



Policy Brief

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Intelligence and Accountability in Africa

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INTRODUCTION

Building systems of accountability for intelligence services in Africa is relatively new phenomenon. The intelligence sector has traditionally been viewed as a core arena of state security outside of the purview of parliament and civil society. As democratic arrangements have become more entrenched and oversight of the security sector has improved, space has opened for debate on the functions and practices of intelligence.

This policy brief seeks to highlight general trends in enhancing the accountability of intelligence agencies and indicates areas for intervention and advocacy.

NATURE OF INTELLIGENCE IN AFRICA

Oversight and accountability of the intelligence sector in Africa has become an increasingly important issue, as historically intelligence agencies on the continent have been misused for personal or group interests, often at the expense of the local population. Allegations of corruption, abuses of human rights, illegal detention and torture have commonly been associated with the intelligence sector. Intelligence has also been coupled to internal political competition and the use of secret methods to maintain position and power.

Furthermore, the effectiveness of African intelligence agencies has been called into question as the ability to pre-empt conflict and counter security threats has been challenged. At continental level, the focus on pre-

emption and conflict prevention has moved beyond the sphere of secret information as decision makers have turned to open source methods as embodied by the continental early warning system.

The politicised role of intelligence in Africa has its roots in the historical evolution of intelligence arrangements. There are four main historical trajectories that have influenced the nature of intelligence on the continent:

1. For many states, particularly Anglophone states, intelligence structures originated in the police, most commonly as derivatives of the Special Branch. These colonial intelligence mechanisms were focused on the continuity of the colonial administration, which found expression in counter-insurgency and counter-terrorism priorities during liberation wars. This early orientation of intelligence as a means to maintain domestic political power continues to find resonance across the continent.
2. The role of the military, particularly in the post-colonial state, has left an imprint on the character and preoccupations of intelligence. Especially in states that experienced military coups, the defence force increasingly subsumed the intelligence function. Furthermore, intelligence agencies have often been involved in and fallen prey to shifting balances of power between military and political elites.
3. Apart from being primarily a policing or military function, some post-colonial states experimented with civilian intelligence dispensations. These were

most commonly created by decree or regulation and positioned as a tool of the executive. Such intelligence functions were commonly located in the office of the presidency and were exempt from oversight. Intelligence, thus, became an extension of executive will.

4. The political evolution of African states has occurred in an international context marked by, firstly, the Cold War and, secondly, by globalisation. The impact of globalisation on intelligence will be discussed later. Both liberation ideology and post-colonial governance were influenced by alignment either to the allies in the west, the Soviet Bloc or to China and North Korea in the east. For the intelligence sector, this alignment extended to the provision of support, training and equipment. The assistance provided left intelligence personnel with certain assumptions, capacities and alliances.

The intelligence sector is, however, not just a victim of circumstance. The appeal of secrecy, status and the power associated with intelligence has proven addictive in and of itself. The challenge to create democratically governed intelligence services is to reform not only the structure of intelligence agencies but to transform the orientation, purpose and behaviour.

CURRENT TRENDS AND PRACTICES

Related mostly to improved democratic governance, the practice of accountability and oversight of the intelligence sector has gained significant currency in the past decade. Efforts to improve governance of the intelligence sector have been made in Ghana, Kenya, Uganda, South Africa, Botswana, Sierra Leone, Liberia and Burundi, to name but a few. The scope of these efforts has varied and the context for intervention has rested on the basic presumption of democratic rule, sometimes in post-conflict scenarios and at other times as part of the democratic evolution of the state.

The motivation is that the intelligence sector can be a key element of the state security arsenal but given the wide range of powers associated with intelligence agencies, without significant mechanisms of control, these secretive tools of state power can be harnessed to serve specific needs and interests, and can result in

human rights abuses against citizens. The point of departure is that given the potential to infringe on civil rights, the work of intelligence agencies should be grounded in clear legislation and they should be held to account for their actions.

Mechanisms of control for the intelligence sector include:

- Policy guidelines on the role and functions of intelligence.
- Clear and specific legislation detailing the mandates and fields of operation.
- Controls on the use of special powers, including the use of intrusive methods of investigation, classification and declassification of information, and arrest and detention. Such controls must be founded in legislation that lays down mechanisms for authorisation and accountability.
- The exercise of authority and oversight at executive, parliamentary and judicial levels. Intelligence services should be subordinated to a system of checks and balances involving, for example, cabinet ministers, the auditor-general, parliament, an inspector general and coordinating bodies.

It is often posited that the challenge of democratic control of intelligence agencies lies in the need to exercise oversight of a state function characterised by the ability to operate in secret. The justifiable need for secrecy has, however, in many African states become a blanket of secrecy – the norm rather than the exception - providing cover for ethically questionable operations, corruption, abuses of power, inadequacy and inefficiency. A system of accountability needs to be created that, while can on the one hand respect the justifiable use of secrecy, but can also ensure that intelligence agencies are serve the broader justice and security needs of the people.

The danger of having an intelligence sector operating outside a system of controls is that political taskmasters may utilise the tools of covert power in pursuit of domestic political agendas and can use secrecy and national security as a cover for human rights violations. A system of oversight mechanisms of control need to

ensure that intelligence agencies cannot be abused for domestic political purposes, that special powers cannot be utilised with abandon and that intelligence serves the broader policy needs of the state and its people. As explained by Born & Leigh¹:

Well-calibrated accountability structures therefore attempt to insulate security and intelligence agencies from political abuse without isolating them from executive control. In general, the solutions adopted by democratic states deal with this paradox in two ways: first, by balancing rights and responsibilities between the agencies and their political masters; and second, by creating checking mechanisms outside the executive branch.

CHALLENGES OF INTELLIGENCE OVERSIGHT AND ACCOUNTABILITY IN AFRICA

Establishing systems of accountability for the intelligence sector in Africa is an emerging area of interest. Good practice in this regard only began to evolve in the mid-1990s.

The most basic challenge to democratic control of intelligence in Africa derives from the role that intelligence actors have traditionally played. Intelligence in Africa is synonymous with state security and most often associated with repressive or exclusionary political systems. For states transitioning to democratic rule, the challenge is to reform the intelligence and security services, and to reorient the function of intelligence from being preoccupied with the security and continuity of the ruling regime to a broader more inclusive role. The challenge lies in crossing the bridge between the rhetoric of human security (people-centred security) and the practice of state security (regime-centred security).

The question to be asked is: what role can and should intelligence agencies in Africa be playing given the political, economic and social aspirations of states and regional organisations? Adopting a far narrower view of the contribution that intelligence can make in Africa would be premised on an assessment of the security needs and an understanding that intelligence should be focused and specifically oriented to curb excesses and reduce the potential for abuse.

Furthermore, given the nature of insecurity on the continent, intelligence priorities are leaning towards transnational security and the requirements of collaborative intelligence structures. This trend presents opportunity for reform especially in terms of creating more openness. There are, however, significant challenges that intelligence collaboration presents to oversight. This is an added challenge to the already weak oversight institutions that exist in various countries.

Systemic weaknesses of state institutions challenge the establishment of democratic governance practices. Political stability and the governance orientation of the ruling regime are the dominant determinants of the behaviour of the intelligence sector. The capacity for democratic governance, oversight and accountability are also determined by such factors. In general, structures for democratic governance have been eroded by insecurity and instability and key mechanisms of accountability – such as the auditor general, legislature and judiciary – often suffer from systemic weaknesses, lack of capacity and resource constraints.

Public participation in policy making is also considered a key characteristic of good governance. Apart from a general lack of civil society engagement on security policy issues, the intelligence sector has traditionally been viewed as unsuitable for civil society involvement. Even as security sector reform has become a popular agenda on the continent, there is little engagement with non-governmental actors on substantive issues associated with the democratic governance of the intelligence sector. This is partly because intelligence is perceived as an elitist interest and also because the involvement of civil society and the media is not a widely accepted concept.

Instilling practices of intelligence sector accountability and oversight entails fundamental changes in the manner in which intelligence is conceptualised and the relationship between intelligence, politics and the state. Changes to the political culture of the state and the manner in which contestation for political space occurs are central to bringing about meaningful democratic control over the intelligence sector.

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CONCLUSION

Establishing oversight of and accountability by the intelligence sector in Africa is intricately concerned with changing power relationships. Such change cannot be achieved in an environment in which contestation for political power occurs in a manner inconsistent with democratic norms and principles, including respect for human rights and the rule of law, and open, participatory political contestation. A deepening of democracy on the continent, transitions to democratic rule and emergence from conflict situations all represent opportunities for the creation of systems of democratic governance in the intelligence sector. However, given the complexities of intelligence reform and the complicated dynamics associated with creating democratically controlled intelligence agencies, windows of opportunity must be seized firmly.

The development of more open and transparent intelligence services will move this secretive sector out of the shadows and allow it to leave behind a sinister terrain filled with assertions of abuse and misuse. To ensuring democratic control and oversight of intelligence agencies in Africa, and to make them fully accountable, is one of many steps towards achieving freedom from fear in Africa.

REFERENCE

- 1 Hans Born and Ian Leigh, *Democratic accountability of intelligence services*, Geneva Centre for the Democratic Control of Armed Forces, Policy Paper No. 19, 2007, 3.