

Spies for hire and information peddlers: A new threat to security in Africa?

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In July 2007, the Ministry of Intelligence Services released a statement on behalf of the Cabinet-level Justice, Crime Prevention and Security (JCPS) Cluster of the South African government, addressing the investigation by intelligence and law enforcement agencies into the document entitled *Special Browse 'Mole' consolidated report*. The Browse Mole scandal had broken in the media several days before this statement was released and concerned a report that had been leaked to a journalist, some leaders of the African National Congress (ANC) and the Congress of South African Trade Unions. The Browse Mole Report allegedly outlined a conspiracy led by Jacob Zuma to oust President Thabo Mbeki. The Report also claimed that Zuma had been seeking funding and support from other African leaders and had received support for his coup plot from Angolan President Jose dos Santos and Libyan leader Muammar Gaddafi.

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The most interesting thing that emerged from the Browse Mole scandal was not in the content of the allegations but rather the statement released by the state on the origins of the report. According to the official statement, the sources of the information used to compile the report were 'predominantly former members of the present intelligence agencies whose initial background was with the secret services of the apartheid government ... others are people who had relations or associations with these entities' (JCPS Cluster 2007:2). It further states that the sources of the report are part of wider networks of information peddlers who operate within South Africa as well as in other countries in the region, offering services to private businesses, government departments and foreign intelligence services.

The state intelligence services claim that these private intelligence networks have purposefully targeted the ANC and state structures within southern Africa. According to the official statement the objectives of these 'information peddlers' are to

- Weaken and paralyse government by waging a co-ordinated and sustained smear campaign against targeted officials of government
- Erode the integrity and legitimacy of government by suggesting or alleging uncorroborated acts of corruption and involvement in all manner of criminality and other serious, but personal, misdemeanours by a wide range of officials
- Destabilise the ruling party with the intention of weakening the democratic state in its resolve to better the lives of all the people of South Africa, as well as to work for a better Africa and a better world

The government report then details additional objectives behind the 'machinations of these peddlers' as

- Destabilising countries politically
- Undermining diplomatic relations with the government of South Africa and thereby dividing the region
- Undermining the integrity and legitimacy of some governments and leaders by alleging collusion with organised crime syndicates and the like
- Making money in 'a manner most vile'

Although not much has been researched or written about private intelligence actors in Africa, as with much of the phenomenon of the privatisation of security services, the United States seems to be the global leader in outsourcing state intelligence

functions. It is estimated that up to 70 per cent of US intelligence budgets are spent on contractors and that up to 51 per cent of employees of the Defence Intelligence Agency (DIA) are private contractors. Astoundingly, between 50 and 60 per cent of the National Clandestine Service of the Central Intelligence Agency (CIA) are private sector employees. These contractors include Boeing, Booz Allen Hamilton, Lockheed Martin, Northrop Grumman, Raytheon as well as Total Intelligence Solutions that forms part of the Prince Group, the holding company of the now infamous Blackwater Worldwide private military company.

Interestingly, the chairperson of Total Intelligence Solutions is a former head of the counter-terrorism division of the CIA, Cofer Black. Black is known for his prominent role in some of the CIA's more controversial programmes, including the rendition and interrogation of Al-Qaeda suspects and the detention of some of them in secret prisons overseas (Hedgpeth 2007). According to R J Hillhouse, who writes a national security blog called 'The spy who billed me', 'they have the skills and background to do anything anybody wants, there is no oversight; they are an independent company offering freelance espionage services; they are rent-a-spies' (quoted in Hedgpeth 2007).

It seems that the private intelligence industry covers similar ground to the state intelligence structures with regard to the collection and analysis of information and operates along similar lines with regard to supplying certain clients with such information. The difference between such operatives and state agencies is seemingly that the motive of the former is profit. Accordingly, in 2003 Lindiwe Sisulu, then South African minister for intelligence services, noted in her annual budget vote speech that 'intelligence is a secret state activity to understand any threat to national security and thereafter to advise policy makers on steps to counteract such threat. It is an activity performed by officers of the state for state purposes. Secret collection, the use of information that is not publicly available, are the constitutive elements that would distinguish this from other intellectual activity. Having given this definition of intelligence, therefore, it should be clear that there is no scope here for private intelligence activity for purposes of gain or profit' (2003).

Notwithstanding the narrow definition of intelligence and the over-emphasis on secrecy, Sisulu highlights what has been the general attitude of the South African national intelligence community to the private industry: it is not wanted and should not be allowed. The question that arises is why it is regarded as a threat?

In line with the state intelligence services, one can identify two broad categories of private intelligence actors. The first category comprises the domestic operators. These include the more mundane private investigators who can be hired to spy on employees, tap telephone lines, conduct surveillance and carry out counter-espionage activities. These services are quite easy to come by; just one quick Google search will give you several companies from which to choose.

The concern about the actions of such private intelligence actors is that there is the potential for infringement of civil liberties and the invasion of privacy without sufficient oversight. As Sisulu said (2003), 'our concerns refer to the protection of the Constitutional Rights to privacy by South African citizens. When state organs infringe on these rights, it is not for profit and that activity is very strictly governed by a number of laws'. This is correct in theory, of course, as the legislated process requires a warrant from a judge for the interception of communications and the parliamentary Joint Standing Committee on Intelligence (JSCI) reviews reports from the judge assigned to administer such warrants. In terms of section 3(a)(iii) of the Intelligence Oversight Act, 1994 (Act 40 of 1994), the JSCI receives 'a report regarding the functions performed by him or her in terms of that Act including statistics regarding such functions, together with any comments or recommendations which such judge may deem appropriate'.

The concern raised by Sisulu in 2003 was that such rules and oversight procedures do not apply to private contractors and the South African intelligence services have discovered that such companies 'will pay to access data on bank accounts, information on private lives and even health records of individuals, among others'. As Joe Nhlanhla said when he was deputy minister for intelligence services in 1996, we cannot have a situation where elaborate legislation is formulated to protect society from the intrusion of state intelligence agencies while private actors are free to do as they please. 'This is very unacceptable and presents a serious risk to our democracy' (1996).

The activities of the second category of private intelligence actors relate more to the collection, evaluation and analysis of information pertaining to political and economic conditions and fall within the broad risk management and political assessment activities. This seems to be the area in which the Browse Mole document originated. Within this broad field of activity, there are two key concerns regarding private activities. The first is access to state regulated information and the second relates to the provision of false information to the state or information peddling, as it was called during the Browse Mole incident.

As far as access to state information is concerned, the then director-general of the National Intelligence Agency (NIA), Vusi Mavimbela, noted in 2002 during a parliamentary question session that private security companies in South Africa were using national intelligence knowledge against the government. One of the ways in which this problem was addressed, was through the promulgation of the Intelligence Services Act, 2002 (Act 56 of 2002) which states in section 28(1) that a former member may not, for a period of three years after leaving the intelligence services, render a security service unless he or she has obtained a clearance certificate from the director-general concerned. After leaving the intelligence services in 2004, Mavimbela took up the position of executive director with the Mvelaphanda Group, Tokyo Sexwale's corporate umbrella company. According to the website, Mavimbela's key responsibilities are business strategy and

African expansion. The blurred lines between business and politics in Africa mean that the specific skills set gained by the ex-spy boss during his time in public office, provides him with contacts and accessibility someone from the corporate sector might not have.

The example of the move of Mavimbela from state intelligence services to the corporate sector is indicative of some of the problems in defining and acting against private intelligence operators in South Africa. In the business risk assessment and analysis work done by many of the private contractors, either as part of corporations such as Mvelaphanda, De Beers, MTN, Shoprite Checkers and others or as part of private intelligence companies specialising in risk assessment, both parties benefit from an intelligence background of the providers. This relates partly to the skills sets that such operatives have acquired in terms of the collection and analysis of information but more importantly on the African continent, to the fact that ex-agents often have the right contacts to get the job done. As Fred Rustman of CTC International Group, a US based private intelligence company, explained, getting information from rival firms is no different than getting it from enemy governments and they use the same techniques as state agencies (Chubbuck 2008).

The close links between state and economic power and the security forces in many African states mean that the ability to provide analyses and 'open doors' for investors is often based on contacts developed during state service. There can be no denying that the ability to do business in some states, especially where there are high levels of corruption, can only benefit from having the ear of the security services.

It seems that there is a wide range of services and products which the private intelligence industry supplies to big business, private individuals and government departments. One of the ways in which the potential threat posed by private intelligence actors can be determined, is by gaining a better understanding of their clients and the products available to them. Not all the services of the private intelligence sector present a threat to the state and its citizens but some of them do and it is those activities that need to be identified, and then curtailed and regulated.

An analysis reveals three core sectors of activity:

- **Corporate clients**, where typical services on offer include
 - Strategic risk assessments (geopolitical, security and economic assessments)
 - Due diligence and compliance
 - Provision of physical security at sensitive operational sites
 - Information security and counter-espionage
 - Competitive and business intelligence
 - Lobbying and negotiation
 - Staff screening and security vetting

- **Domestic client services**, where typical services on offer include
 - Surveillance
 - General investigation
 - Interception of communications
- **Government services**, where typical services on offer include
 - Strategic risk assessments
 - Interception of communications or communications related information, such as data mining
 - Covert and clandestine operations
 - Technical expertise, especially in the information technology sector and related to information and communications security. This includes the development of new technologies and tools
 - Staff screening and training

The above brief outline of the spheres of activity in which the private intelligence sector operate gives a clear indication that non-state actors are fulfilling the traditional roles of state intelligence agents. But it also indicates that the current global reality is that everybody needs intelligence and the line between what is regulated state information and what is public information is becoming exceedingly blurred in a digital age in which open source intelligence dominates even the state intelligence apparatus. The focus is shifting to the manner in which information is processed and used as opposed to a preoccupation with the covert collection of information. In an article in the *Washington Post*, Cofer Black commented that the most surprising thing about being in the private sector is that much of the information that was considered top secret in state service is publicly available (Hedgpeth 2007).

Two major threats to security can be highlighted as possible consequences of private intelligence activities. The first is infringements on privacy through the interception of communications and the use of intrusive methods of investigation. Domestic spying by state agencies is generally regulated by law and requires approval from the judicial authority. It is important that private investigators and other domestic private intelligence operators are also governed by some form of legislation and that some kind of regulation is in place.

The second potential threat is that it could undermine the national security interests of the state. The use of or over-reliance on private contractors for intelligence could open the door to first the dissemination of false information and second compromised security of state assets such as state information, infrastructure and projects.

Private intelligence actors are a relatively new feature in the security environment in Africa. On a continent where democracy is being challenged on almost a daily basis and

state intelligence services need to face up to being held accountable to the people of the state, the private intelligence sector has the potential to threaten state and individual security. That is not to say that all private intelligence actors are illegitimate. In fact, some of the activities of the private intelligence sector could be utilised by African states to enhance the capacity of the state intelligence services. Private agencies could also serve as a source of intelligence that could augment that of the national intelligence apparatus.

In as much as mercenaries are the rogue and potentially dangerous elements within the private security sector, so too are information peddlers and certain private intelligence actors, and as such they are potentially dangerous. These elements appear to be the exception rather than the rule, however, but there is a need to consider regulation of the private intelligence sector to prevent infringements on civil liberties and to ensure that state information is secure. A starting point for this would be to look more closely at the nature of the threat, as briefly indicated above, and to legislate accordingly.

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