veterans to date; and
- Financial value and type of training provided to military veterans to date.

Recommendations

The Portfolio Committee on Defence and Military Veterans should:

- Request the Task Team to provide them with further details of the research design and method used to generate their research findings and recommendations.
- Establish a reference group of respected researchers and/or academics to review the research design, method and findings of the Task Team report, and

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3 These documents are available at the following locations:

- [http://afraf.oxfordjournals.org/content/107/428/433.full](http://afraf.oxfordjournals.org/content/107/428/433.full)
- [http://wiredspace.wits.ac.za/handle/10539/1645](http://wiredspace.wits.ac.za/handle/10539/1645)
thereby determine the accuracy of the findings and relevance of the policy recommendations. This reference group should then make recommendations to the Portfolio Committee on the usability of the research report (and the way forward) for the formulation of appropriate legislation.

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