

DECONSTRUCTING NATIONAL SECURITY: THE CASE OF BOTSWANA

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ABSTRACT

The formation of Botswana's Directorate of Intelligence and Security (DIS) in 2008 has led to perceptions that it will be used to spy on law abiding citizens and political opponents of President Khama's regime. The purpose of this article is to put the DIS in perspective. The key argument is that the notion of national security is a contested terrain and in a one party dominant system like that of Botswana, the DIS can easily degenerate into a regime security agency, typical of most African states. The main finding is that Botswana does not have proper and effective oversight mechanisms that can insulate the DIS from political interference. The conclusion is that for DIS to maintain political neutrality, the Central Intelligence Committee (CIC) must be depopulated of ruling party apparatchiks, that the Intelligence and Security Committee must report to Parliament and not the President and that the DIS Tribunal must be chaired by a retired judge. The research method used for this article was the documentary research method, or the use of documents sources in social research.

Keywords: Nation-State, National Security, National Interest, Botswana.

1. INTRODUCTION

Botswana's Directorate of Intelligence and Security (DIS) commenced operations on the 1st April, 2008, succeeding the short lived Security Intelligence Services (SIS) which had succeeded the Special Branch in April, 1998 (Botswana Government 2008b). The Special Branch (SB) was inherited from the British colonial state. The functions of the DIS include investigations, gathering, coordinating, evaluating, correlating, interpreting, disseminating and storing information for the purpose of detecting and identifying any threat or potential threats to Botswana's national security (Botswana Government 2007). On the surface these functions of the DIS are consistent with the functions of intelligence and security organizations around the world. But when the DIS Bill came before Parliament, there were much anxiety and negative reactions from civil society, parliamentarians and politicians across the political spectrum, including even those from the ruling party. This anxiety and negative reaction were fuelled by newspaper reports about how the DIS would be used to hunt, destroy or at least neutralize the opponents of the leader of the ruling party.¹ These fears and perceptions are not far-fetched. Though formally a liberal multi-party democracy, Botswana is in effect a one-party dominant state in which the ruling Botswana Democratic Party (BDP) has been in power since March 3rd 1965, following what appeared to have been an arranged handover by the departing British colonial state officials (Mogalakwe 2003). On the 16th of October 2009, Botswana went to its

¹ See 'Khama accused of spying' Botswana Guardian, Friday 5 June, 2009 and 'Khama Using DIS to purge BDP operatives?' Mmegi Thursday, 04 February, 2010.

10th general elections since independence. As usual, the general elections were won by the ruling Botswana Democratic Party (BDP), for the tenth time in a row. Although the ruling BDP won about 53 percent of the popular vote, it got away with 79 percent of the seats in a 57 seat Parliament, thanks to country's first-past-the-post electoral system. In a one-party dominant system, the interests of the ruling party and those of the state often get intertwined and interwoven and the lines of demarcation can get blurred (Giliomee and Simkins 1999). For example, in 1998, the current president of Botswana, General Ian Khama resigned his command of Botswana Defence Force (BDF), and overnight became the vice president of the ruling party and the country. Although section 3 of the Botswana Constitution gives citizens freedom of conscience, of expression and of assembly and association, any exercise of these freedoms not in support of the ruling party often leads to blacklisting, marginalization, and can attract negative vetting, especially to boards of state owned companies and in diplomatic postings.

The fears about DIS should be put in a context: the meaning of 'national security' is not always obvious or self-evident, but is socially constructed, and therefore constitute a contested terrain that should not be taken for granted. 'National security' is not something objectively present or absent, but a reflection of the views of those in power. As Pascal (quoted in Berger and Luckmann 1967 p 5) once said "...what is truth on one side of the Pyrenees is error on the other." As a social construction, 'national security' can also be *deconstructed*, to reveal ambiguities, assumptions and contradictions inherent in its meaning. According to Abercrombie et al (2006 p 96), 'Deconstruction brings about a reversal of the overt and official meanings of a text in favour of a subversive reading'.² For example during the Cold War both the USA and the USSR supported unpopular regimes around the world, all under the guise of national security interests. Apartheid South Africa, Nazi Germany and Israel have all justified their excesses and gross human rights violations in the name of national security, and in Zimbabwe, the opposition leader, Morgan Tsvangirai, has been branded a national security threat by a senior military officer.³ Deconstructing the concept of 'national security' is significant, especially in the African context, because, as Knightley (1986) points out, insecure leaders have always used spies, but more for *internal* security rather than to gather information about *external* enemies or threats.

This article starts by contextualizing the concept of 'national security', examines national security in the African context, and developments in Botswana's 'national security'. The article draws attention to the absence of proper and effective oversight mechanisms that can ensure political neutrality of the DIS, and guard against the ever present temptation by politicians to abuse state resources to serve a domestic political agenda (Born and Leigh 2007). The article argues that unless there are proper and effective oversight mechanisms, the DIS is insulated from political interference and pressures, and the meaning of 'national security' given limited, narrow and unambiguous interpretation, the DIS can easily degenerate into a *regime security* agency concerned with internal political 'enemies' of the regime. The result will be unnecessary and unwarranted intrusions into the lives of law abiding citizens and undermining their constitutionally guaranteed political and civil liberties, as it has happened in most other African countries.

2. LITERATURE REVIEW

The concept of *national security* seems to have derived from a socially constructed and essentially Western concept, the 'nation-state'. The concept nation-state is a couplet that consists of the concepts 'nation' and 'state'. The 'nation' part of the couplet is a socio-cultural

² Subversive reading' refers to a process of dismantling the imputed meaning of a text.

³ Story by Sapa-AFP on the 23rd June 2011, Harare.

notion and refers to an ‘imagined community’ or a group of people in a specific geographical area who consider themselves linked on the basis of shared culture, ethnicity, language, memories and traditions (Ashley 2008; Anderson 1991). According to Anderson, a nation is ‘imagined’ in the sense that although members of a community will never know most of their fellow members or even hear of them, in the minds of each lives the *image* of their community.

The ‘state’ part of the couplet is a geo-political notion and refers to the institutions that possess a monopoly of rule making and legitimate use of force and violence within a bounded territory or geographical space (Johnson 2000). According to Johnson the idea of a nation-state is based on the presumption of coincidence between the socio-cultural and the geo-political, that is a nation-state is ‘a nation governed by a state whose authority coincides with the boundaries of the nation.’ Underlying the concept of the nation-state is the idea of ‘sovereignty’, which is predicated on a double claim by the state of (a) supreme decision making authority within the territory and over the population, and (b) that no other state has the right to exercise authority, directly or indirectly, within the boundaries of a given state (Wallerstein 1997). Other salient characteristics of the nation-state as it historically evolved in Europe include (a) guaranteeing the ownership of private property and the means of production, (b) providing and maintaining economic infrastructure such as transportation and communication to connect people and increase mobility of people, goods and services (c) initiating economic, political and social policies favourable to private capital accumulation (d) supply, control and disciplining of the labour force, and last but not least (d) regulating conflict between competing interests of capital at home and abroad, by diplomacy if possible, and by war if necessary (Robbins 2002, p102).

The Treaty of Westphalia is regarded as a historical landmark in the beginning of the process of ‘nation-state’ building. This process was given further traction by the industrial revolution and the advent of industrial capitalism which legitimized the ‘nation-state’ as the centre of the national economy, a process that was consolidated after the French Revolution of 1789 (Robbins 2002). According to Robbins, the French Republic, was the pioneer ‘nation-state’, and was constructed through social engineering, to deliberately create a homogeneous French society. According to Buzan (1988), Western nation-states have reached a certain level of social cohesiveness or ‘synthesis of state and society’ with a widely accepted idea of the state which is expressed in stable governing institutions, to the extent that even a change in government or regime will not produce changes in the configuration of these institutions (e.g. change from the Republican to the Democratic parties in the USA or from Labour to the Conservative party in Britain). This cohesiveness revolves around the acceptance of certain forms of cultural, economic and political organizations as *core national values* that have to be defended from an *external enemy* (Azar and Chung-In 1988). But Abercrombie et al (1980) posit that this apparent cohesiveness of Western ‘nation-states’ is due to the ‘dull compulsion’ of economic relations and the coercive nature of law and politics. Another critique of the national value system approach comes from Nagengast (1994) who argues that in Western nations the state ensures conformity through a vast array of institutions and activities that, taken together, help determine the range of available social, political, ethnic and national identities. According to Nagengast the ideal [nation-state] is the one in which the illusion of a single ‘nation-state’ is created and maintained, and resistance to the illusion is managed in such a way that profound social upheavals such as political revolutions and coups d’état are unthinkable for most people most of the time.

National security as a concept gained prominence in the United States after World War II, when in 1947 the United State Congress passed the National Security Act that established the National Security Council and the Central Intelligence Agency (CIA). The CIA describes its mission as collecting information that reveals the plans, intentions and capabilities of America’s adversaries and provides the basis for decision making and action, and provides timely analysis that provides insight, warning and opportunity to the President and other decision makers

charged with protecting and advancing America's national interests.⁴ According to Johnson (1996), moving ahead without looking ahead can prove to be the greatest risk of all, and to be able to better protect and effectively advance the vital interests of their own people, leaders in every nation try to seek the knowledge and fore-knowledge of the world around them. According to Johnson:

A prudent awareness of the dangers and opportunities that confront a nation can be achieved only through painstaking collection of information about key events, circumstances and personalities worldwide. This gathering of information, followed by its careful sifting, lies at the heart of 'intelligence' as that term is applied to affairs of state (pp. 1-2, emphasis added).

If in the Western context, national security was seen predominantly as an *external* vulnerability which was military in nature and arising from outside the borders of the nation-state, how appropriate or applicable then can the concept of 'national security' be to the African situation? Have the African 'nation-states' also achieved similar levels of cohesiveness or consensus on 'core national values' that require overarching national security framework? Available evidence shows that most African 'nation-states' still lack the requisite consensus on the core national values, typical of Western nations. A brief historical overview will suffice. In 1884, some 236 years after the Treaty of Westphalia, 134 years after the British Industrial Revolution and 95 years after the French Revolution, some of the powerful European nation-states gathered at the now infamous Berlin Conference to lay the ground rules for dividing the African continent amongst themselves.

In the process of carving or dividing the 'African pie' amongst themselves, the European powers imposed a Westphalian form of state on their 'colonial possessions', with territorial boundaries just drawn arbitrarily and cutting across the 'nations' on the ground and dismembering established 'states'. The effect of the imposition of the Westphalian form of 'state' was to divide pre-existing African 'nations' into several 'nations-states' or to amalgamate different nations into a single nation-state. At the time of independence the new African rulers found themselves holding on to a state with several 'nations' in it, a good example being Nigeria (Chazan et al 1999, Ayoob 1995; Buzan 1991; Buzan 1988). In other words, colonialism created 'nation states' with serious birth deformities as there was no coincidence between the 'nation' and the 'state'.

Most importantly, that overarching characteristic of the nation-state, the supreme decision making authority, is still in contestation in several African nation-states, as instanced by many incidents of armed opposition to the central authority in countries like the Democratic Republic of Congo and Somalia, and leading in some cases to the emergence of the so-called failed states. The post-colonial nation-state is still characterized by lack of internal cohesion and social exclusion, and its failure to deliver on the promises made during the anti-colonial struggles has led to a crisis of expectations and raised questions about its legitimacy (Ayoob 1995). As a result the new rulers put more emphasis on defending the 'state' of which they are now in charge, rather than the 'nation-state', and questions about the legitimacy of the regime are *securitized* and presented as national security threat, when in fact the threat is to the regime itself (Azar and Chung-In 1988). When this happens political parties and civil society activists become the natural and obvious scapegoats and targets of *securitization* process, as seen recently in Zimbabwe under Robert Mugabe. According to Ayoob (1995), it is often

⁴ <https://www.cia.gov/about-cia/cia-vision-mission-values/index.html> (28/06/2010)

difficult to disentangle issues of state security from those of regime security in the Third World. He argues that the concept of security in the Third World context goes beyond traditional Western pre-occupation with external military attack, and remains firmly rooted in the political realm. That is to say, national security as it applies to the Third World is *state-centered* and must be understood primarily 'in political terms and in relation to the challenges to the survivability and effectiveness of the post-colonial states and regimes, rather than the 'nation-state' (Ayoob 1995).

3. THEORETICAL FOUNDATIONS

National security concerns arise when an issue is *securitized*, that is, presented as an *existential threat* to designated national security referent objects, and that requires extraordinary measures and actions outside the *normal* political procedures (Buzan et al (1998). In its Cold War usage, the term national security was imbued with the priority of war prevention and reflected the West's response to the fundamental ideological challenge from the Soviet Union to what the West considered its core national values. From this perspective, national security was understood to mean threats posed by *other* nation- states, rather than threats arising from within the nation state. According to Buzan et al (1998), military and political threats are the most preeminent; the military threats, real or imagined, occupy the traditional heart of national security concerns because they are aimed at the integrity and sovereignty of the nation-state, whilst on the other hand, political threats, real or imagined, comprise in the main, any attempts to undermine the organizational stability of the nation-state, its structures, processes, institutions and the organizing ideology which expresses and holds the nation-state together. By questioning certain ideas on which political institutions are built, one can threaten the stability of the political order (Buzan et al 1998).

The use of the expression 'real or imagined' underlies the argument raised previously that national security threats do not necessarily exist in any objectively definable or verifiable way, but are mostly social constructs or perceptions of securitizing actors: the political leaders or security officials who can just *securitize* issues by merely *declaring* a referent object 'existentially threatened' by a particular issue (Buzan et al 1998). According to Buzan et al, security is a self-referential practice which adopts a speech-act approach, and it is in this practice that the issue becomes a security issue – not necessarily because a real existential threat exists, but because the issue is presented as such a threat (p.24). The implications are that any issue, ranging from certain types of political or criminal behaviour through to workers industrial action and student demonstrations, can be securitized, since all that the securitizing actors need to do is to invoke 'security' in a speech act or text, and present such an issue as an existential threat that requires emergency or extraordinary measures, sometimes justifying actions outside normal bounds⁵, such as the use of force or violence (Buzan et al 1998).

4. METHODS AND MATERIALS

This article is based on evidence collected using documentary research method. Documentary research method refer to the analysis of existing documents that contain information about the phenomenon being studied (Bailey 1994). A document is a written text, or an artefact that has as its central feature, an inscribed text, although not every text objects that has inscribed text is necessarily a document (Scott 1990). There are two types of

⁵ For an example see 'Poaching is now a national security threat – Macheng' in Botswana's *Sundaystandard* of January 20-26, 2013, in which a senior Botswana Defence Force (BDF) official, Brigadier-General Sentsekae Macheng, National Anti-Poaching Coordinator, is quoted as saying that game poaching in Botswana is fast morphing into a strategic issue that threatens Botswana's national interests.

documents that are used in documentary research method; these are primary documents and secondary documents. Primary documents refer to eye witness accounts produced by people who experienced a particular event or occurrence. Primary sources are what can be referred to as raw material and do not contain any analysis or opinion on the event or occurrence. Examples of primary sources include diaries, personal letters, memoirs, speeches, interviews and articles in newspapers, periodicals and magazines. Secondary sources are documents produced by people who were not present at the time of the event or occurrence, but have received eye witness accounts to compile the documents (Scott (1990)). Secondary sources contain interpretation analysis and commentary. Examples of secondary sources include published works such as books and journal articles. In general the principles of handling documentary sources are the same as those from other areas of social research: documents must be handled scientifically.

According to Scot (1990) documents must be authentic credible representative and meaningful. Authenticity is about whether the evidence is genuine and from an impeccable source; credibility is about whether the evidence is typical of its kind; representativity is about whether the documents consulted are representative of the totality of the relevant documents on the topic under investigation, and meaningfulness is about whether the evidence is clear and comprehensible. According to Scott, these criteria should be used as all interdependent and the researcher cannot use one criterion to the exclusion of the other. Documentary research is not new, having been extensively used by classical social theorists like Karl Marx, who used mainly British Library, to read newspapers and periodicals and government publications when writing his *magnus opus*, *Das Capital*. Durkheim was known to have relied on official statistics from different European countries and established that suicide is not an individual act, but an act induced by certain social conditions (Harvey 1990).

This article used both the primary and secondary sources collected from Botswana National assembly Library, Botswana National Archives, Botswana National Library Services, University of Botswana Library and Botswana Government Stationery Office. I also made use of various newspaper reports. The primary sources used include information from the official websites of various organizations, Botswana government documents like the Public Accounts Committee Reports, Commissioner of Police annual reports, Intelligence and Security Service Act (Act No 16 of 2007), Botswana National Achieves declassified Special Branch reports, articles from newspapers, periodicals and magazines that were independently written about events or people. These primary sources provided the raw materials and I am the one who interrogated, interpreted, analyzed and formed an opinion about the subject of my study. These documents could not have been produced for my benefit as the compliers could not have known that I will show interest in them. These secondary sources consisted of books published by reputable publishing houses and articles in refereed journals. These books and journal articles which are cited in the literature review, were written by knowledgeable people who themselves had analyzed and interpreted information from a variety of primary and secondary sources.

5. FINDINGS AND DISCUSSION

5.1 NATIONAL SECURITY IN THE BOTSWANA CONTEXT

Botswana is a sparsely populated, but physically, a huge country the size of Texas or France. The most recent population census puts the population at 2.2 million. Eight five percent of the population belong to the Tswana ethnic group, making Botswana one the few relatively ethnically homogeneous countries in Africa. There are no known cases of ethnically inspired armed insurrection as in many other parts of Africa. According to Parsons (1999) the earliest evidence of security intelligence activity in Botswana (then Bechuanaland) was 1923 in the form of a request from the Chief of Imperial General Staff (CIGS) in London to the Chief of the

Union Defence Force of South Africa, passed on to the Resident Commissioner in Mafikeng, asking for information on Pan Africanist activities in Southern Africa. Parsons estimates that the Bechuanaland Special Branch became active in 1950-52 periods, partly as a result of general intelligence re-organization in all British colonies. The Special Branch was first formed in the United Kingdom in March 1883, as a branch of Metropolitan Police *Special Irish Branch*, to counter Irish 'terrorism' on mainland Britain. In 1888 the term 'Irish' was dropped from the nomenclature, and the branch was just referred to as the Special Branch. Over the years the Special Branch took on a wide range of security related responsibilities, such as gathering, collating and disseminating intelligence for operational use by other government agencies, and in countering threats to the security of the United Kingdom. The Special Branch is also reported to have still kept an eye over leftwing revolutionaries, including Lenin and Trotsky when they came to visit London.⁶

The advent of modern intelligence and security in Botswana came at the height of the Cold War, and it can be argued that it was the Western, Cold War anti-communist notion of national security of the British Special Branch that shaped the meaning of 'national security threat' in the then Bechuanaland. Parsons (1999) posits that the remit of the British intelligence at this time was to suppress the spread of communism and to de-radicalize African nationalism and channel it along pro-Western or even pro-British direction, and to 'turn' the most radical nationalist leader, bring them out of jail and make them government ministers if necessary. Seretse Khama, who had previously been persecuted by the British government because of his marriage, later became the first president of independent Botswana and a darling of the British government and was even given a knighthood, the Knight Commander of the British Empire.

Initially intelligence and security matters in colonial Botswana were handled by the District Intelligence Committees (DICs), which met under the chairmanship of the District Commissioner (DC) a practice that continued after Botswana's independence. The DIC reports would be compiled and sent to the Central Intelligence Committee (CIC) in Mafikeng, and after independence, to Gaborone for further analysis and action. The mandate of the Botswana Special Branch was described as protecting the security of the state by investigating cases or threats of subversion, espionage and sabotage (Botswana Government 1979). The influence of the British or Western notion of national security on post-colonial Botswana's approach to national security can be gleaned from the national security threat analysis briefing prepared by the Special Branch on the eve of Botswana's independence for the incoming government of Prime Minister Seretse Khama (BNA OP58/2). According to the briefing, dated 5th August 1966, national security threats to the new Republic of Botswana comprised the following:

- Communism or communist inspired activities
- Subversive or potentially subversive activities by opposition parties or groups
- Opposition by chiefs arising from their discontent over the erosion of their traditional powers
- Threats to the essential functions of government from African civil servants
- Activities by labour unions, endangering the vital services of the state and national economy
- Pan-Africanist activities
- secessionist movements and inter-tribal disputes
- Drought and famine
- The effects of the situation in Rhodesia.

⁶ <http://www.nationalarchives.gov.uk/securityhistory/branch.html> (12/01/2009)

It is interesting to note, especially at that time of Botswana imminent Independence from Britain, that communism, communist inspired activities and Pan-Africanist activities would be presented as national security threat to the soon to be born Republic, and not the white minority regimes of South Africa and Rhodesia. Of further interest is that domestic political opposition to Seretse Khama's Bechuanaland Democratic Party (BDP), and even trade union activities, were also presented as constituting security threat to the new nation-state. The format of the 1966 briefing formed a template for national security threat assessment over many years, and opposition parties and trade unionists in particular were put under round the clock surveillance and their activities closely monitored (BNA OP58/4). At the Botswana Police College, police trainees were exhorted to report rumours of the plans of political parties or of discontent with government policies, to the Special Branch officers (Botswana Government 1979). Although the position of Head of the Special Branch position was localized in 1975, there is no evidence that this resulted in any 'new thinking' regarding the definition of national security threat or strategic culture of the organization.⁷

In April 1998, the Special Branch was reorganized and renamed the Security Intelligence Services (SIS), but remained part of the Botswana Police Service (see Figure 1). The Head of SIS Harold Mogale, who was one of the three Deputy Commissioners of Police, was given a new rank of Director-General of the SIS. The Director-General was responsible for five Regional Security Intelligence Officers and Chief Presidential Security Intelligence Officer at the State House (Botswana Government 2008). Although the Special Branch and its successor, the SIS, was one of the branches or formations within the Botswana Police, alongside the Criminal Investigations Department (CID), Transport and Telecommunications Branch and the paramilitary Special Support Group (SSG), its activities remained shrouded in secrecy and its role and functions never mentioned in the Botswana Police Annual Report, pointing to the clandestine nature of its activities or operations. The Special Branch and later the SIS worked quietly and unobtrusively behind the scenes, and as a matter fact, an average Botswana citizen would have never heard of the Special Branch or SIS, or if he did, would not have known the difference between an SB or SIS officer on the one hand, and a CID officer on the other. Incidentally the Special Branch had weathered both the apartheid and Rhodesian era security storms, when Botswana's national sovereignty was perhaps most at risk. The SIS was superseded by the DIS in April 2008.⁸

5.2 THE DIS – THE LEGAL FRAMEWORK AND ORGANIZATIONAL STRUCTURE

The Directorate of Intelligence and Security (DIS) commenced operations on the 1st April 2008, the same day that Gen. Ian Khama was inaugurated as the fourth President of Botswana. According to the Intelligence and Security Service Act (hereinafter, the Act), threats to Botswana's national security include any activity directed at undermining or intended to bring about the destruction of the constitutionally established system of the government by unlawful means, or unlawful harm that is directed or intended to bring about or promote any constitutional, political, industrial, social or economic objective or change in Botswana.⁹ Section 7 of the Act stipulates that the Director General (DG) of DIS shall be the principal advisor to the President and the Government on matters relating to national security and intelligence and that the DG shall report to the President and government on threats and potential threats to national security. Section 8(1) of the Act creates the Internal Intelligence

⁷ The first citizen Head of Special Branch was David Mophuting (1975-1978), followed by Adolf Heirschfeld (1978-1992) and Harold Mogale (1992-2008), who all held the rank of Senior Assistant Commissioner of Police.

⁸ Contrary to widespread misconceptions, popularized by the media and some politicians, the DIS is not Botswana's first intelligence and security organ. What is new is that the DIS was established by an Act of Parliament to delink 'national security' responsibilities from public safety responsibilities of the police.

⁹ But in a one-party dominant system, political dissidents, armed insurgents and terrorists can all easily be lumped together.

Division, responsible for gathering domestic intelligence, and section 8 (2) creates the External Intelligence Division responsible for foreign intelligence. Whilst the sub-section establishing the domestic division of the DIS is conspicuously silent on what falls under the ambit of this division, section 8(2) states that the external division of the DIS will be responsible for counter-intelligence and intelligence on organized crime. The founding Director-General of the DIS, Col. Isaac Kgosi, is quoted as saying that the DIS is a "...secret service that spies on individuals and entities that pose a threat to national security in areas such as fraud, money laundering, drug peddling, tax evasion and others..."¹⁰ Section 25 of the Act establishes the Central Intelligence Committee (CIC) whose functions include *guiding* the DIS generally *on all matters* relating to national security and intelligence interests (italics added). The CIC comprises 13 members, only seven of who are security professionals. The members of the CIC are: (1) the President as the chairman (2) the Vice President (3) Minister of Defense and Security and (4) Minister of Foreign Affairs (5) the Permanent Secretary to the President and (6) the Attorney General. Both the Attorney-General and the Permanent Secretary to the President (PSP) are political appointees.

The Attorney-General serves as the government legal advisor and the PSP is the President's political advisor. The intelligence and security professionals in the CIC are (7) Commander of the Botswana Defence Force (8) the Director General, DIS (9) the Deputy Director General DIS (10) the Commissioner of Police (11) Deputy Commander the Botswana Defence Force (12) Assistant Chief of Staff of Military Intelligence and (13) the Deputy Commissioner of Police (see Figure 2). Section 31 of the Act establishes the DIS Tribunal to hear complaints from persons aggrieved by an act or omission of the DIS. According to the section, the chairman of the Tribunal shall be a High Court Judge, a retired High Court Judge or a legal practitioner who qualifies to be appointed as a High Court Judge. Further, the section stipulates that the tribunal shall not enquire into any complaint which it considers to be prejudicial to national security. The DIS Tribunal is currently headed by one Isaac Seloko, a private attorney and a well known ruling party activist, who has served in the party Central Committee, has recently featured as the Master of Ceremonies at the ruling party congress, and is now the Chairman of the party's Disciplinary Committee.¹¹ Section 38 of the Act establishes Intelligence and Security Parliamentary Committee whose mandate is to examine the expenditure, administration and policy of the Directorate. Although the Committee has the same powers and privileges set out under National Assembly (Powers and Privileges) Act, the committee is not an oversight committee, is not elected by Parliament, and does not report to it, but is appointed by the President after 'consultation' with the Speaker of the National Assembly and Leader of the Opposition. The Committee is required by the Act to make annual reports to the President, but the Minister responsible can make the report available to Parliament after satisfying himself that none of the items in the report is prejudicial to the continued discharge of the functions of the DIS.

It is widely assumed that because of the sensitivity of intelligence and security information, this information would be provided to its consumers (the President for example) strictly on the basis of need to know, and *after* the sifting process carried out by senior intelligence and security managers.

It is important to note at this juncture, that Botswana does not have a national security policy (NSP), and the context that guides and informs DIS in the execution of its mandate remains unclear. This is further aggravated by the inclusion of the ruling party *apparatchiks* in the CIC. Whilst other members of the CIC, such as members of the BDF and Botswana Police, are professionals who can be trusted to take an arm's length approach to partisan politics, and professionally guide the DIS, the same cannot be said about the ruling party politicians.

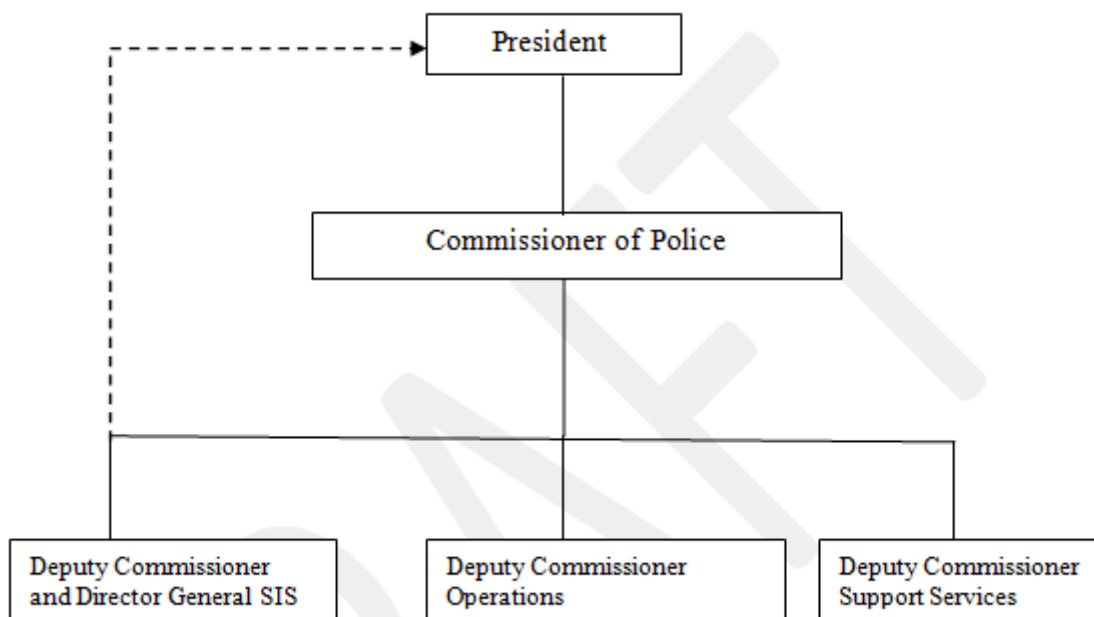
¹⁰ See "DIS exists for national security" Daily News Friday April 9, 2010, No 66 p2.

¹¹ See Botswana Guardian centre spread, Friday 15 July 2011; WeekendPost Saturday 23-29 July, 2011 at page3.

Instead of them being just consumers of intelligence information by virtue of their ministerial responsibilities, they have, in terms of section 25, a direct managerial responsibility for the DIS, as opposed to just policy or strategic responsibility. This enables them to be active participants in the sifting process that is at the heart of intelligence gathering. As pointed out above, the creation of the DIS has aroused a lot of anxiety and concern from across Botswana's civil society and political spectrum. Born and Leigh (2007) argue that the existence of intelligence and security apparatus, which by practice operates in secrecy, is always a matter of great concern and anxiety to most people. According to Born and Leigh (2007, p. 5):

The necessary secrecy surrounding security and intelligence runs the risk of encouraging and providing cover for illegal and ethically dubious practices on the part of the agencies involved. The democratic process itself may be subverted by the infiltration of political parties, trade unions or civil society groups in the name of security and intelligence. The privacy of countless individual may be interfered with by the collection, storage and dissemination of personal data, whether accurate or flawed.

Figure 1: Security Intelligence Services Organizational Structure



One of the biggest challenges facing the Director of the DIS would be how to react to the ruling party internal political plots against the President, let alone the strengths and mobilization strategies of opposition parties. In a newspaper article, Sidney Pilane, former Special Adviser to former President Mogae, and a member of the ruling party breakaway called Botswana Movement for Democracy (BMD) alleged that President Khama had used DIS operatives to investigate him and other BDP dissidents. Pilane alleged that when President Khama realized he could not use the investigations report without exposing the identities of these officers, he decided to expel them from the party.¹² It was, however, reported that the investigations were carried out not by members of the DIS, as speculated, but by a member of the DIS Tribunal, Ms Tsetsele Fantan, who happens to be President Khama's cousin.¹³ The involvement of Ms Fantan, the cousin to the very same President who chairs the CIC, shows

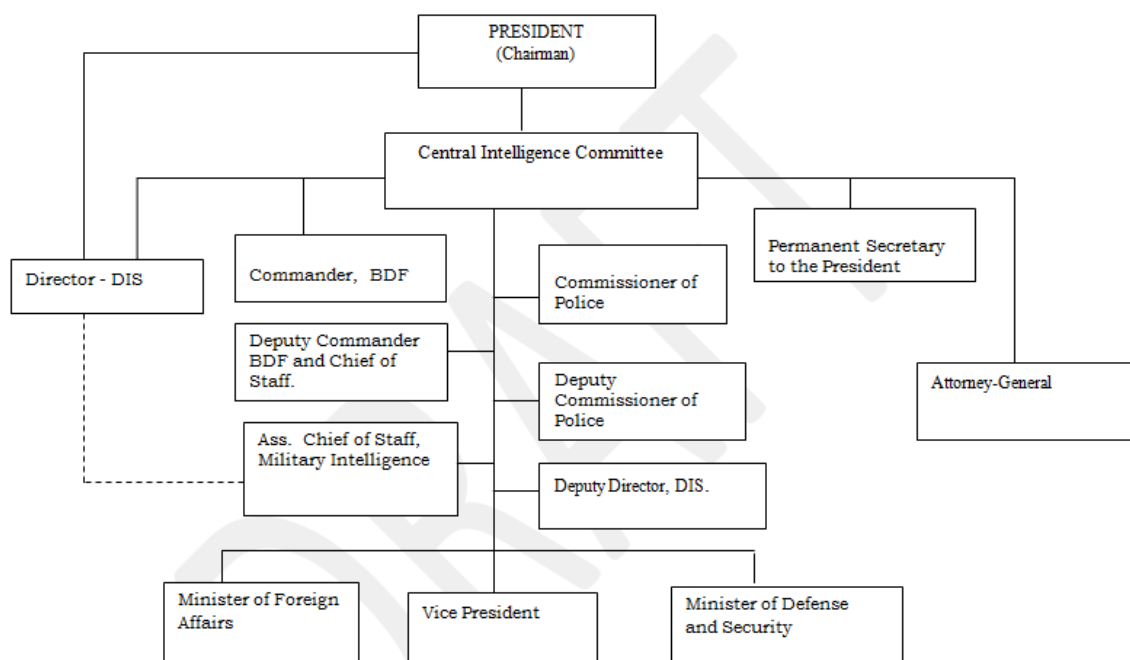
¹² See 'No blows barred as Pilane takes on Khama' *The Telegraph*, Wednesday, April 28, 2010.

¹³ See 'Khama tasked his cousin to probe Ntuane & Co.' *SundayStandard*, May 30-5 June, 2010.

that lines of demarcation can become blurred, and the door opened for political abuse and manipulation.

The political neutrality of the DIS is further brought into question by the reported personal relationship of its Director-General and the President. According to PrintmediaConsult (2008), the Director-General, Col. Isaac Kgosi, is longtime confidante of General Ian Khama. Col. Kgosi first attracted media attention in 1998 at the time when Gen. Khama left the Botswana Defence Force (BDF) and insisted on Col. Kgosi coming along with him as his Senior Private Secretary. Apparently this was one of Khama's conditionalities for leaving the BDF to join the ruling BDP as the Vice President. Col. Kgosi started working for Khama as a Junior Staff Officer and rose through the ranks to be Khama's Senior Staff Officer when Khama became the commander. Print media Consult (2008) quotes Col. Kgosi as saying President Khama made him what he is and that he owes Khama a debt of gratitude. Also reported to be very close to Khama is Brigadier Peter Magosi, the Head of the Military Intelligence. Both Kgosi and Magosi are regarded by some as Khama's men, as exemplified by the closeness of the two organizations they are heading.¹⁴ Both the Director-General and Deputy Director-General of DIS are appointed by the President on such terms and conditions as the President may determine. On appointment, they swear oath of allegiance to the President, rather than the Constitution.¹⁵ A source in the intelligence community is quoted in a newspaper as saying that the DIS is viewed with suspicion because it seems to be a team of people loyal to President Khama and not the nation.¹⁶

Figure 2: Central Intelligence Committee Organizational Structure



Source: Intelligence and Security Services Act (Act No 16 of 2007)

5.3 ACCOUNTABILITY AND OVERSIGHT MECHANISMS

A close examination of accountability and oversight practices regarding CIC, the Intelligence and Security Tribunal and the Intelligence and Security Parliamentary Committee, reveal that these have not been benchmarked on any of Botswana's Western mentors, in

¹⁴ See 'The players in Kalafatis killing' Mmegi 12th June, 2009; 'BDF, DIS ordered to kill Kalafatis' Sunday Standard 21st June, 2009.

¹⁵ See also 'BDF members swear allegiance to President, not Constitution' Botswana Dailynews Wednesday August 10th 2011.

¹⁶ See "Disquiet in BDF, police as the new spy body recruits' Mmegi Friday 8th February, 2008.

particular, the United Kingdom and the United States. In the United Kingdom, the Director-General of MI5, the UK's security intelligence agency, is appointed by the Home Secretary in consultation with the Prime Minister. The Home Secretary, who is accountable to parliament for the activities of MI5, regularly receives intelligence *briefings* from the Director-General, who is accountable to him, on threats to national security and on major current investigations.¹⁷ Only the Director-General, the Deputy and the Directors of the six MI5 branches meet regularly to decide on intelligence priorities. In the UK, oversight is at three levels, namely the ministerial, the parliamentary and the judicial levels. At the ministerial level the Director-General regularly briefs the Home Secretary (or the Foreign Secretary, as the case may be) on threats to national security and on major investigations.¹⁸

At parliamentary level, the Prime Minister appoints an oversight Committee on Intelligence and Security in consultation with the Leader of the Opposition.¹⁹ The committee's reports on the administration and expenditure of MI5 are made public, subject to any deletions on *operational* grounds. At the judicial level, the oversight is carried out by two Commissioners, really senior judges, being persons who hold or have held high judicial office within the meaning of the Appellate Jurisdiction Act of 1876.²⁰ According to Section 25 of the Act, high judicial office means the office of the Lord Chancellor of Great Britain and Ireland, or Judge of the Judicial Committee of the Privy Council, or Judge of one of Her Majesty's superior courts of Great Britain and Ireland. In the United States, the Director of the Central Intelligence is nominated by the President and confirmed by the Senate, but reports to the Director of National Intelligence, and not the President.²¹ The President receives his intelligence briefings from the President Daily Briefing Staff (PDB). In the case of both the United Kingdom and the United States, the Prime Minister and the President, respectively, as chief executive officers of the state, are responsible for the security and intelligence machinery as a whole, and are accountable to their parliaments for these, but the day to day, direct and hands-on interaction with the chiefs of the security and intelligence services is virtually unheard of.²² Both the UK and US's practice stand in sharp contrast to the Botswana practice, where the President and some cabinet ministers, are directly involved in guiding the DIS generally on all matters relating to national security and intelligence.

5.4 *The rise and rise of the DIS*

An interesting difference between the DIS and its predecessors (the Special Branch and the SIS) is in some of its activities, which seems the very opposite of the discreet and unobtrusive methods of its predecessors. For example, one newspaper reported that some DIS officers were involved in the arrest and torture of two members of the BDF and two members of the Police on suspicions that they had stolen an AK47 assault rifle from a police armory to use it in an armed robbery. It later transpired that the rifle never left the armory. But this was after the suspects had apparently been tortured at what one of them described as DIS torture chamber fitted with thick soundproof polythene.²³ According to the most recent newspaper reports, the matter is now before the courts, and the victims are suing the DIS for about US\$400,00 for torture, unlawful detention and arrest. The Attorney-General, representing the government is cited as the first defendant.²⁴ Another newspaper carries a story of how a senior

¹⁷ <https://www.mi5.gov.uk/output/ministerial.html>. (22/07/2010)

¹⁸ <https://www.mi5.gov.uk/output/ministerial.html>. (22/07/2010)

¹⁹ <https://www.mi5.gov.uk/output/parliamentary.html> ((22/07/2010)

²⁰ <https://www.mi5.gov.uk/output/judicial.html> (22/07/2010)

²¹ <https://www.cia.gov/about-cia/leadership/index.html> (28/06/2010)

²² <http://www.fas.org/irp/world/uk/mi5/org.htm>; <https://www.mi5.gov.uk>.

²³ See 'Cops soldiers claim torture at DIS' Mmegi Thursday, 23rd October, 2008.

²⁴ See 'Police, soldiers take DIS to Court' Weekendpost Saturday 12th November 2011.

member of the Botswana Police Serious Crime Squad had questioned the Minister for Defence, Justice and Security about the scope of work of the DIS and asked for the minister to distinguish between the work of the police and that of the DIS. The officer apparently complained that the way DIS operates, including impersonating the police, can tarnish the image of Botswana Police in the eyes of the public.²⁵ Since the DIS commenced operations, there have been several extra-judicial executions, including the much publicized execution of John Kalafatis, a Gaborone based criminal, apparently shot with special purpose ‘anti-terrorist’ bullets.²⁶ Four members of the military intelligence, apparently on ‘loan’ to the DIS, were found guilty and convicted of the murder, three of them were sentenced to a eleven years imprisonment, and the sentence was later confirmed by the Court of Appeal. At the beginning of June, 2012, after serving only a few months of their sentences, the soldiers were released by Presidential Pardon. The Kalafatis family lawyers, who are also very prominent opposition political activists, were quick to point out that the presidential pardon was a confirmation that Gen. Khama was the one who gave the shoot to kill order in the first place.²⁷

One of the implications of separating the intelligence and security from the police was that the new organization would have its own budget, for both development and recurrent expenditure. As Table 1 shows, the DIS budget accounts on average for about 7.8 percent of the total security sector expenditure. Although the DIS budget as a component of the overall security sector budget is fairly modest, the biggest challenge has been the excessive or even unreasonable secrecy surrounding DIS financial accountability. Opposition party members of the Intelligence and Security Parliamentary Committee have on several a occasions complained that the DIS spending is shrouded in mystery and that the Parliamentary Committee is unable to provide the required oversight as no information is ever disclosed to them.²⁸

Table 1: Botswana Security Sector Expenditure Estimates (millions in US\$)²⁹

<i>Department</i>	<i>2007/08</i>	<i>2008/09</i>	<i>2009/10</i>	<i>2010/11</i>	<i>2011/2012</i>	<i>2012/2013</i>
Botswana Defence Force	286	329	329	357	371	361
Botswana Police Service	143	143	171	177	197	210
Directorate of Intelligence and Security	n/a	39	40	55	42	54
Total Security Sector Expenditure	429	510	540	588	610	625
DIS expenditure as a percentage of total security sector budget	n/a	7.6	7.4	9.3	7	8.6

Source: National Assembly of Botswana Library

When the DIS commenced operations in 2007, it found other intelligence and security organizations such as the SIS, the Military Intelligence, the Police Crime Intelligence Bureau on the ground. But some newspaper reports claim that the DIS went about recruiting its agents from these other organizations. It appears that DIS recruitment drive was based on promises of

²⁵ See ‘Spooks cause havoc’ Botswana Guardian Friday November, 2008.

²⁶ See ‘Eight bullets killed Kalafatis’, The Botswana Gazette, Wednesday 27th- 02 June, 2009; The players in Kalafatis killing, Mmegi 12th June, 2009; ‘BDF, DIS ordered to kill Kalafatis’ Sunday Standard, 21st June, 2009 and ‘I was hired to kill Kalafatis,’ says former agent’ Mmegi Friday, 05 June, 2009; ‘Officer confesses to Kalafatis manhunt’ The Botswana Gazette, Wednesday 14th October, 2009.

²⁷ See ‘Khama confirms Kalafatis conspiracy – opposition’ Mmegi, Wednesday 06 June, 2012.

²⁸ See ‘Opposition members to quite DIS Committee’ Botswana Guardian 1st April, 2011; and ‘Opposition parties withdraw MPs from DIS Committee’ The Botswana Gazette, 06-12 July 2011.

²⁹ About 8.5 Botswana pula (BWP) equal one US dollar

better working conditions for those who would leave their current employer and join the DIS.³⁰ According to Public Accounts Committee Report, in October 2007, the Chairman of the Task Force set up to identify the needs of new intelligence and security agency had to scout around for funds, and subsequently, the DIS was unlawfully and unprocedurally allocated about \$2.5 million from the National Disaster Relief Fund (NDRF) and about \$4 million was improperly transferred from the Botswana Defence Force to the DIS through the NDRF (Botswana Government 2010). According to the report, in the 2008/09 financial year, though the DIS had its own budget, it went on to use an amount of about \$1.7 million from the NDRF.

The report states that the Accounting Officer at the Office of the President, under which the DIS was housed at that time, made a submission that the funds had been used on housing, offices, transport, equipment and training. But when the PAC sought documentary evidence to satisfy itself that the funds were indeed used as reported, the same Accounting Officer refused to give the PAC the evidence, saying that he could not provide the PAC, a Committee of Parliament, with such information due to the sensitivity of the matters handled by the DIS. According to the PAC report, the Committee has been left with no option but to conclude that there must have been some element of abuse of the funds. The charges of abuse and or misappropriation of public funds by the DIS were again repeated on the floor of Parliament by the former Chairman of the PAC, who also called on Botswana Directorate on Corruption and Economic Crimes and the Police to investigate the Director of the DIS for financial impropriety.³¹ The government has defended the secrecy surrounding the DIS budgets and spending, arguing that it was a norm around the world to keep secret information about intelligence spending in order to avoid compromising national security.³²

6. CONCLUSION

From the foregoing, it can be argued that DIS is in a way a continuation of the Special Branch and the SIS in a new form. According to some of Botswana's national security experts, the DIS was created in order to delink national security responsibilities from public safety responsibilities of the police. Just like its predecessors, the DIS's mandate is to safeguard Botswana's national security. Botswana has been very different from most African countries in that there is no known challenge or contestation of the post-colonial state's supreme decision making authority in the nation-state. The post-colonial 'state' has successfully extended its political footprint to the different 'nations' that comprise the Botswana 'nation-state'. Whilst this should inspire confidence, it is important to note that Botswana is also a one party dominant system where the ruling party has been in power since 1965.

This poses a number of challenges for the DIS. These challenges are, firstly, how to ensure the political neutrality of the DIS in the absence of a national security policy to guide its activities, especially in a one-party dominant system, and, secondly, the lack of accountability to civilian authority. With regard to the challenge ensuring the political neutrality of the DIS, it is important to note, as pointed out above, that Botswana's national security threat assessment template is the one bequeathed by the colonial era Special Branch, with its anti-communist, anti-PanAfricanist and anti-nationalist bias. This template also identifies domestic opposition to the ruling party, whether emanating from other political parties or trade unions, as constituting national security threat. Botswana still has no national security policy to guide the work of its intelligence and security forces, in particular the DIS, and there is no evidence to show that the template bequeathed by the departing British Special Branch has been revised. Another thorny issue with regard to DIS's political neutrality concerns the composition of the CIC. The ruling party apparatchiks, with well-known vested party political interests, are directly

³⁰ See 'Spooks cause havoc' Botswana Guardian Friday November, 2008

³¹ See Parliament calls for probe on Skelemani and Isaac Kgosi; SundayStandard, August 7th 2011.

³² See Batshu defends DIS budget secrecy "Botswana Daily News 1st April 2011.

involved in guiding the DIS on all matters relating to national intelligence and security interests. This gives them access to information in the hands of intelligence and security managers. This is likely to blur the line of demarcation between policy and operations, open the door for political abuse and manipulation and negatively affect the credibility of the DIS. As pointed out above many African governments, especially those threatened by this lack of consensus have not hesitated to securitize even the most innocuous internal political issues, in order to justify their hold to power. These governments have not hesitated to invoke national security arguments, when it is actually the government or the regime itself that was under political threat from the internal opposition (Buzan et al 1998).

It would probably inspire public confidence in the DIS if the Director only reports to the CIC after the sifting process, rather than being a member of the CIC. This is further aggravated by the fact that DIS's Tribunal is chaired by a well-known ruling party political activist and includes a close relative of the President. This does not bode well for the political neutrality of the DIS, because as pointed out earlier, in a one-party dominant system, sometimes the interests of the state and the ruling party can get intertwined. It would probably inspire greater public confidence if the Tribunal is chaired by a retired Judge of the High Court of Botswana. With regard to accountability to civilian authority, it is important to note that in a well-functioning democracy, security forces, including intelligence services, are expected to account to, and be under the control of civilian authority. This accountability and control of security forces by civilian authority is usually the responsibility of Parliament through a select committee. Although Botswana's Parliament has an Intelligence and Security Committee, this Committee is appointed by the President and reports to the President, and not Parliament.

The limitation on the Committee's oversight role raises questions about whether this Committee can be regarded as an accountability and oversight structure that can ensure that the DIS remains insulated from possible political manipulation, and does not intrude into the private lives of citizen (Born and Leigh 2007).

The current arrangement presents a clear temptation and opportunity for the ruling party apparatchiks to use the resources of the DIS to serve or pursue a domestic party political agenda. Since all this is taking place within the context of one-party dominant system, there is an ever present danger of the DIS degenerating into a *regime* security agency, along the lines of the Securitate, rather than remain insulated as a *national security* agency.³³

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³³ The Securitate was the name of the notorious Romanian intelligence and security service whose mission was described as 'to defend the democratic conquests and guarantee the safety of the Romanian people against both internal and external enemies'. In practice the Securitate served President Nicolae Ceausescu's regime, and not the Romanian people.

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