



Seminar summary report

To spy or not to spy?

Public dialogue series on Intelligence and Democracy in South Africa

3 July 2008, ISS Pretoria

Welcoming

Dr Jakkie Cilliers

Executive Director, Institute for Security Studies

Dr Jakkie Cilliers opened the seminar and welcomed the participants. In a brief note, he described ISS, what it does and its evolution since its creation. Dr Cilliers paid tribute to Joe Nhlanhla, who had passed away the previous evening. He noted that through the commitment of people like Joe Nhlanhla and Minister Kasrils, the South African security services, with particular reference to defence and intelligence, have undergone comprehensive reforms since 1994.

Introduction

Dr Cheryl Hendricks

Senior Research Fellow

Security Sector Governance Programme

Dr Cheryl Hendricks, chairperson of the seminar made her opening note by defining the aims of the seminar, the first of the series of seminars that will be hosted around South Africa. These aims were outlined as: (1) to enhance public discussion on and participation in issues relating to the democratic governance of intelligence and (2) to encourage the development of further research and academic interest in the study of intelligence.

To spy or not to spy?

Minister for Intelligence Services, Ronnie Kasrils

Minister for Intelligence Services, Ronnie Kasrils, formally launched the series of public dialogues, by congratulating the ISS for opening the discussion to the public and by reaffirming his total support for the debate around the role of Intelligence services in South Africa. The Minister's presentation provided a brief definition of intelligence and the role of intelligence services. In this regard, he highlighted that the role of intelligence is to generate products to enable leaders to take decisions.

Minister Kasrils, further outlined three key considerations that determine what intelligence services are, namely:

- 1) Intelligence services mirror the values of the society that they serve. The objectives of the intelligence sector depend on the character of the state.
- 2) The growth of democracy has shifted the focus of intelligence; a move from military and/ or regime security to human security. The move towards a human security orientation has in fact created a broad socio-economic mandate for the intelligence community.
- 3) The growth of democracy has also created awareness for oversight and democratic control of the intelligence sector.

During the presentation, Minister Kasrils also noted some of the challenges that have been faced by the South African intelligence community. In particular, he pointed out that achieving the ideal of non-partisanship is very difficult in emerging democracies and post-liberation states. He commented that the approach within the South African intelligence community has been to 'deal with the rotten apples' while 'making the barrel rot proof'. He outlined some of the initiatives being pursued in order to foster greater democratic governance of the intelligence sector, including:

- Implementing civic education programmes within the intelligence community
- Conducting reviews of internal control mechanisms for operational matters
- Legislative amendments, e.g. Protection of Information Bill and the National Strategic Intelligence Act amendments
- Ministerial Review Commission on Intelligence – the Minister noted that the report of the Commission, which was originally due in November 2007, would be released in full to the public in July 2008.
- Increased public discourse and participation
- Entrenching the Principles of Intelligence Professionalism within the services

He concluded his presentation by encouraging ISS to create more public knowledge and understanding of the intelligence services.

A political perspective on intelligence and democracy in South Africa

Sandra Botha MP

DA Parliamentary Leader

In her presentation, Sandra Botha MP, contributed to the debate by giving a political perspective on the role of the intelligence services in democratic South Africa. She noted that this topic is of great importance in respect of the role that the intelligence services play in ensuring the political and economic stability of democracies. She put forward the proposition that if the aim is to have intelligence services that are in line with the constitutional requirement to reflect the resolve of South Africans, it would be appropriate to aim for structures that are able to anticipate and interpret problems that are perhaps not directly related to security.

Hon Botha continued her discussion on the mandate and role of the intelligence services and made special mention of the role of the intelligence sector in relation to the

recent xenophobic attacks. She raised several important issues relating to the role of the intelligence services in relation to socio-economic issues. Furthermore, the presenter also highlighted concerns about the perceived failure of the government to take precautionary actions on intelligence reports before the violence erupted and questioned the credibility of the national intelligence structures given that government did not seem to respond to the reports on the potential threat of xenophobia.

In addressing the issue of having an intelligence sector that serves a democratic society, Hon Botha raised concerns about the partisanship of the intelligence sector and noted that the greatest problem for South Africa is that the intelligence services have been deflected from their collective role as protector of the nation to being the handmaiden of the ruling party and its government.

In the final section of her presentation, Hon Botha addressed concerns about the Protection of Information Bill, which is currently being debated by the Ad Hoc Committee on Intelligence Legislation. She highlighted several contentious areas of the Bill as areas for further discussion and consideration. These included: the absence of a public interest caveat, the lack of an objective standard to determine when national security can be invoked to defend secrecy requirements, issues relating to the delegation of power to classify within organs of state and the lack of an independent appeal body empowered to enforce compliance with the commitment to openness and access to information.

Engaging a new paradigm for intelligence

Lauren Hutton

Researcher

Security Sector Governance Programme

During the second part of the seminar, Lauren Hutton, a researcher in ISS, brought into the debate a new paradigm for the intelligence in South Africa. She took the audience through an argument calling for the need to shift from the traditional roles and functions of the Intelligence services. This presentation set a platform for a new thinking on the way forward for a more collaborative intelligence, towards better horizon scanning and sense making of the information, by making use of information technology analytical tools and by reconfiguring the box in which the Intelligence Services should be operating.

Information and transparency

Chantal Kisoona

Deputy Director PAIA

South African Human Rights Commission

The last speaker, Chantal Kisoona, representing the South African Human Rights Commission, expressed her views on the South African legislation governing access to information. Starting off with a human rights perspective, she stated that the concept of national security used to restrict access to information is contrary to the rights of the society. The focus of this presentation was on the Protection of Information bill. She expressed the need for mechanisms to guide the protection of information as well as

oversight bodies. Chantal Kisoona went beyond the legislation by stating that political commitment; resources allocation to the process can go a long way in ensuring the right balance between security and access to information.

Conclusion

Concluding the discussions of the second part of the seminar, the Minister for Intelligence Services showed interest in Lauren Hutton's presentation and stated that the bottom line is that Intelligence Services should help the decision-makers to make decisions. He welcomed remarks on the Protection of Information bill and clarified the declassification section of the bill: only information that is susceptible of endangering people's lives will remain classified.