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**NAVAL
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MONTEREY, CALIFORNIA

THESIS

**INSTITUTIONAL CHALLENGES TO VIABLE CIVIL-
MILITARY RELATIONS IN MALAWI**

by

Mphatso Jones Boti Phiri

March 2008

Thesis Co-advisors:

Letitia Lawson
Thomas Bruneau

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**INSTITUTIONAL CHALLENGES TO VIABLE CIVIL-MILITARY RELATIONS
IN MALAWI**

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Submitted in partial fulfillment of the
requirements for the degree of

**MASTER OF ARTS IN SECURITY STUDIES
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from the

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ABSTRACT

Malawi is one of the few African countries that has experienced neither a military coup nor a civil war, and has remained peaceful since independence despite being under a dictatorial regime for three decades. Its military has earned international recognition for being professional; however, the country faces significant institutional challenges to democratic civil-military relations, where there is legislative oversight, and checks and balances between the executive and legislature.

This thesis identifies and analyzes civil-military relations challenges currently facing Malawi, and suggests solutions that can contribute to healthy civil-military relations. Specifically, it focuses on the civilian control of the armed forces and the relationship between the president and the legislature in military oversight. The power relations between these two arms of government, as provided in the republican constitution, is described and assessed as a contributing factor to various challenges in democratic civil-military relations. I argue that the presidential powers remain the dominating factor in the country's civil-military relations and goes unchecked despite embracing democratic principles.

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Disclaimer

The views expressed in this thesis are entirely those of the author, and do not represent the official position of the Malawi Defense Force (MDF) or Malawi Government.

Dedication

To God almighty, your love endures forever. I dedicate this thesis to my late wonderful and loving mom, your wisdom still inspires me and I am what I am because of you, may your soul rest in eternal peace, I know you are in the hands of Jesus.

I would like to recognize the wonderful guidance from my advisors, Professors Letitia Lawson and Thomas Bruneau, I appreciate your encouragement and wisdom in directing me.

Many thanks to my wonderful and loving wife and friend Rachel, and my beautiful daughter Lindirani for supporting and encouraging me throughout my studies. Your patience and understanding when I had to lock myself up in my study room is well appreciated. You were a real source of strength and inspiration to me.

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I. INTRODUCTION

The main theme of civil-military relations is politics, and as Malawi is still in the transitioning period from an authoritarian regime to democracy, there is a great need for democratic consolidation in civil-military relations. One of the most vital areas for democratic consolidation is the democratic civilian control of the military, and it is the responsibility of both the executive and the legislature. In this thesis there will be a heavy emphasis on issues of control and oversight, since without oversight there is no control.¹ Good civil-military relations are, therefore, a process whereby democratically elected civilian leaders have control over all the policy decisions of the military and there is a balance of power coupled with checks and balances between the executive and the legislature in the management/employment of the armed forces. Legislative oversight is vital to ensure that the executive does not abuse its powers in the employment of the armed forces, and at the same time, ensure that the military is performing as intended. This legislative function, therefore, requires that members of parliament are well informed on military issues and oversight, a task that is more challenging in most developing countries, including Malawi.

¹ Class notes in civil-military relations coursework at the Naval Postgraduate School, January 2007.

A. PURPOSE

The purpose of this thesis is to identify and analyze civil-military relation problems currently facing Malawi, and suggest solutions that can contribute to healthy/good civil-military relations. Specifically, it will build upon Bruneau's observation that civil-military relations are not only about the civilians and the military, but also between the civilians themselves in their management of the armed forces² and assessing power relations between the legislature and the executive, and the consequences of the management of the military.

The literature on the specific case of Malawi is very limited. However, it has been noted that the Malawian military has been both a positive agent for social transformation and an instrument of conquest, humiliation and repression at different times in the country's history.³ The use of the armed forces in internal security has been recurrent in Malawi since the colonial period. Mandiza notes that during the (colonial) federation period, the armed forces, then known as the Kings African Rifles (KAR), were used to repress the nationalist movement.⁴ During the one-party authoritarian rule between 1964 and 1994, the armed forces were used in a similar way by the political

² Thomas Bruneau, "Introduction," in *Who Guards the Guardians and How*, edited by Thomas Bruneau and Scott Tollefson, Austin, TX: Texas University Press, 2006, 2-3.

³ E.I. Mandiza, "Civil-Military Relations in Malawi: A Historical Perspective," in *Ourselves to Know: Civil-military Relations and Defense transformation in Southern Africa*, edited by Rocky Williams, G. Cawthra and D. Abrahams, *Institute for Security Studies* 2002, 113-120.

⁴ Mandiza, 115. Kings African Rifles arrested the leadership of the nationalist movement in Malawi and over 51 Malawians were killed. This exercise highlighted the dangers of using armed troops in internal security roles.

elite to repress political dissent.⁵ Since the attainment of the multiparty democracy in 1994, the armed forces have continued to be involved in non-military operations and there have been isolated incidents of strained civil-military relations.⁶ At the same time, the military was instrumental in the transition to democracy and has shown an interest in limiting itself to its constitutionally stipulated roles and missions. The armed forces, for instance, managed to effectively disarm a paramilitary wing⁷ created during the authoritarian one-party rule, in the most professional manner. Soldiers stayed in the barracks and maintained high levels of discipline even when there have been calls from the general public for the military to take over the government due to poor governing by the political leaders.⁸ Given the professionalism of Malawi's armed forces, which have always been apolitical, why have civil-military relations not developed further? How can we explain this paradox?

⁵ Mandiza, 124-127.

⁶ Mark D. Chiziko, "Civil-Military Relations or Civil-Military frictions? Problems and Prospects of Civil-Military Relations in Malawi and SADC Region," Unpublished Paper presented at the SADC military seminar in Salima, Malawi, May 2006.

⁷ During the one party authoritarian rule, the President Dr Hastings Kamuzu Banda created a paramilitary wing called Malawi Young Pioneer(s) which was used as a Presidential guard and was ideally meant to countercheck the regular armed forces. It was brutal in its operations but with the dawn to democracy in 1993, the Malawi Defense Force managed to disarm it efficiently.

⁸ BBC News, "Malawi's Media Urges Restraint," May 24, 2004. Malawian independent Capital Radio reported that the police shut down a private radio station, MIJ 90.3, and arrested four journalists - including its station manager Evans Masamba - for interviewing an opposition spokesman who threatened to call on the army to "take over" if Mutharika was declared president. However, an army spokesman, Clement Namangale, was quoted as saying the military "would always remain neutral and not interfere in the electoral process," www.bbc.co.uk/africa/html (accessed November 2007).

This thesis argues that Malawi is facing serious institutional challenges to viable civil-military relations, despite its history of stable civilian control of the armed forces, and that these challenges are rooted in relations among civilians charged with managing the armed forces.

B. IMPORTANCE OF THE STUDY

Malawi is one of the few countries in Africa that has never experienced a military coup or a civil war. However, as pointed out by Samuel Finer, the absence of a coup does not necessarily indicate good civil-military relations.⁹ Indeed, Malawi's model of civil-military relations is built upon inefficient and ineffective institutions that need to be reformed if they are to further viable democratic civil-military relations. There is very little research on Malawi's civil-military relations, and this research will contribute to the systematic study of civil-military relations in Malawi. The transition to democracy in Malawi has brought with it different challenges to the management of the armed forces in the country. It has rendered strategies used to control the military insufficient and ineffective. The military is an important institution for both stability and consolidation for democracy in the country. Hence, putting reforming institutions that mediate the relationship between the armed forces and the democratically elected civilians will not only encourage democracy, but also ensure stability in the country.

⁹ Samuel E. Finer, *The Man on the Horseback: The Role of the Military in Politics*, New Brunswick, London: Transaction Publishers, 2002.

C. LITERATURE REVIEW

Civil-military relations have drawn major contributions in social science. The relationship between the armed forces and the society involves an inherent struggle for power.¹⁰ Peter Feaver argues that "the very institution created to protect the polity is given sufficient power to become a threat to the polity."¹¹ Military coups have been a traditional worry for the civil-military relations theory. Similarly, the question of obedience by the armed forces to their civilian leaders, without pursuing their own interests has been the greatest challenge of leadership in most countries.¹² Feaver and others point out that ultimately only the military's "voluntary and purposeful adherence to the principle of civilian control ensures civilian control."¹³ Morris Janowitz notes, similarly, that officers are "subject to civilian control, not only because of the rule of law and tradition, but also because of self imposed professional standards."¹⁴ Bland, in agreement with others, points out that there are enough instances in western history in which officers have not volunteered to adhere to the principle,

¹⁰ Peter Feaver, "Civil-Military Relations," *Political Science Annual Review* 2, 1 (1999): 214.

¹¹ Peter Feaver.

¹² Ibid.

¹³ Douglas L. Bland, "Patterns in Liberal Democratic Civil-Military Relations," *Armed Forces and Society* 27, 4 (Summer 2001): 528. See also Peter Feaver. *Guarding the Guardians: Civilian Control of Nuclear Weapons in the United States*, Ithaca: Cornell University Press, 1992, 253.

¹⁴ Morris Janowitz, *The Professional Soldier: A Social and Political Portrait*, New York: The Free Press, 1960, 420.

or have done so grudgingly, to raise a question as to whether a principle of civilian control is merely a platitude.¹⁵

Civil-military relations have operated differently in both single-party authoritarian rule and democracies. In African literature there is a general consensus that the leaders in the continent devised similar strategies for ruling their countries and maintaining civilian control over their armed forces. Samuel Decalo argues that African leaders in "assumed stable countries" (those that did not experience military coups) adopted five basic strategies in the 1980s¹⁶ to subordinate the military to civilian authority. First, they employed preferential recruitment into the armed forces (especially its officers' corps or specialized units) of members of ethnic, religious and

¹⁵ Bland, "History is replete of examples of stress, strain and occasional raptures in civil-military relations in western democracies. Consider for example, the 'Curragh incident' in the United Kingdom in 1914; the army rebellions in France between 1958- 1962; General MacArthur's challenge to President Truman; the so called 'crisis in civil-military relations' in the United States at the beginning of the Clinton era when the president apparently acquiesced to some significant military policy preferences; and the misconduct in the Canadian Armed Forces during and after units deployed in Somalia in 1993. All of these events save perhaps the French rebellions, occurred without a direct assault on the concept of civil control of the military, but they were all resolved only after subtle applications of the idea by the players involved."

¹⁶ Samuel Decalo, "Modalities of Civil-Military Stability in Africa," *The Journal of Modern African Studies* 27, 4 (1989): These countries include Malawi, Zambia, Botswana, Swaziland, Cameroon, Senegal, Gabon, Kenya, Mauritius, The Gambia and Tanzania.

regional groups considered to be supportive of the regime.¹⁷ Second, they created elite units often called presidential guards, in order to monitor any plotting and provide a totally loyal counterweight against a possible assault from the regular army, air force or even the police.¹⁸ Third, they appointed members of the head of state's direct family to key posts of command in the senior officer corps, intelligence, republican guard, police and paramilitary structures.¹⁹ Fourth, these internal strategies were then reinforced by guarantees of external military assistance in case of domestic upheaval or a politically motivated invasion, especially in the former French colonies. France had been the sole power with *a priori* military commitments, and a credible *in situ* deterrent military presence in West Africa, thus contributing to the stable civil-military

¹⁷ Decalo, 561. This, in essence, was a continuation of similar patterns of the colonial recruitment, though the targeting group may have changed, but such policies were systematically pursued by many regimes in Africa and elsewhere, civilian as well as military, often leading to 'ethnic armies.' For instance, when Kenyatta moved to presidency, he inherited an army of the Kamba majority and his ethnic group, Kikuyu, was too small to overtake the Kamba and others who were already established in the army. However, strongly infusing the officers' corps and staffing key control units with the Kikuyu was certainly feasible and this was well exploited by Kenyatta through a highly mobile, well trained, heavily armed elite General Service Unit (GSU- a political force, the regime's coercive arm against its internal enemies).

¹⁸ These include the presidential guards, GSU, paramilitary structures, intelligence-gathering units, informal networks of political spies, etc. This trend has always backfired since they have frequently triggered internal military jealousies and have become the prime motive for a coup as in the case of Kwame Nkrumah of Ghana and Modibo Keita of Mali just to mention a few. However, the GSU of Kenya saved what could have been the first coup in the country in 1982 when the air force attempted to stage a coup.

¹⁹ This strategy allows the president to keep his fingers on the purse of the armed forces as well as his hands on their operational control. Ian Khama's entry and progressive promotion to ultimate command of the Botswana Defense Force (BDF) is a case in point. In Gabon in the 1980s, many relatives of the president were in command in the army, police and intelligence.

relations.²⁰ Finally, the loyalty of armed forces has been bought by providing officers and soldiers with salaries that are either relatively or absolutely high as well as other material and fringe benefits. N'Diaye's more detailed case studies also support Decalo's arguments.²¹

There is a general consensus in the literature that these strategies of achieving civilian control of the armed forces, originally employed by single-party authoritarian regimes, are inadequate in new democratic regimes. It is a fundamental premise of democratic civil-military relations that civilian control of the armed forces is possible without democracy, but democracy is not possible without civilian control of the armed forces.²² N'Diaye, following Samuel Huntington, argues that a state is more likely to achieve lasting institutionalized civilian control when civil-military relations are based on the professionalization of the military.²³ But this in turn requires shaping a policy that restrains the politicization of the military and meddling in its internal affairs.²⁴ Herbert Howe notes that "military professionalism benefits

²⁰ Decalo. This external prop contributed to less internal military conspiracies since its gains would be axiomatically reversed by superior external forces. One Gabonese military officer rhetorically complained that 'what is the point of speculating about change in Libreville if the very next day the RIAOM (French Military) will be landing at Mba airport?' There was a widespread awareness in all quarters, civil and military, that Paris will not allow the fall of the civilian regimes in Abidjan, Dakar, Libreville, Yaoundé and a few others, including strategically important Djibouti.

²¹ Boubacar N'Diaye, "How not to Institutionalise Civilian Control: Kenya's Coup Prevention Strategies, 1964-1997," *Armed Forces and Society* 28, 4 (Summer 2002): 619-640.

²² Richard H. Kohn, "How Democracies Control the Military," *Journal of Democracy* 8, 4 (October 1997): 140-153.

²³ N'Diaye.

²⁴ Ibid.

from accountable and institutionalized governments that agree not to cross the civil-military divide but whose oversight may often benefit the armed forces operational effectiveness."²⁵

Thus there is a general consensus among current scholars in civil-military relations that military professionalism must be supplemented by the institutionalization of civil-military relations if a balance between democratic civilian control of the military and effectiveness of the armed forces is to be achieved and maintained.²⁶

Bruneau and Tollefson provide a general framework for the analysis of the institutionalization of civil-military relations in democratic regimes.²⁷ Bruneau argues that the issue of civil-military relations in both old and new democracies involves ongoing conflict, negotiation, and compromise between those who hold power by free and fair elections and the organizations to which society has granted a monopoly on the means to violence.²⁸ In order to strike a balance in the ongoing negotiations and compromise in a democracy, institutions are created. Institutions affect behavior of the key actors in a political society and are a major component of politics. The rational choice, institutionalism, emphasizes that political action involves the management of uncertainty and that the free flow of

²⁵ Herbert Howe, *Ambiguous Order: Military Forces in African States*. London: Lynne Rienner Publishers, 2001, 275.

²⁶ Bruneau.

²⁷ Thomas Bruneau and Scott Tollefson, editors, *Who Guards the Guardians and How*, Austin, TX: Texas University Press, 2006.

²⁸ Bruneau, 3.

information is very important for the smooth management of power relations and stable political outcomes.²⁹ Hence, the more effectively institutions in civil-military relations allow for the flow of information and the smooth management of uncertainty, the more stable and effective civil-military relations will be. The relevant institutions include the ministry of defense, the legislature, civil society and the intelligence system.

Bruneau and Goetze suggest that the existence of a ministry of defense (MOD) is an important basic indicator of the quality of the civil-military relations in any country.³⁰ It serves to institutionalize civilian control of the military by structuring the power relations between democratically elected civilian leaders and the armed forces command. Civilians are empowered to formulate policy on defense-related issues and the military has to implement those policies effectively by using its expertise in their monopoly on the use of violence. Related to this, the MOD, ideally, plays an important part in defining and allocating responsibilities between the civilians and the military. This can help to prevent the military from being directly involved in politics and allow the selected civilian leaders to represent and negotiate for military needs, for instance, in the legislature. This arrangement enhances democracy and potentially removes the likelihood of introducing the military, which has a monopoly on violence

²⁹ Peter Hall and Rosemary C.R. Taylor, "Political Science and the Three New Institutionalisms," *Political Studies* XLIV (1996), 951.

³⁰ Bruneau and Goetze, 71. Some of these ministries are hardly more than facades, with no power whatsoever; however, an effective MOD is a core element in contemporary democratic civil-military relations.

and the potential to blackmail, into the political system.³¹ Bruneau and Goetze further argue that the MOD plays a role toward maximizing effectiveness in the employment of the armed forces. The changes in the security environment demand immediate changes in the roles and missions of the armed forces and the capacity to implement such missions by the military. However, the military bureaucracies are usually among the slowest to change due to huge investments and lead time needed; therefore, it is the MOD that assists in achieving wide-ranging and extremely dynamic military and political coordination. Hence, the MOD enables the military to adjust immediately to security needs and develop the capacity to achieve them. And again, the MOD ensures the maximization of the efficient use of resources as the roles and missions change. These resources are, for instance, funds, personnel, and equipment. Efficiency, in this instance, means the ability to achieve a goal at the lowest possible cost. The civilians within the MOD can implement programs for ensuring budget transparency in the military, act as arbiters, minimize duplication among services, and sell off unnecessary facilities. Finally, the MOD has the responsibility of initiating and developing the white papers on defense in new democracies, which will act as a guideline in defining the roles and missions of the armed forces in the changing environment.³²

³¹ Bruneau and Goetze. If the armed forces are left to their own devices, which is most often the situation in authoritarian regimes, they work out deals and understandings among themselves whereby they inflate their requirements to maximize the benefits of all services. And, as new democracies seek to bring their armed forces under control and to cut costs, an effective MOD appears to be the most appropriate institution for these purposes.

³² Bruneau and Goetze, 71-98.

The legislature is another institution that can play an important role in sustaining good civil-military relations. Jeanne Giraldo argues that legislative debates on defense issues can help contribute to the increased flow of information, thereby creating an informed public that will be able to participate constructively in future policy discussions. This can help expose any abuse of power by the military as well as achieve a democratic civilian control of the military. At the same time, these debates will provide insights on how the military is carrying out its missions, that is, if the military is efficient and effective in its operations.³³ The legislative powers to make and oversee budgets, decisions, laws and policies and their implementation allow it to amend legislation and adjust the budget. The power of the purse provides civilians with the key lever of control over the military and ensures its effectiveness and efficiency.³⁴ She further argues that the legislature also has power in the deployment of troops at home and abroad, procurement, promotions of officers, as well as the legislative right to approve or reject contracts. Congressional hearings on the military provide the legislature with the necessary means of getting the feedback on the way resources have been used by the military and can be an effective means of evaluating the effectiveness and efficiency of the armed forces. However, in most cases, the legislature in both old and new

³³ Jeanne Giraldo, "Defense Budgets, Democratic Civilian Control, and Effective Governance," in *Who Guards the Guardians and How* edited by Thomas Bruneau and Scott Tollefson, Austin, Texas University Press, 2006, 189-191.

³⁴ Ibid. The current debates over the Iraq war budget and the continuation of war is a good example of this, although the debate is between congress and the executive.

democracies fails to perform such functions, mostly due to time limits for the budgets, access of information and the ability and willingness of legislators to influence the defense budget.³⁵ Giraldo argues that "in most countries budget debates are charged affairs carried out under great time pressure and with the knowledge that the budget must be passed before the current one runs out, or else."³⁶ Given this limited time for scrutiny, executive budget requests are merely rubber stamped. She further argues that a meaningful congressional input into the budget process depends on whether the legislators have sufficient information about the contents of the budget and the policy implications of the fiscal decisions. While this is a general problem in most countries, it is a major problem in most African countries due to both lack of specialized knowledge and expertise. This lack of knowledge has negatively affected how African legislatures have implemented their defense budget cuts without undermining national security and have provoked intense frustration in the armed forces.

Similar to the legislature is the role of an informed civil society. Civil society plays a vital element in the civil-military relations and this is very evident in the American civil society, especially with the continuation of war in Iraq and the treatment of prisoners of war. An informed civil society works as a watch dog on any abuse of the military and other arms of government, and thus performs the checks and balances of the government as a

³⁵ Giraldo, 189-192.

³⁶ Ibid.

whole.³⁷ However, there is also a wide gap of knowledge in the civil society on defense issues. In most African countries there is no incentive to accommodate the civil society in defense-related policies, hence civil society has no interest in getting involved in the security sector and has contributed very little to national security.

Another institution vital in civil-military relations is the intelligence system. What makes it difficult to come under democratic civilian control and assess its effectiveness and efficiency is the secretive nature of it. Democracy, however, requires accountability of all the actors in it as well as transparency. In trying to bring it under democratic civilian control, Bruneau and Dombroski suggest that democracies must establish a clear and comprehensive legal framework for intelligence activities just like in the armed forces. However, they are quick to point out that a legal mandate alone is not enough and that other measures must also be put in place, such as a clear determination of the intelligence functions to be implemented and how much of the country's resources will be allocated to them. In this way, it will be easier for the civilian leadership to take stock and assess the effectiveness and efficiency of the intelligence system and hold them accountable for any misdirection of resources. They also suggest that the common mechanism for controlling intelligence is to separate it into different agencies and

³⁷ Laurie Nathan, "Obstacles to Security Sector Reform in New Democracies," *Journal of Security Sector Management* 2, 3 (September 2004). This article was commissioned by the Berghof Research Center for Constructive Conflict Management as part of the Berghof Handbook Dialogue Series No. 2 on Security Sector Reform, www.berghofcenter.org.html (accessed June 2007).

prevent any single entity having a monopoly on its production and use.³⁸ This remains the greatest challenge to most African states. Kenneth Dombroski argues that a practical problem for most emerging democracies involves the organizational dynamics of transforming its bureaucracy.³⁹ The most immediate impact of the transformation process is the organizational efficiency decline, and this has been an argument against intelligence reform in most countries, since it implies subjecting the nation to both internal and external threats.⁴⁰ Overcoming such resistance to change requires strong political will as well as the necessary expertise in designing the transformation process and the training of personnel in the intelligence system.

The armed forces throughout the history of Malawi have been more accountable to the executive, especially to the president, and not to parliament or civil society. This institutional imbalance has survived democratization, and continues to undermine viable civil-military relations. The question that will be addressed in this thesis is why the Malawi armed forces are still very subject to control by the executive branch of government and not to parliament or the civil society, despite the assumed balance of power put

³⁸ Thomas Bruneau and Kenneth Dombroski, "Reforming Intelligence: The Challenge of Control in New Democracies," in *Who Guards the Guardians and How*, edited by Thomas Bruneau and Scott Tollefson, Austin, TX: Texas University Press, 2006, 145-176.

³⁹ Kenneth Dombroski, "Reforming Intelligence: South Africa after Apartheid," *Journal of Democracy* 17, 3 (July 2006): 54.

⁴⁰ Ibid.

forward in the constitution and Defense Force act.⁴¹ In other words, why are there unbalanced power relations between the executive and the legislature in the management of the armed forces, and how has this affected the military and civil-military relations in Malawi?

I will argue that Malawi has very weak institutions to create workable and effective civil-military relations, and that there is no balance of power between the executive and the legislature in the management of the armed forces. The concluding part of the thesis will be prescriptive, attempting to suggest how institutions can be reformed to improve civil-military relations. Unless the institutional capacity is well structured and developed, Malawi's civil-military relations will remain loosely defined, ineffective and vulnerable to any slight disturbance in the political system.

D. METHODOLOGY

A single case study process tracing method will be used to investigate this question. After demonstrating the imbalance in the executive and legislature authority, the thesis will trace the specific effects of this imbalance on civil-military relations. The thesis will be based on information obtained from books, journals, articles and documents from the Ministry of Defense and Malawi Defense Force, especially from the Defense Force Act and the Constitution of Malawi. Phone interviews with senior

⁴¹ The Malawian constitution provides for the establishment of a Defense and Security Committee of the national assembly to ensure bi-partisan oversight of the Defense Force and to reinforce the role of parliament for legislative and legal actions in relation to the military.

officers in the Defense Force and legislature will also be used along with my personal experience and observations during my work in the Defense Force.

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II. HISTORICAL PERSPECTIVE OF CIVIL-MILITARY RELATIONS IN MALAWI SINCE INDEPENDENCE

This chapter is primarily concerned with analyzing how civilian control and civil-military relations in Malawi have been pursued since independence. Malawi is one of the few African countries where a military coup has not taken place and the military has remained under civilian control since independence. This chapter examines the policies adopted by the three post-independence heads of state for the management of the armed forces, showing how legislative powers have been neutralized, and creating executive dominance in the system. I will argue that the seeds of this executive dominance over the legislature were planted during the creation of the colonial period, and nurtured by policies adopted by post-colonial Malawian leaders. As a result, legislative oversight has not produced a system that ensures the effectiveness and/or efficiency of the armed forces. At the same time, the system has negatively affected military funding and operations after the transition to democracy, due to inadequate legislative influence. However, the military has done better than one could expect in maintaining its professionalism, despite persistent interference from the president for decades. But, the civil-military relations system will not become effective and efficient automatically with greater legislative power as recent events demonstrate. There is a need to institutionalize the oversight of the military in order to insulate the military from any political influence and enhance military professionalism. Hence, this chapter

will support the thesis argument that Malawi has a weak institutional framework for viable civil-military relations, despite the absence of a coup.

A. BRIEF RELEVANT BACKGROUND OF MALAWI

On July 6, 1964, Nyasaland became an independent state. The country was renamed Malawi and the first battalion of the British colonial Kings African Rifles became the Malawi Army. British colonial authorities had used the military to suppress insurrections by the locals and to appropriate land from the native population.⁴² At independence, the armed forces were comprised of white officers and senior non-commissioned officers (NCOs), and indigenous soldiers. Two years into the post-colonial era, the British governor was still the commander in chief of the armed forces, which created political challenges in the management of the armed forces in a newly independent Malawi.⁴³

Soon after independence, the new Malawian leader, Dr. Kamuzu Banda, faced opposition from his cabinet due to the slow rate of Africanization and the low salaries of African civil servants in comparison to their white colleagues.⁴⁴ In order to counter this opposition, Banda dismissed several cabinet ministers. The white offices in the Malawi Army and

⁴² B.H. Kinsey, "Land Reform, Growth and Equity: Emerging Evidence from Zimbabwe's Resettlement Program," *Journal of Southern African Studies* 25(2) 1999. See also K. Elford, "Land reform: Whites biased," *Global Analysis*, September 19, 2007 www.glob.co.zw/homepage/land_reform.html (accessed May 2007). See also Poverty Reduction Forum. "Harare at a sanctions regime that exacerbates the economic problems for the general citizens," *Annual Report: Promoting Change through Dialogue*, 2000.

⁴³ Mandiza, 118.

⁴⁴ Ibid.

the Malawi Police only observed this political event as they were under the governor general as commander-in-chief who kept the military non-involvement policy in politics. Sensing growing political opposition, Banda reinstated the colonial powers of preventive detention in 1964.⁴⁵ Banda upheld four party cornerstones (values) upon which his party and government were built, namely obedience, loyalty, discipline and unity. He later used these cornerstones to effect an oppressive regime.⁴⁶

The independence constitution stipulated the existence of a parliament, an executive authority headed by the prime minister, and an army. One of the military missions was to "defend Malawi and to be used in the maintenance of law and order" within the country under the direct control of the president.⁴⁷ This was a continuation of the same mission as the colonial forces. The 1966 constitution stipulated that the president would be commander-in-chief of the armed forces with powers to appoint the army commander. Parliament was given a regulatory role.⁴⁸ However, as it shall be shown later in this chapter, this regulatory role was not realized. On attestation, officers took an oath of allegiance to the established political leadership as a way of fostering civil-military relations. Section 82 of the Army Regulations (Regular Force) (Officers) forbade officers from committing acts that might constitute active

⁴⁵ Rev Ross article published in *The Magazine*, Malawi, 1977, in Mandiza, 118.

⁴⁶ Any slight disagreement with Banda's policies was defined as something against the four cornerstones and many people lost their lives in prisons while serving their sentences.

⁴⁷ The Constitution of the Republic of Malawi, (1966).

⁴⁸ Ibid.

participation in politics and from displaying symbols of political significance.⁴⁹ This legislation, coupled with systematic recruitment and high quality training, insulated the military from political participation and produced a professionalized force despite persistent political interference from the executive branch. Since its inception, the Malawi Defense Force adopted a quota recruitment system from each district and this has helped produce harmonious armed forces in the country.

B. CIVILIAN CONTROL STRATEGIES AND CIVIL-MILITARY RELATIONS UNDER BANDA (1964-1993)

Like most African states, Malawi became a *de facto* single party state soon after independence. A few years later, Banda succeeded in making it a *de jure* single-party state and later made himself a life president of the country through legislation that was rubber stamped by parliament.⁵⁰ The deployment of the armed forces in internal operations, permitted under the Malawi constitution, was quite extensive in the first few years of the Banda regime but later decreased as the country was effectively brought under his authoritarian rule.⁵¹ Unlike most African leaders, Banda did not openly pursue the civilian control strategies

⁴⁹ Malawi Defense Force Act, Section 82 of the Army Regulations (Regular Force) (Officers), (2004), 70-71.

⁵⁰ Harold Nelson, Margarita Dobert, Gordon C. McDonald, James Mc Laughlin, Barbara Marvin and Donald P. Whitaker, *Area Handbook for Malawi*, American University, Washington, DC, 1975, 172-3. See also Wiseman Chirwa, Nandini Patel and Fidelis Kanyonolo, Democracy Report for Malawi. <http://www.idea.int/publicitions/sod> (accessed June 2007).

⁵¹ In November 1964, the military was deployed together with the police to restore law and order in Mangochi as there had reportedly been acts of arson, damage of property, intimidation and hooliganism. In September 1967, the military was deployed to counter a criminal gang, which was effectively engaged and disbanded. From then onwards, the army was extensively used in ceremonial parades.

of the armed forces by using ethnicity or close family relations in military leadership.⁵² This protected his leadership from possible military and public criticism in the early period of his rule. With this, he also avoided ethnic antagonisms and cleavages in the military establishment that led to political instability, and in turn coups, as happened in other African countries.⁵³ However, he managed to put up several mechanisms and institutions as military control strategies. These strategies included direct personal control of the military by maintaining long tenure of office for the armed forces top commanders and special benefits for other military officers.⁵⁴ In addition, the second strategy was the formation of Malawi Young Pioneers (which was Banda's party militia and later acted as a presidential guard).

The first strategy put in place by Banda in the control of the armed forces was maintaining the defense force commander for a long period. He maintained two defense force commanders from the departure of white officers in 1972 until towards the end of his regime in

⁵² Banda appointed the first Defense Force commander who came from the southern region of the country and of a different ethnic group while he came from the central region. Although the second commander he appointed eight years later came from the central region, he was not from his ethnic group and there was no relationship at all. He had very few senior military officers from his ethnic group (The Chewas) although it is one of the major ethnic groups in Malawi. See also Decalo, 547-578.

⁵³ Boubacar N'Diaye, *The challenge of Institutionalizing Civilian Control: Botswana, Ivory Coast, and Kenya in Comparative Perspective*, Maryland, Lexington Books, 2001: 38-47.

⁵⁴ Mandiza. Some senior officers in the military were given sums of money as a way of rewarding merit and further argue that this was also a means of buying their loyalty. Another method that was put in place to buy loyalty, was that officers, on attainment of certain ranks, were given loans to acquire land for agriculture.

1992.⁵⁵ Through this he established patron-client networks that reached down into the military by granting favors to the Defense Force generals. He promoted the first Malawian defense force commander from the rank of lieutenant colonel to brigadier and appointed him the force commander on the same day. Less than two weeks later, he promoted the force commander again to major general after the military's successful operation taking over a hijacked South African Airways flight that had been diverted to Blantyre from Zimbabwe.⁵⁶ Such promotions were frequent, and ostensibly designed to further the Africanization of the Defense Force. However, they also served to curry favor with the military and made it insensitive to his authoritarian rule. Similarly, senior officers were given money ostensibly to reward merit, but also as a means of buying loyalty. On attainment of certain ranks, officers were given loans to acquire land for agriculture. The military pay structure was also de-linked from the rest of the civil service and adjusted upwards. This was done on the basis that military service was an extreme expression of patriotism.⁵⁷

The second strategy was the armament of Malawi Young Pioneers. The MYP, originally formed to provide vocational training to Malawian youth, became politicized and was used as an auxiliary organ of Banda's presidency, answering to the president alone. Its main purpose was changed to ensuring that everyone conformed to the Malawi Congress

⁵⁵ General Matewera was appointed Defense Force commander from 1972 to 1980, and then General Khanga took over from him up until 1992. General Yohane briefly served as the commander before the transition to democracy when Banda's political influence decreased.

⁵⁶ *Malawi Times Newspaper*, May 29, 1972, cited in Mandiza, 120.

⁵⁷ Mandiza, 120.

party policy, and in doing so, it became increasingly secretive and militarized.⁵⁸ The MYP's centrality was reflected in its rapid expansion. For instance, in 1968, an MYP patrol boat was put into service on Lake Malawi, at a time when the national Defense Force had no naval craft.⁵⁹ In 1970, the president purchased the first aircraft for the MYP and three pilots of the MYP were awarded their wings, at a time when the standing Defense Force had no aircraft.⁶⁰ In the context of a single-party state, and with the defense force still headed by white officers who would be leaving the country in few years, there was no political or military opposition to such steps. Upon completion of their study programs, some graduates from the Pioneer bases returned to the movement, but others were employed in public and private institutions with the purpose of forming an intelligence network across Malawian society.⁶¹ MYP graduates infiltrated every major government institution. Pioneers were also deployed to guard government buildings, and in the process, were encroaching upon police functions. Every secondary school had an MYP teacher who was responsible for discipline and physical education and was the most feared teacher at every institution. In short, Banda successfully turned the MYP into his intelligence organization and an effective counter force to the regular Defense Force of the time.

⁵⁸ Mandiza, 121.

⁵⁹ *The Times Newspaper*, September 19, 1968, cited in Mandiza, 122.

⁶⁰ *Ibid.*

⁶¹ Reuben Chirambo, "Operation Bwezani": The Army, Political Change, and Dr. Banda's Hegemony in Malawi, *Nordic Journal of African Studies* 13, 2 (2004): 146-163.

The appointment of the first indigenous commander of Malawi defense force did not change the nature of civil-military relations in Malawi; the MYP continued to enjoy the prestigious assignments as the developers of the fledgling military air unit.⁶² Between 1971 and 1974 nine pilots of the MYP were trained and these were the only pilots in the Malawi security forces.⁶³ Banda maintained personal control of the military.⁶⁴

In 1973, President Banda dismissed from cabinet and party Aleke Banda, a man believed to have been the brains behind the MYP and a notable young leader who significantly supported Banda during independence struggles, and also several political leaders with direct ties to the MYP.⁶⁵ This was followed by the MYP's loss of its marine unit to the army and the helicopter section in 1978 and some MYP officers were transferred to the army to maintain the vessels.⁶⁶ Hence, the improved status of the military during this period was not connected to the appointment of the indigenous commander, but rather points to the unquestionable powers that Banda had accumulated, by this time, through his dictatorial rule, and that he could

⁶² Harold Nelson, Margarita Dobert, Gordon C. McDonald, James McLaughlin, Barbara Marvin and Donald P. Whitaker, *Area Handbook for Malawi*, American University, Washington, DC, 1975, 311.

⁶³ *Ibid.*, 311.

⁶⁴ *Ibid.*, 303.

⁶⁵ Owen J.M. Kalinga and Cynthia A. Crosby, *History Dictionary of Malawi: African Historical Dictionaries*, The Scarecrow Press, Lanham, Maryland, London, 2001, 21. See also Nelson et al., 173. In 1972, Banda made six cabinet reshuffles and demonstrated his ability to expel anyone he felt necessary from government and party posts. Aleke Banda was dismissed because in the interview with foreign newsmen he agreed that he could be considered President Banda's most likely successor.

⁶⁶ Mandiza, 123.

regulate anything without any resistance from the military or from any government institution. This is also evident by the fact that from the early 1980s, the MYP regained its lost status with new leaders in place and became an effective counterweight to the military and police again.⁶⁷ It formed the major part of the presidential guard, and some weapons meant for the armed forces were diverted to their bases by the government.⁶⁸

It is worth noting that MYP and Malawi army resentment was a long standing issue in Malawian politics both internal and external. With the civil war in neighboring Mozambique from 1975 to 1992, there is evidence that Dr. Banda played double standards in the conflict.⁶⁹ Initially, he supported the Mozambican rebel group, Renamo, in collaboration with the Portuguese colonial rulers before the Mozambican independence and continued to support it after independence by providing MYP personnel to fight against the government troops of Frelimo. Later, after accusations from the Mozambican government and different African leaders, Banda sent the Malawi Army into Mozambique to work with government troops in fighting against the

⁶⁷ Kings Phiri, "A case of Revolutionary Change in Contemporary Malawi: The Malawi Army and the Disarming of the Malawi Young Pioneers," *Journal of Peace, conflict and Military Studies* 1, 1 (March 2000). By 1980, MYP arsenals included helicopter-mounted guns. Their intelligence-gathering system, which was inspired and designed by the Israelis and controlled from a base on the southern outskirts of the City of Blantyre, manifestly rivaled that of the police or army. In a nutshell, the MYP were, by the 1980s, overlapping with and in some cases overshadowing the police and army in their security operations.

⁶⁸ Ibid. See also Chirambo, 146-156.

⁶⁹ Chirambo, 155. See also Kings Phiri, MYP supported RENAMO allegedly under guidance from Dr. Banda's Privy Council. But, late in the 1980s the Malawi army, too, was drawn into the Mozambican fracas, opposite the side the Young Pioneers had been supporting, albeit unofficially.

rebel group Renamo, and at the same time, protecting Malawi's railway for the transportation of imports and exports. Hence, Banda successfully placed the Malawi Army and Young Pioneers in opposing missions in Mozambique from 1987 to 1992.⁷⁰ This case is significant in the civil-military relations in Malawi because similar cases contributed to military coups in other countries. For instance, in Portugal, junior officers staged a military coup in 1974 because, among other reasons, they were tired of numerous deployments in Portuguese African colonies to fight against the indigenes that were fighting for independence, an operation that incurred many casualties in the Portuguese camp.⁷¹ Although Malawi Defense Force soldiers expressed anger at the Mozambique scenario, pressing their general to confront Banda and his henchmen, who were believed to control the Young Pioneers in the late 1980s, there is no indication that the army general ever confronted Banda.⁷² This was obviously because Banda's hegemony undermined the army's potential for resistance and possible coup attempts in Malawi.⁷³

However, MYP lost its relevance in the early 1990s and became less effective due to Banda's old age and international donor community pressure for democratic change in Malawi and most African countries. The Catholic

⁷⁰ Chirambo, 146-156.

⁷¹ Douglas Porch, *The Portuguese Armed Forces and the Revolution*, London, California, Hoover Institution Press, (1977): 28-87.

⁷² Jonathan Newell, "An African Army under Pressure: The Politicization of the Malawi Army and 'Operation Bwezani,' 1992-93," *Journal for Small Wars and Insurgencies* 6, 2(1995): 159-182. See also Kings Phiri.

⁷³ Chirambo, 146-163.

bishops, in 1992, issued a pastoral letter critical of government and this was followed by university students' and urban workers' demonstrations and strikes, sparking off popular protest against the regime.⁷⁴ The growing domestic pressure for political change demanded the abolition of Banda's oppressive apparatus including the MYP. This made the weakened MYP become more hostile to the army, as the army supported the political transition process and the MYP sought to maintain the status quo.⁷⁵ On December 1, 1993, Pioneers deliberately shot and killed two soldiers in Mzuzu after a disagreement at a local drinking place.⁷⁶ Following the incident, a senior MYP official told the BBC that the MYP were preparing to deal with any reaction from the Army, and with these remarks and the long-standing tensions between them, the MYP and MDF erupted into open conflict. On December 3, the MDF attacked MYP headquarters and the ruling party headquarters adjacent to it.⁷⁷ This was an act of rebellion, but it was complicated by the fact that the National Consultative Council, the only credible political body at the time, had called for the dissolution of the MYP.⁷⁸ Banda, who was also commander in chief of both the army and the MYP, diffused the situation by announcing on state radio that the disarmament of the MYP that the NCC

⁷⁴ Nandini Patel, "Political Parties: Development and Change in Malawi," Electoral Institute of Southern Africa Research Report 21, 2006. See also Wiseman Chirwa, Nandini Patel and Fidelis Kanyonolo, Democracy Report for Malawi. <http://www.idea.int/publications/sod> (accessed October 2007).

⁷⁵ Chirambo, 146-163.

⁷⁶ See Kings Phiri and Chirambo. Mzuzu is the third major city in Malawi and it is located in the northern part of the country.

⁷⁷ Chiziko, 7.

⁷⁸ Ibid., 7.

had called for, was underway, and by urging the MYP not to resist.⁷⁹ This was to preserve his credibility, suggesting that the army was acting on his orders when things were out of control for him.

It is, however, interesting to note that during the disarmament of the MYP, the army was in complete control of the country due to the incapacitation of Banda, and that the disarmament orders, issued by the three-man presidential commission appointed by Banda to rule the country on his behalf, were largely ignored by the soldiers and came too late into the disarmament operation.⁸⁰ Sensing their failure to control the military, the presidential commission immediately handed over leadership to Banda, who had not yet fully recovered from brain surgery. The defense force, however, maintained its professionalism by only concentrating on the MYP bases amidst general fears from the ruling party camp that it would also attack politicians who were behind the MYP power. Hence, Operation Bwezani marked "a significant phase in the development of the Malawi Defense Force in civil-military relations."⁸¹ The culture of political non-involvement of the military has

⁷⁹ Chirambo, 158-159. See also Chiziko and Mandiza. Prior to the referendum during the transition period, inter-party dialogue existed through joint meetings of the Presidential Committee on Dialogue formed by the president and the Public Affairs Committee (PAC), an umbrella body of religious and business groups. After the referendum, the Presidential Committee on Dialogue and the PAC formed the National Consultative Council (NCC) that had a strong influence on the National Assembly and the Executive. The NCC, the most effective forum for managing the transition, resolved to have the MYP delinked from the ruling party and its members absorbed into either the police or the army. However, after disarmament its members were not integrated into either service.

⁸⁰ Chirambo, 156.

⁸¹ Kings Phiri, 6.

been enhanced by the armed forces itself through its internal checks and legal framework. The defense force has been quick to inquire and punish any active political participation by its soldiers. For instance, a soldier was dismissed from the service for wearing a political party shirt from one of the pressure groups that was fighting for democratic transition, although the military supported the political transition within the same period.

In conclusion, Banda pursued different civilian control mechanisms of the military under single-party authoritarian rule. One of his major strategies was the establishment of the MYP, which he used as his intelligence organization and equipped as a stand-by force to counter the armed forces. The legislature could not perform any oversight function of the military as it was directly under Banda's rule. During the political transition, the Malawi Defense Force played a crucial role in disarming the MYP with professionalism and this event marked a significant step toward viable civil-military relations. The military support for political transition can also be attributed to the tensions that existed with the MYP. It is worth noting that Operation Bwezani was started by the junior officers and soldiers, not by the top commanders who had political connections with Banda's regime. Soon after this disarmament, the Ministry of Defense was established to ensure effective communication between the military and the civil authorities. The first minister of defense was appointed in 1964. However, this was a symbolic position, since a structure of the Ministry of Defense was not yet developed and the minister had little influence over the

management of the defense force.⁸² The overall effectiveness of this Ministry of Defense will be assessed later in the thesis.

C. CIVIL-MILITARY RELATIONS UNDER BAKILI MULUZI 1994-2004

Muluzi emerged as a winner during the first democratic elections in 1994 and became the second head of state in Malawi after three decades of authoritarian rule. This political change demanded subsequent changes in the institutional structure of the country. All government institutions, including parliament, became more open to public scrutiny. Free media came with investigative journalism and became the primary source of information for the general public. However, there was little progress in institutionalizing civil-military relations.

Muluzi's party, the United Democratic Front, won a significant number of seats in the 1994 parliamentary elections, but it could not make up the two thirds majority required by law to pass bills and budgets. Then Muluzi worked out a political maneuver and formed a coalition with the Alliance for Democracy (AFORD) party in order to have an overwhelming majority in parliament. He thus replicated Banda's control of both the executive and the legislature; hence there was no power to check the executive powers over the military. Although the 1994 constitution provides for a Defense and Security Committee of the National Assembly, the committee did not perform its functions as stipulated by the law. As a result, the Muluzi government weakened the

⁸² By this time, the Malawi army was still being controlled by the white officers who were reporting to their colonial masters.

newly established institutional structure in civil-military relations and denied any learning opportunity for the parliamentarians of a newly democratized Malawi.

Muluzi's style of leadership and military control strategies were not a significant departure from those of Banda. However, within a period of four years from 1994 to 1998, Muluzi changed the defense force commander five times (though one died in office) before he got the right one who remained in office until Muluzi handed over the presidency to his successor in 2004. The frequent changes of defense chief was a clear departure from Banda, but once the right man was in office, Muluzi returned to Banda's practice of establishing personal links with the military commanders and controlling the military through patron-client networks rather than through legislative or Ministry of Defense oversight. This personal link is quite evident by the fact that soon after leaving office, the defense force commander joined the Muluzi party and has since been active in the party.⁸³

The most significant event in civil-military relations in Malawi during the Muluzi era took place in 1995. The defense force commander was reported killed by suspected car thieves; however, this was linked to an alleged coup plot by Lt. Colonel Njoloma who immediately went into hiding after the news of the general's death.⁸⁴ Five

⁸³ Nation Newspaper, March 26, 2007. The Former Commander has been one of the major speakers at Muluzi political rallies since he left office and condemned the military operation where the MDF blocked a political rally of UDF. See also Nyasa Times, "Ex-President and Former Malawi Defense Force Commander Urges Malawi Army to Uphold Integrity," March 25, 2007, www.nyasatimes.com/index/html (accessed June 2007).

⁸⁴ Mandiza, 126.

soldiers were arrested in connection with the plot and Njoloma eventually handed himself over to the military. All were court martialed and convicted, and Njoloma died in prison. The fact that Malawi has had a coup plot indicates that the system, like in most African countries, is still vulnerable to coup attempts. This event points to the need to have institutionalized civil-military relations that will work toward preventing such occurrences. However, it is worth pointing out that institutionalization alone does not prevent coups, but it does work toward providing a professional military. Lack of legislative oversight is also demonstrated in the intelligence apparatus in Malawi.

Muluzi established a National Intelligence Bureau through an act of parliament during his first term of office. This was, ostensibly, to provide the intelligence requirements of the country. However, it was used largely as a party intelligence agency to spy on political opponents of his party and senior military officers. In other words, it became a replacement for the MYP of the UDF government.⁸⁵ This intelligence organization was also under the direct control of the executive and the legislature's job was to just pass its budget without any oversight. Another factor contributing to continued weak institutionalization of civil-military relations in the democratic period is that in Malawian society and politics, the military is seen as a different entity of government

⁸⁵ Asia Africa News, "Malawi president dissolves national spy agency," Asia Africa Intelligence Wire Publication, January 5, 2005, <http://www.accessmylibrary.com> (accessed December 2007). See also "Shyley to head new Intelligence body in Malawi," <http://allafrica.com> (accessed January 2008). See also Panafrican News Agency (PANA) Daily Newswire.

and there is not much activity in the armed forces to expose it to public scrutiny as is the case in the United States. As a result, the military is not often put in the spotlight or even discussed in parliament or the media.

In conclusion, the Muluzi term of office did not see the civil-military relations structure evolve toward that expected in a democracy. The 1994 constitution did not alter the executive powers over the management of the armed forces and gives little power to the legislature. The legislature has no oversight of the military; the power remains in the executive, and largely to the president himself. The president has the power to appoint and fire the defense force commanders without parliamentary approval and is not obliged to give reasons for firing the commanders.⁸⁶ Little progress was made in the Muluzi era to institutionalize the civilian control of the armed forces, and this has worked to the disadvantage of the military in a democracy. This period saw a significant reduction in military funding, the establishment of the Ministry of Defense and the Parliamentary Committee on Defense and Security made no impact on negotiating for better funding of the military.⁸⁷ The parliamentary oversight was largely ignored though it had been vaguely provided for in the

⁸⁶ BBC News, "Malawi's president sacks security chiefs," January 17, 1998, www.bbc.co.uk/africa/html (accessed November 2007).

⁸⁷ Institute for Security Studies, "Malawi Fact File," *ISS Publication*, Pretoria, South Africa, 2001, 9. The Defense Force budget had been cut systematically since democratic transition. The Armed Forces failed to conduct recruitment and training for soldiers and officers despite the need to do so and when the training was done, it was with significantly little funding for an effective and required training standards. This was a significant departure from the training funding in the Banda era, and the institutions required to press for military funding in a democracy failed to do so.

constitution. This was due to two reasons: Muluzi's control of the legislature that made any checks and balances in the military oversight difficult, and lack of expertise in oversight by the parliamentarians. In this regard, there was no distinction with the Banda regime; the only difference was that this operated in a multiparty democracy.

D. CIVIL-MILITARY RELATIONS UNDER BINGU WA MUTHALIKA

Muthalika took over power as a head of state during the general elections in June 2004, having been hand picked by Muluzi to succeed him.⁸⁸ However, it was soon clear that Muthalika did not intend to be the puppet for Muluzi that many, including Muluzi, expected. Six months after being elected on the UDF ticket, Muthalika left the UDF and formed his own party, amidst public tensions with Muluzi, who was then UDF party chairman. The UDF had performed poorly in the 2004 general elections and most seats went to opposition parties and independent candidates. This was largely the result of an economic downturn and rampant corruption, which was attributed to the UDF government. In addition, some opposition parties protested against the presidential election results, claiming that they were rigged by the ruling party. This meant that Muthalika faced greater opposition in parliament than Muluzi had, both from within his own party and from opposition parties. After abandoning the UDF, he set about rebuilding a parliamentary majority around his established party. Some members of parliament left their own parties to join the president's

⁸⁸ BBC News, "Malawi's President Rules 'his way,'" September 1, 2004, www.bbc.co.uk/africa/html (accessed December 2007).

party. Tense legal battles against these members ensued and the Supreme Court eventually ruled that the members of parliament had crossed the floor in parliament and it was up to the Speaker of the National Assembly to declare their seats vacant, or not, and call for fresh elections. This episode constituted an intense power struggle between the executive and the legislature. How has this legislative muscle flexing affected legislative oversight of the military or transparency in government dealings with the armed forces, if at all? How has it affected the military? These are the questions that will be answered in this section.

The first thing that the Muthalika government did after the eruption of political tensions in 2005 was to abolish the National Intelligence Bureau (NIB) since it was viewed as a pro-UDF organization. The organization still worked for Muluzi and was thus a source of tension between Muluzi and Muthalika. Several UDF officials were implicated in the alleged plot to assassinate the president in 2005, where NIB was alleged to be at the center of the plot.⁸⁹ The country operated without the intelligence agency for a while, and it was later restructured. However, its operations remain unclear and subject to political manipulation as there is no legislative oversight.⁹⁰

⁸⁹ "Malawi president dissolves national spy agency," Asia Africa Intelligence Wire Publication, January 5, 2005, <http://www.accessmylibrary.com> (accessed December 2007). See also "Shyley to head new Intelligence body in Malawi," <http://allafrica.com> (accessed January 2008). See also Panafrikan News Agency (PANA) Daily Newswire.

⁹⁰ Ibid.

The military has been on alert to respond to internal security problems arising from political tensions among the elites throughout the Muthalika era. At times, it has performed police functions (mounting road blocks to prevent an opposition political rally), something that sparked a political controversy as to the role of the military in the country and its status of being apolitical.⁹¹ However, this action was justified by the fact that a court injunction obtained by the opposition party (UDF) restricted any police action in the matter and the armed forces were the only solution, in that case, to serve the national security interests. In other words, the military has always displayed its allegiance to support the government of the day and impartiality in domestic politics. The civilian control and military willingness to obey civilian authorities have been evident in the Muthalika era despite political tensions in the country. However, without an appropriate framework for managing civilian control, and with its broad constitutional role, the military easily becomes a tool of the president despite its best intentions. Soon after the 2004 presidential election results were announced, most opposition leaders made various radio announcements calling for the military to take over the government, but the armed forces remained

⁹¹ Nation Newspaper, March 26, 2007. The News editorial centered on the March 25, 2007 abortive political rally in Mulanje by the opposition United Democratic Front (UDF) following intervention by the Malawi Defense Force (MDF) personnel who had mounted road blocks in several strategic places. It was that intervention that had prompted others like the Malawi Commission for Human Rights (MHRC) to unreservedly condemn the action by the army. However, this was done to avoid any political crashes between the president's supporters and UDF supporters since the President was also addressing a political rally within the same location.

neutral and stayed in the barracks.⁹² This gesture by the military has shown continued military professionalism and respect for civil authorities, although there is no institutionalized oversight.

Although the legislature has been dominated by opposition parties during the Muthalika era, there has been no significant legislative oversight of the armed forces. The executive has always found its way out and makes all decisions on the employment of the armed forces without legislative approval. The work of the Defense and Security Committee of the National Assembly has yet to be seen. The other big challenge of the legislative oversight is that the incumbent president has, in most cases, also been the minister of defense. This has made the Ministry of Defense unaccountable to the legislature, since the president cannot be summoned to answer any questions from members of parliament. Hence, executive powers in the oversight of the armed forces have always been dominant and the opposition parties, though they are the majority in parliament, have not influenced executive decision-making in regard to the employment and oversight of the armed forces. This will be discussed further in Chapter III when the issue of power relations between the executive and the legislature will be assessed.

In conclusion, the transition period from authoritarian rule to democracy has demonstrated a significant need to institutionalize civil-military

⁹² MIJ 90.3 FM radio station, was shut down on May 23, 2004, following an interview it broadcasted with the opposition Mgwirizano Coalition's spokesperson, Kholiwe Mkandawire, in which she threatened to sabotage newly-elected President Bingu Mutharika's inauguration. <http://www.pambazuka.org/en/category/media/22792> (accessed June 2007).

relations for the military to be significantly separated from political influence. The period between 1994 and 2004 saw military benefits that Banda had put in place, being removed without explanation. The defense budget had been cut systematically since the democratic transition. In 2000, it stood at US\$26 million and declined further to US\$19 million in 2001.⁹³ The Ministry of Defense and the Parliamentary Committee on Defense and Security, institutions responsible for negotiating for better funding of the military in a democracy, failed to do so, demonstrating weak institutional capacity in civil-military relations in the country. This has not insulated the military from political initiatives since the top commanders have to seek better funding for their institution, subjecting the whole military set-up to be vulnerable to political manipulation.

E. CONCLUSION

The historical analysis of civil-military relations in Malawi shows extreme power imbalances between the executive and the legislature in oversight of the military. The main reason for this has been the colonial legacy, which left more power in the hands of the executive than the legislature in the constitution. Malawian leaders later maintained a status quo that served their interests and added political manipulation to the institutional imbalance established by the colonial administration. The legislature never pressed for its share of military oversight, even after the democratic transition of 1994. Similarly, there

⁹³ Institute for Security Studies, "Malawi Fact File," ISS Publication, Pretoria, South Africa, 2001, 9.

have been no policy initiatives to institutionalize the civilian oversight of the armed forces from either branch of government. The Malawi Defense Force has voluntarily and purposely adhered to the principle of civilian control, in the absence of any significant institutions, in ensuring civilian oversight.

The Malawi Defense Force has only been deployed for hostilities after independence in Mozambique, from 1987 to 1992. However, its operational information is still classified and nothing has been done to assess the effectiveness and efficiency of the operation, or a list of lessons learned from the operation. The defense force, however, has been deployed in numerous United Nations and African Union peacekeeping operations and in disaster areas such as Mozambique and Malawi, and has maintained good discipline and professional standards. The Malawi Defense Force is rated as one of the best professional militaries in Southern Africa.⁹⁴ With this background, most political leaders have not attempted to institutionalize the civilian oversight of the military and have not developed the expertise to do so. Military professionalism alone, however, does not indicate stable civil-military relations.

Hence, the overall assessment of the effectiveness and efficiency of the legislature has largely been ignored in the process. Every president has devised his own control strategies for the military and has managed to acquire an assurance that the military will not topple his government. In the process, the military is not fully insulated from political manipulation, especially since the MOD and

⁹⁴ Kings Phiri, 1.

National Assembly Committee on Defense and Security have done little to secure enough funding for the military. This shows the biggest gap between the current literature in civil-military relations and what is being practiced in Malawi. The next chapter will assess and analyze the power relations among the executive, the legislature and the military, as provided in the constitution and the Defense Force Act, in order to establish ways for democratic consolidation and objective civilian control of the military. It will also assess how civil-military relations actors in Malawi have performed. This will help to establish the argument further for lack of expertise and a weak institutional set-up in civil-military relations.

III. INSTITUTIONAL ANALYSIS OF CIVIL-MILITARY RELATIONS IN MALAWI

The history of Malawian civil-military relations indicates that "civilian supremacy" is well established, and that democratically elected government has unquestioned authority over all policy issues, including those relating to the armed forces themselves. However, there is little institutionalized civilian oversight of the military and there is unquestioned executive dominance in the control of the armed forces, which creates an institutional imbalance that weakens democratic civilian control of the military. The previous chapter demonstrated the continued personal dominance of the president in control of the military in the democratic era. This chapter will focus on the legislature and the Ministry of Defense, showing how these two institutions have failed to embrace the powers accorded to them by the new democratic constitution, leaving the control of the military in the hands of the president and undermining the democratization of civil-military relations in the country. Finally, a brief assessment of civil society will be done indicating how it has been ineffective in promoting civil-military relations due to lack of political awareness.

A. THE LEGISLATURE

This section will focus on the constitutional weaknesses in providing a viable civil-military relations framework and then the focus will shift to the legislative failure in implementing military oversight. The 1995 constitution provides for legislative oversight of the

military, but with unbalanced powers between the executive and the legislature. The constitution gives the executive branch much more influence and control over the military than the legislature. It provides that "the ultimate responsibility of the defense forces of Malawi shall vest in the president as commander in chief."⁹⁵ It further states that any power conferred on the president, by the constitution, shall only be exercised on the recommendations of the Defense Force Council, which shall include the minister of defense, secretary to the office of the president and cabinet and the high command of the defense force.⁹⁶ This legislation is, however, misleading since it gives the impression that the president cannot act without the recommendations of the defense council, which is not how it has been interpreted by anyone in government. The president has, in several cases, employed the armed forces without the recommendations of the council.⁹⁷ In addition, the Malawi Defense Force will form part of the African Union Multinational Standby Force in the near future, and has already participated in joint training with other Southern African states in preparation for this standby force. None of these issues have been discussed in

⁹⁵ The Republic of Malawi Constitution, 1995: 71.

⁹⁶ The latter is essentially the defense force commander and the chief of staff, since the Malawi defense force is mainly dominated by the army with a much smaller marine unit and air wing, so there are no service chiefs to be included in the high command.

⁹⁷ The Nation News Paper, "Time to Review Strategy, Mr. President," November 24, 2006. "...Unlike the United States President, George W Bush, Muthalika just like Bakili Muluzi before him doesn't have the courtesy to justify to the electorate how he exercises his power..." <http://www.nationmw.net> (accessed November 2007). See also BBC News "Malawi's President Sacks Security Chief," January 17, 1998. www.bbc.co.uk/news (accessed August 2007).

the National Assembly.⁹⁸ Similarly, Malawi's ongoing participation in the African Union and United Nations Peacekeeping Operations continues to be decided by the executive without any input or deliberation in the National Assembly.⁹⁹

The Defense Force Act also gives the president responsibility for promotions and appointments of the military top command, including the commander/chief of the Malawi Defense Force, and fires them without giving any reason and without any involvement of the Legislative Committee on Defense and Security.¹⁰⁰ Similarly, the constitution does not require the president to seek consent from the National Assembly when troops have already been deployed in the case of imminent threat; hence, these constitutional provisions do not provide the checks and balances that have proven essential to viable democratic civil-military relations elsewhere.

The current political environment further undermines the National Assembly's role on the budget process in general, and legislative oversight of the armed forces in particular. For the past three years, Malawi has experienced more political contention in national budget sessions in parliament than at any time in the country's

⁹⁸ Defense and Security Committee of the National Assembly source, which has opted to be anonymous for this research.

⁹⁹ Ibid. The national assembly does not deliberate about peacekeeping operations, i.e., make choices whether Malawi should participate. Everything is under the directives of the executive.

¹⁰⁰ BBC News "Malawi's President Sacks Security Chief," January 17, 1998, www.bbc.co.uk/news (accessed August 2007). This has been the case since Malawi got its independence and has been the practice of all heads of state in Malawi. It is not only the case in Malawi, but also in Nigeria, Zambia, Zimbabwe and many other countries in Africa, which were under British colonial rule.

history.¹⁰¹ This has resulted in the loss of public confidence in parliamentary deliberations since the opposition has used the budget sessions to get even with the government, and in the process, they have put their political aspirations above national societal interests. The budget session in parliament, which normally takes about two months, took over four months in 2007/2008 because opposition members refused to discuss the budget before the question of expelling pro-government members of parliament, who had switched political parties from the opposition to the government side was addressed. This stand by the opposition members of parliament was widely condemned by civil society and led to massive demonstrations by university students and concerned citizens.¹⁰² Only when the president threatened to close parliament if the opposition members of parliament maintained their stand, was the budget discussed and finalized within a month and without significant alteration of the budget proposed by the president.¹⁰³ This indicates an institutional shortfall in the proper functioning of the legislature in a democracy and the significant powers of

¹⁰¹ Bingu wa Muthalika, "An address to the Nation," Presidential address made on July 20, 2006, 1-8. See also Daily Times Newspaper, December 14, 2007, Phillip Bwanali, former Minister of Youth, Sports and Culture in the UDF administration, was arrested on December 12 for being found in possession of 400 coupons of subsidized fertilizer, illegally, and selling them; these coupons were meant for poor farmers in Malawi who cannot afford to buy fertilizer at the market price. Similar cases have been taking place in the country with the aim of frustrating the government development initiatives. See also Malawi Nation News Paper on the similar issue.

¹⁰² BBC News, "Malawi MPs Given Budget Deadline," August 14, 2007, <http://news.bbc.co.uk/go/pr/fr/-/2/hi/africa/6945588.stm> (accessed September 2007).

¹⁰³ The Daily Times Newspaper, "Parliament Passes the Budget," September 2007.

the president, even in a situation where there is huge opposition in parliament, and the same powers have been evident in the management of the armed forces throughout the democratic era.¹⁰⁴

The Malawian legislature also fails to put its oversight authority into practice once the budget has been passed, especially with respect to the armed forces' budget. With the cash budget implementation in Malawi, which basically means that the country spends the amount of money collected in the previous month, there are significant fluctuations in the monthly allocation of finances to the military, with allocations sometimes only covering salaries.¹⁰⁵ Hence, what is provided in the national budget for the defense force is not what is actually spent. Since the transition to multiparty democracy in 1994, the Malawi Defense Force has experienced more financial problems, which have compromised military training and readiness. Military underfunding and failure to see that budgeted resources are indeed delivered to the armed forces, tends to add to doubts among military officers that the civilians responsible for oversight understand military needs for maintaining readiness and operational capability. Without such civilian expertise and provisions, the confidence needed to undergird civil-

¹⁰⁴ BBC News, "Muluzi and judiciary clash over third term," June 4, 2004, www.bbc.co.uk/africa/html (accessed January 2008). Former President Muluzi was quoted as saying that he will instruct both the army and police that demonstrations should not take place against his third term bid, when a High Court Judge ruled that the president's decree was illegal," indicating that he had the full control of the armed forces and no other arm of government could stop him in the employment of the security force. The Malawi constitution provides for only two consecutive terms for the President.

¹⁰⁵ Personal experience.

military relations, supportive of democracy, can easily erode. The importance and complexity of the military's core mission in the modern world demand close collaboration between military officers and civilians who understand the military's needs, and it is under such circumstances that civilian authorities can exercise proper oversight of military activities.¹⁰⁶ Congressional hearings on the military provide the legislature with the necessary means to get feedback on the way actual resources have been used by the military, and are effective means of evaluating the effectiveness and efficiency of the armed forces.¹⁰⁷ Building up sufficient civilian expertise with the legislature generally, and especially the legislative defense committee, is a long term process and can only be done in collaboration with the executive. Since the National Assembly, as a whole, cannot be directly responsible for military affairs, the Malawian constitution provides for a Defense and Security Committee of the National Assembly.

B. DEFENSE AND SECURITY COMMITTEE OF THE NATIONAL ASSEMBLY

The composition of this committee is proportional to the political parties represented in the National Assembly. With the current political composition in parliament, this committee is dominated by the opposition parties, however, like the legislature, the contributions of the Defense and

¹⁰⁶ Larry Diamond and Marc Plattner, "Introduction," in *Civil-Military Relations and Democracy*, edited by Larry Diamond and Marc Plattner, John Hopkins University Press, Baltimore and London, 1996, xvi.

¹⁰⁷ Giraldo, 178-207.

Security Committee in establishing democratic civil-military relations has been limited by its constitutional mandate, and failure to implement the powers that are accorded to it constitutionally. The constitution provides for a Defense and Security Committee of the National Assembly, but limits the tenure of its members to just one year.¹⁰⁸ This short tenure, especially considering the limited expertise regarding defense issues for most members of parliament, is a fundamental obstacle to committee members developing the expertise they need to carry out the functions of the committee effectively. This constitutional/legislative gap could be bridged by a professional committee staff with sufficient knowledge and understanding of the military's institutional requirements, which would act as an institutional memory for the rotating MPs. Unfortunately, the current parliamentary staff members in the Defense and Security Committee have no professional knowledge of national defense issues or military oversight, and the majority of the staff is involved in clerical duties.¹⁰⁹ This combination of inexperienced MPs and parliamentary staff with little or no expertise in defense and security has led to weak legislative oversight of the military.¹¹⁰ The armed forces, though submissive to civil

¹⁰⁸ The Constitution of the Republic of Malawi, 1995, Section 162(2). 71.

¹⁰⁹ Personal communications with inside sources on the Parliamentary staff. Most workers in the parliamentary staff are involved in logistical and secretarial jobs rather than working as expert advisors to different committees in the National Assembly.

¹¹⁰ Personal experience, the defense and security committee has never raised any issues of military inappropriate employment or issues of peacekeeping operations even when these issues are discussed in the media, and there no committee reports have been published, since it was established, that provide for legislative issues of the military.

authorities, need to be confident that expanding legislative authority will not compromise the nation's security or institutional prestige and integrity.¹¹¹ Under the prevailing circumstances in Malawi, there is nothing to support such confidence.

Other than approving the military budget, which is passed without significant changes, rarely does a substantial discussion of military matters take place in legislative deliberations. In addition, the legislature does not follow through the military budgets to ensure that the military is funded as approved in the actual budget, and this puts the military at a disadvantage. Although the constitution gives more power to the executive in the control of the military, it also gives the legislature a regulatory role. However, due to lack of expertise and interest, the legislature does not perform this regulatory role in a significant way. With this legislative shortfall, the role of the Ministry of Defense becomes even more important in addressing civil-military issues in the country.

C. MINISTRY OF DEFENSE

The Ministry of Defense (MOD) was established in 1994 to bridge the gap between the civil authorities and the armed forces. It was designed to act as a central organization for the strategic management of the Malawi Defense Force focusing on policy and control. Among its roles is formulation of National Defense Policy in liaison with the defense force, and acting as a headquarters

¹¹¹ Diamond, 1999, 70-76.

through which government policy decisions are translated into operational plans and orders. It is also responsible for formulating long term plans, defense programs and preparation of the defense budget.¹¹² In practice, however, the Ministry of Defense has not been effective in its operations and most of its roles are performed by the military itself.¹¹³ An act of parliament gives the MOD power to assume important roles and consolidate democracy through institutionalized military oversight, but like the legislature, the MOD is exceptionally understaffed and lacks the necessary expertise in military issues to manage the armed forces effectively.¹¹⁴ There is only one senior officer from the armed forces who works full time at the MOD and there is no indication of oversight from the MOD in military programs.

One of the most important functions of the MOD is to develop and produce National Security Strategy Paper/ Defense Policy. However, since its creation 14 years ago, MOD has not produced these documents. Instead, the military has been left on its own to develop a military strategy paper, which is still in progress. Strategic planning constitutes the linkage between policy and operations and forms the basis for distinguishing between roles and missions.¹¹⁵ Strategy formulation is thus the major source

¹¹² James Kalilangwe, "The Roles of the Defense Ministry," *Msilikali Magazine* 1 (2003). See also the mission and objectives of the Ministry of Defense www.malawi.gov.mw/defense/home (accessed December 2007).

¹¹³ Personal experience in the Malawi Defense Force.

¹¹⁴ Personal experience. The author has sat in pension and compensation meetings with the MOD staff for over two years and has the in-depth knowledge of the MOD staff and expertise.

¹¹⁵ Richard K. Betts, "The Trouble with Strategy: Bringing Policy and Operations," *Joint Forces Quarterly*, Winter 2001-2002.

of decisions about the roles and missions of the armed forces. When these decisions are made, they guide the direction and distribution of military resources. Considering that the Malawi government is extremely resource-constrained and military weapons are generally expensive, the strategy helps to ensure that minimum defense requirements are not compromised, and at the same time, the government balances military expenditures with other vital expenditures. Hence, these white papers are both a starting point and a product of good civil-military relations in a country like Malawi, whose national budget is always supplemented by donors.

The white paper also gives direction for the military to quickly respond to the changing threats in the security environment. With the current dynamic threats and environments, defense establishments are challenged to respond to environmental changes, both in their size and capabilities. Any change brings its own challenges and disturbs the current order in the system. A strategy helps to maintain that order in the system while changes are taking place. The absence of these security strategy papers has affected the flexibility of adopting necessary changes in the defense force and has affected the efficiency and effectiveness of the institution. The Malawi Defense Force structure is army-centric with only one marine unit and air wing. This puts its effectiveness in joint training capability and operation at a disadvantage. No imaginable role or mission in the modern world can be achieved by only one service in the armed forces without the involvement of

the other services.¹¹⁶ The over-dependency on the army alone is not a realistic response to the changes in the environment and technology. This status of the defense force is contrary to the first objective of the MOD, which is "... to maintain a healthy, well trained, equipped ... ready force and a size that is sustainable."¹¹⁷ It is the duty of MOD to support and provide funds for properly developed military roles and missions, and recognize that armed forces are legitimate tools for democratic states.¹¹⁸ Without a set of roles that are balanced with their requisite resources, military forces will never be capable of conducting successful missions, and setting out the roles and missions of the armed forces is the beginning of a cyclic process of defense decision-making.¹¹⁹ Malawi's role in peacekeeping operations has not been well defined or supported by the requisite resources/weapons.¹²⁰

Another significant issue that undermines civil-military relations is the inactiveness of MOD in the initiation and implementation of major programs of the defense force. One of the major objectives of the MOD is to develop and manage defense policies, strategic plans and

¹¹⁶ Thomas Bruneau, Steve Boraz and Christina Matei, "Towards a New Conceptualization of Civil-military Relations," Unpublished Paper.

¹¹⁷ Ministry of Defense, see the mission and objectives of the Ministry of Defense, www.malawi.gov.mw/defense/home (accessed January 2008).

¹¹⁸ From the edited text of a speech given by Joseph S. Nye Jr., "Epilogue: The Liberal Tradition," in *Civil-military relations and Democracy*, edited by Larry Diamond and Marc F. Plattner (Baltimore: John Hopkins University Press, 1996), 152-153.

¹¹⁹ Shemella, 140.

¹²⁰ Personal experience: The Malawi Defense Force has failed to fully participate in peacekeeping operations in Sudan and the Democratic Republic of Congo despite the pledge to do so due to lack of basic peacekeeping equipment.

legal instruments of the armed forces, where the main focus is to provide an effective and efficient defense management system by providing proper government direction on the policy and strategic plans of the defense force. In other words, MOD is ideally involved in the administrative work of major programs of the military. However, there is lack of this coordination. The lack of guidance is particularly evident in the higher education program of the armed forces. The Malawi Defense Force, in 2007, established a Centre for Defense and Security Studies in conjunction with Mzuzu University (one of the major universities in Malawi) aimed at providing advanced studies in security and national defense, including civil-military relations to Malawi Defense Force and international officers, police officers and other security organization personnel, including some civilian government officers. This is part of an on-going initiative of the Southern African Development Community Countries (SADC), through Southern African Defense and Security Management Network (SADSEM) to improve security in the region. Instead of using this new institution as a way of establishing the relevance of the MOD, the Defense Ministry did not participate in its initiation or implementation and has virtually no role in the management of the center despite its significance to the armed forces, the nation, and in the region.¹²¹ Unlike in Zambia where the project enjoys the full support of the university administration as well as the Ministry of

¹²¹ Personal Experience, the author was involved in the curriculum development of this program and once attended a curriculum development workshop organized by Mzuzu University which had over 12 participants from the University, over 10 participants from the armed forces and only one participant from the Ministry of Defense.

Defense headquarters, and the latter is the key stakeholder.¹²² It remains the responsibility of the armed forces and Mzuzu University to train and provide funds for the institution. This poses significant challenges to the success and sustainability of the program itself since the MOD is responsible for negotiating for the funds with the Ministry of Finance and the National Assembly. In performing this dynamic political coordination role between the military and political leaders, the MOD insulates the military from political pressures, and vice versa, facilitating good civil-military relations.¹²³ By not being active in this major program, the MOD has created a situation in which the defense force is tempted to negotiate directly with the president (as the commander in chief of the armed forces) for funds – precisely the kind of dynamic the MOD is designed to forestall.

In addition, the structure of MOD leadership has often made it difficult for the armed forces to be accountable to the National Assembly, especially when the head of state serves as minister of defense. This has been the case for one of the three years of the Muthalika administration. As minister of defense, the president is accountable to parliament and is supposed to appear before the Defense and Security Committee of the National Assembly to present any significant military project, and give an account of any business that might be of interest to the committee; however, as the sitting president he cannot be called to appear before such a committee. As a result, the principle

¹²² The Southern African Defense & Security Management Network, <http://sadsem.org/sadsempartners.htm> (accessed November 2007).

¹²³ Bruneau and Goetze, 71-100.

secretary of the MOD appears in his stead. This compromises legislative accountability since the principle secretary is more limited in what he/she can do as a government employee than the minister responsible, who is a political figure, and has the ultimate command of resources and is wholly accountable for anything in the ministry. Thus, although the existence of the Ministry of Defense (MOD) is an important basic indicator of appropriate civil-military relations in a country,¹²⁴ in Malawi the MOD fails to meet the standard for effective oversight of the armed forces, and effective mediation of military/executive communications. It is not surprising therefore, to see the military being proactive in its own affairs, as demonstrated in the initiation/implementation of the security studies center. In the absence of effective performance by executive and legislative institutions, democratic civil-military relations may depend upon civil society and/or proactive military initiatives to support democratization of civilian oversight.

D. CIVIL SOCIETY AS AN ACTOR IN CIVIL-MILITARY RELATIONS

There is a consensus that civil society plays a significant role in democratization and some argue that it can also be vital in supporting civilian oversight of the military.¹²⁵ In South Africa, civil society participated actively in developing the first democratic defense policy, contributing significantly to the legitimacy of democratic civil-military relations following the transition from

¹²⁴ Bruneau and Goetze.

¹²⁵ Yasmin Jusu-Sheriff, "Civil Society," in *West Africa's Security Challenges: Building Peace in a Troubled Region*, edited by Adekeye Adebayo and Ismail Rashid. Boulder, CO: Lynne Rienner, 2004, 269.

apartheid to democracy.¹²⁶ However, Malawian civil society lacks such initiative. It has not been engaged in the development of the defense policy and there is no civil society organization focusing on military issues. In addition, there has been little public debate about civil-military issues even after Operation Bwenzani, in which the military played a significant role in the domestic politics and security in the country. Like the legislature and MOD, the media has failed to develop expertise in military affairs and this has translated into a less well-informed public on military issues. The political culture in Malawi has significantly separated the military from the general public and this has affected the roles that civil society can play in the military oversight. It is, therefore, inconceivable for civil society to play any role in the military oversight in Malawi. With these dysfunctional institutions (executive, legislature and civil-society) the Malawi Defense Force has been involved in some roles which are typical police functions, and has performed them in accordance with principles of democratic civilian control.

E. DEFENSE FORCE

Section 160 of the Malawian constitution provides that the defense force of Malawi shall operate at all times under the direction of those civil authorities in whom the Constitution vests such power, and shall (a) uphold the

¹²⁶ Rocky Williams, "Defense in a Democracy: The South African Defense Review and the Redefinition of the Parameters of the National Defense Debate," *Journal of Security Sector Management* 2, 3 (September 2004): 206-222. See also Lekoa Mollo, "Negotiating for Civilian Control: Strategy and Tactics of Umkhonto we Sizwe (MK) in the Democratic Transition of South Africa," M.A. thesis, *Naval Postgraduate School*, June 2000.

sovereignty and territorial integrity of the Republic and guard against threats to the safety of its citizens by force of arms; (b) uphold and protect the Constitutional order in the Republic and assist the civil authorities in the proper exercise of their functions under this Constitution; (c) provide technical expertise and resources to assist the civilian authorities in the maintenance of essential services in times of emergency; and (d) perform such other duties outside the territory of Malawi as may be required of them by any treaty entered into by Malawi in accordance with the prescriptions of international law.¹²⁷ Section 5 of the Defense Force Act is the only section in the act that provides for the employment of the defense force and states that "the Defense Force, shall be charged with the defense of, and maintenance of order in, Malawi and with such other duties as are in accordance with the Constitution and the Act."¹²⁸ These roles are too broad to establish a clear line between police and military functions to avoid the political use of the military. The inability to make a clear distinction between the army and police, and define the conditions under which those forces should work together, has often led governments to military and political failure.¹²⁹

Malawi faces significant internal insecurity due to political party instability, which increases the negative effects of overly broad security force roles and civil-

¹²⁷ The Constitution of the Republic of Malawi, Chapter XVI, 70- 71.

¹²⁸ Defense Force Act, Government Printer, No. 11 of 2004.

¹²⁹ Paul Shemella, "The Spectrum of Roles and Missions of the Armed Forces," in *Who Guards the Guardians and How*, edited by Thomas Bruneau and Scott Tollefson, Austin, TX: Texas University Press, 2006, 124.

military relations, as civil authorities are increasingly tempted to bring the military in to settle domestic political disputes.¹³⁰ The recent deployment of troops to stop an opposition party rally has provoked many questions about the military role in the country.¹³¹

In addition to these overt uses of the police and the army by the president for political gain, the armed forces are regularly involved in many politically sensitive police functions, such as guarding election materials (ballot papers and boxes) during general elections, and transferring ballot boxes to and from voting centers. This role, although aimed at securing the election process, may compromise the military's reputation and legitimacy when the election process or results are challenged and there is evidence of rigging.

F. CONCLUSION

This chapter has discussed the institutional obstacles to good civil-military relations in Malawi. The weaknesses of different institutions vis-à-vis legislature, MOD, and civil society have made the president the sole controller

¹³⁰ Asia Africa News Paper, "Malawi president dissolves national spy agency," Asia Africa Intelligence Wire Publication, January 5, 2005, <http://www.accessmylibrary.com> (accessed December 2007). See also "Shyley to head new Intelligence body in Malawi," <http://allafrica.com> (accessed January 2008). See also Panafrican News Agency (PANA) Daily Newswire. See also Nation Newspaper, March 26, 2007. The News editorial centered on the March 25, 2007 abortive political rally in Mulanje by the opposition United Democratic Front (UDF) following intervention by the Malawi Defense Force (MDF).

¹³¹ Nation Newspaper, March 26, 2007. The News editorial centered on the March 25, 2007 abortive political rally in Mulanje by the opposition United Democratic Front (UDF) following intervention by the Malawi Defense Force (MDF) personnel who had mounted road blocks in several strategic places. It was that intervention that prompted others like the Malawi Commission for Human Rights (MHRC) to unreservedly condemn the action by the army.

of the military and its missions. Different recommendations on the direction toward good civil-military relations will be outlined in the concluding chapter.

IV. RECOMMENDATIONS AND CONCLUSION

After the assessment of civil-military relations in Malawi, this thesis suggests different measures that can be taken to move toward the recommended civil-military relations. The history of civil-military relations indicates executive dominance in the control of the armed forces, with little or no legislative oversight. Although the formal institutions necessary for good civil-military relations are in place, such as the legislative committee on defense and security, these have been, to a great extent, non-functional. The national assembly should, therefore, take the necessary steps to empower itself and play a significant role in military oversight by making a thorough scrutiny of the defense budget and make sure it is viable for the national security of the country. It must also follow through on the budget passed. This thesis indicates that there is little expertise in the national assembly, as a whole, and the committee on defense and security in particular, in defense and security issues and civil-military relations. It also shows that the constitutional provision limits the tenure of office for the committee members and, therefore, limits the development of expertise in the committee itself in civil-military relations. It is recommended that the expertise in defense and security should be developed in the committee by amending the constitution and by increasing the tenure of office. The parliamentary staff on defense and security must gain in-depth knowledge of civil-military relations and national security by exposing themselves to different models of civil-military relations in developed countries

like the United States of America. A system of functional committees with professional staffs, who have sufficient knowledge and understanding of the military's institutional requirements, is necessary to enable them to contribute to healthy civil -military relations and oversight. It is only through this that they will work as well-informed advisors to the committee.

The fact that the legislative body is not involved in the confirmation of the defense chief/defense force commander has, for a long time, made the National Assembly miss the opportunity for an effective oversight of the armed forces. The current political situation in the country, however, does not favor this proposal of legislative oversight due to political tension between the president and the legislature. The country has witnessed how politics have delayed the confirmation of senior public servants appointed by the president, some of which have been turned down by the National Assembly, mainly due to political reasons.¹³² Parliament has used this confirmation process as a way of showing its political muscle against the president, rather than performing its duties with impartiality. Parliamentary sitting has since been prorogued, since September 2007, due to the same political tension between opposition and government members of

¹³² Malawi Press Review, "Annual Review of the Major Newspapers in Malawi," Centre For Social Concern, December 2005. In parliament, all was uncertain and the opposition MPs flexed their muscles to show who was boss in a democracy, and the first female head of police, Ms. Nangwale, became the victim. This has also been the case with the confirmation of Anti-Corruption Director and High Commissioners, <http://www.africamission-mafr.org/kanengodecember05.htm> (accessed January 2008).

parliament and is unlikely to open soon.¹³³ Trusting such MPs with the confirmation of the defense chief and the appointment of senior staff in the armed forces may not be a good idea for the national security of the country, and may compromise the nation's security and the institutional prestige and integrity of the military.¹³⁴ The National Assembly must, therefore, organize itself in a manner that will accord itself public respect and confidence. The executive, on the other hand, must address the political issues surrounding Section 65 of the constitution (crossing the floor by members of parliament from the opposition side to the government side) to settle the legislative/executive conflicts, and when that is done, it will be easy to trust it with officers' promotions and the confirmation of high ranking military officers.

Malawi needs to move toward greater democratic consolidation by allowing greater executive accountability to the law, to other branches of the government and to the public, and create more space, energy, autonomy and mechanisms for independent action by the civil society to be heard. Civil society must, therefore, be incorporated in civil-military relations issues in the country in order to fill the gap in legislative shortfalls and act as a source

¹³³ Daily Times Newspaper, January 29, 2008, "House Won't Meet Says Minister," Government says parliament will never meet until the opposition stops behaving irresponsibly and childishly, a statement an analyst has condemned as unfortunate. Minister of Persons with Disabilities and the Elderly Clement Khembo said parliament has lost respect, due to what he termed childish and irresponsible, with opposition MPs and their leaders who use abusive language while transacting business in the House. He did not mention names, but UDF leader in the House, George Mtafu, is on record as having called fellow MPs in the House agalu (dogs).

¹³⁴ Diamond, 1999: 70-76.

of pressure on the executive to change when the legislature fails to do so. Through this institutionalization, trust and cooperation among political actors will increase and build a political culture of democracy and enhanced legitimacy of the democratic system and civil-military relations.¹³⁵ Malawi needs to amend the constitutional provisions that give much more power to the executive than the other institutions, and in the process, does not enhance viable civil-military relations and promote legislative oversight. A clear legal framework must establish who is in control in the oversight of the military and the intelligence system and how the power is balanced between the executive and the legislature.¹³⁶

The ministry of defense is another important institution in the civil-military relations set-up that needs serious consideration in the country. This thesis indicates that the MOD in Malawi is highly dysfunctional when it comes to a mediator role between the elected civil authorities and the military. The MOD needs to muster the skills and expertise to effectively perform the oversight functions and become relevant in civil-military discourses in the country. It must develop negotiating skills to enable it to seek funds, from both the legislature and the ministry of finance, for the military to function properly and insulate the military from political manipulation. It must be the driving force for the major military projects such as the Defense and Security Studies Centre at Mzuzu University. The MOD must make the necessary efforts to

¹³⁵ Diamond, 75.

¹³⁶ Bruneau and Dombroski, 155-171.

develop the National Security Strategy Papers/Defense Policy to guide the military roles and missions. Malawi Defense Force participation in peacekeeping operations is not clearly documented and its mission and participation has not been exclusive, due to lack of resources and equipment. By making it a clear mission of the force, the civil authorities will be mandated to provide all the necessary resources and improve the participation of such moral missions.

The objectives that the MOD has put in place must be implemented, not just on paper. With the current dynamic threats and environments, the MOD must assist the military in responding to such environmental changes by proving all the necessary capabilities so that the military stays up-to-date and able to respond to the existing threats. There is no doubt that civilian defense policy experts are needed to interpret military needs for the elected officials and to serve as interlocutors between the armed forces and society, and as a mature and autonomous point of deliberation in the military policy process.¹³⁷ Military restraint alone, in Malawi, is not sufficient for satisfactory civil-military relations; the importance and complexity of the military's core missions and the rapid pace of worldwide changes require close collaboration between military officers and civilians knowledgeable about each other's institutional needs. Designing new roles for the armed forces is part of the contemporary effort at re-

¹³⁷ Louis W. Goodman, "Military Roles Past and Present," in *Civil-Military Relations and Democracy*, edited by Larry Diamond and Marc Plattner, John Hopkins University Press, Baltimore and London, 1996: 41.

establishing democratic control over the armed forces.¹³⁸ The need to craftily design the implementation of civil-military relations concepts, depending on the political culture and state capacity, in order not to threaten the national security of the country and the democratic process, is of paramount importance. Hence, future developments in civil-military relations in the country will largely depend on the actions of the civilian leadership and the institutionalization of civil-military relations.¹³⁹

¹³⁸ Agbese, 205.

¹³⁹ Bruneau and Tollefson, 2006. See also Larry Diamond and Marc Plattner, 1996, xiii.

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