

Towards the transformation of intelligence governance in South Africa

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Declaration

I declare that this dissertation is my own, unaided work. It is submitted in partial fulfillment of the requirements of the degree of Doctor of Philosophy in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in any other University.



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26 September 2025

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I acknowledge the support of my mother and father, without whom my PhD candidacy would not have been possible.

Abstract

This PhD dissertation explores South Africa's journey towards the transformation of intelligence governance. The dissertation finds that the governance of the intelligence sector in South Africa must to be transformed through greater control and oversight to achieve the most appropriate balance between efficiency and transparency. Transformation can be theoretically grounded in the philosophy of intelligence (PHILINT) culture and achieved conceptually and practically through transforming the intelligence culture of the intelligence sector in the country.

In undertaking the research, a mixture of data was gathered and a qualitative methodology was applied to the literature review, case study and interviews. The data-collection methods included a purposive sampling method. The case study informed the design, and applied research was informed by the methodology and data was gathered thematically.

The study identifies the following factors as key in transforming intelligence governance in South Africa: consequence management, the will of strategic-level decision-makers, citizens' attitudes, and the will of the President to implement recommendations. Key findings on culture include the need for a commitment to a democratic institutional culture and structural institutional change, the relationship between crisis and democratic change and the problems with transforming institutional cultures in departments.

The study recommends that the culture of impunity needs to change in South Africa. Institutions can change their internal strategic culture. A change in mindset can lead to a change in culture, and the intelligence services must develop a culture of co-ordination and intelligence decision-making during a crisis. South Africa additionally requires a culture of rigorous implementation. These recommendations highlight the theoretical value of intelligence culture towards the transformation of intelligence governance in South Africa and provide a blueprint for what PHILINT culture could look like in the country.

Abbreviations and accronyms

AG	Auditor-General
AGSA	Auditor-General of South Africa
ANC	African National Congress
CI	Crime Intelligence
CIA	Central Intelligence Agency (CIA)
CSOs	civil society organisations
DA	Democratic Alliance
DCAF	Geneva Centre for Security Sector Governance
DDG	Deputy Director-General
DG	Director-General
DIRCO	Department of International Relations and Co-operation
EFF	Economic Freedom Fighters
Expert Panel	Expert Panel into the July 2021 Civil Unrest
GILAA 2013	General Intelligence Laws Amendment Act 11 of 2013
GILAA 2024	General Intelligence Laws Amendment Act 37 of 2024
GILAB	General Intelligence Laws Amendment Bill 2023
HUMINT	human intelligence
IG	Inspector-General
IGI	Inspector-General of Intelligence
HLRP	High-Level Review Panel on the State Security Agency
HR	human resources
JSCI	Joint Standing Committee on Intelligence
Matthews Commission	Ministerial Review Commission on Intelligence
MP	Member of Parliament
NASREC	National Conference of the African National Congress
NCC	National Communications Centre
NGOs	non-governmental organisations
NIA	National Intelligence Agency
NICOC	National Intelligence Co-ordinating Committee
NIE	National Intelligence Estimate
NIS	National Intelligence Service
NPA	National Prosecuting Authority
NSC	National Security Council
NSS	National Security Strategy
OECD	Organisation for Economic Co-operation and Development
PAC	Pan African Congress
PAIA	Promotion of Access to Information Act
PAN	Principle Agent Network
PHILINT	Philosophy of Intelligence
POSIB	Protection of State Information Bill
RICA	Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002
SADC	Southern African Development Community
SAHRC	South Africa Human Rights Commission
SANAI	South African National Academy of Intelligence
SANDF	South African National Defence Force
SAPS	South African Police Service

SASS	South African Secret Service
SIGINT	Signals Intelligence
SO	Special Operations
SSA	State Security Agency
SSG	Security Sector Governance
SSR	Security Sector Reform
TSS	Transformation of the Security Sector
UK	United Kingdom
US	United States
Zondo Commission	Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including organs of state

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1. Introduction

1.1 Background and context

This PhD dissertation explores South Africa's journey towards the transformation of intelligence governance.

The research opens with a literature review (theory and concepts) chapter and is followed by a chapter made up of executive practice to improve intelligence governance in South Africa: 2008 to 2022. The methodology chapter follows, and this in turn is followed by a case study on intelligence culture and decision-making during a national crisis caused by the July 2021 civil unrest. Next are the findings and discussion chapters, leading to the conclusion.

This serves as an introduction to the dynamics of the issue being studied. There are trends globally, in Africa and South Africa. The conversation about Security Sector Governance/Transformation/Reform particularly in the intelligence sector has panned out across the board.

It explores what the SA intelligence services are and what the study will focus on; when, why and how they were formed; what the guiding principles were; what the governance structures put in place were. This is followed by an overview of the governance challenge that has plagued the post-apartheid intelligence services and what was done about them. Then the content of the commissions and review panels initiated by the executive to address the governance challenges will be explored.

The aim of the study, why it is significant and what gap in the literature the study will fill will be made clear. It will also be clear that the research question was framed in a way that data can be collected about it.

1.2 Research problem and problem statement

Over the past 30 years of South Africa's democracy, the transformation of the intelligence services has not been a linear journey. The journey began with the Matthews Commission, established in August 2006 to examine the mismanagement of intelligence. Then came the High Level Review Panel (HLRP) on Intelligence established in June 2018 to examine similar problems, followed by the Expert Panel established in August 2021 to probe intelligence failures relating to the 2021 rioting. Along the way, the intelligence agency has sometimes taken one step forward to take two steps back. And, in more recent times, it has taken multiple steps backwards.

The General Intelligence Laws Amendment Act 37 of 2024 (GILAA 2024) was signed into law by the President on 28 March 2025. Definitions in the General Amendment Laws Amendment Bill 2023 (GILAB) had seemed too broad and it appeared less clear whether the balance of the recommendations of the intelligence commissions have been implemented or not.

Has South Africa transformed the governance of its intelligence sector (both control and oversight) to achieve the most appropriate balance between efficiency and transparency for the country? This is the research question that the discussion chapter ultimately answers and

looked into to draw on the objectives of the study. And similarly the aim and objective of the study and the purpose of undertaking the intellectual project and what was being looked for to achieve with it.

Intelligence governance in post-apartheid South Africa has not been adequately transformed – and this thesis will show that this has been and remains the case. But it does have the potential to transform, and this dissertation will also recommend what must be done to achieve this. This study finds that South Africa can transform the governance of its intelligence sector (control and oversight) in order to achieve the appropriate balance between efficiency and transparency by transforming the intelligence culture of its intelligence sector.

This is the nature of the problem in the intelligence sector necessitating the study. And the identified problems have found expression thus far through the examples and evidence above proving that this is indeed a problem.

1.3 Literature review (theory and concepts)

The literature reviews in this dissertation are made up of one literature review with regard to theory and concepts and another literature review pertaining to executive practice to improve intelligence governance in South Africa: 2008 to 2022. The literature review (theory and concepts) is the focus of this section of the introduction.

The literature review (theory and concepts) chapter is for the most part a chapter of definitions. Terms such as ‘intelligence’, ‘intelligence governance’, ‘transformation’, ‘intelligence culture and ‘intelligence decision-making during a crisis’ are defined and operationalised.

The literature on intelligence seems largely to have been shaped by the work of Hannah, O’Brien and Rathmell (2005: 1) who define intelligence as a kind of information useful for policymakers that has been used to assist policymakers and Lowenthal (2000) talks about the role of secrecy in defining intelligence and distinguishes between intelligence and information. Herman sees intelligence as a kind of knowledge (Herman, 2001: 3–4) emphasizing the organisational element (1996: 2) and Kent (1966) understands it as a kind of ‘knowledge, organisation and activity’ (1966: 3–208). The Central Intelligence Agency views intelligence as ‘knowledge and foreknowledge’ (CIA, 2000: vii). Gaspard and Pili (2022: 763) combine intelligence theory and philosophy and argue for a philosophy of intelligence (PHILINT) perspective to knowledge (2022: 772). This research project, however, positions itself more closely to the work of Herman (1996 and 2001), Kent (1966) and Gaspard and Pili (2022). By intelligence, civilian intelligence is what is being referred to. In South Africa, the responsibility of civilian intelligence lies with the State Security Agency (SSA).

The literature on intelligence governance has been framed around the insights of Gill (2016: 4) where control and oversight are central to Gill’s definition of intelligence governance and Born and Leigh show why control and accountability over the intelligence services are important (2005: 16–17). Hannah, O’Brien and Rathmell (2005: 8–9) explore the importance of the transformation of intelligence governance through the development of an idea of security for the nation and Matei and Halladay note the centrality of secrecy in intelligence governance (2019: 1), the role of norms, oversight and leadership (2019: 9–10), challenges to intelligence (2019: 7–8) and incentives for the democratic reform of intelligence (2019: 16–17). Caparini provides an accountability framework for the intelligence services (2007: 23) while Snyder posits an idea of ‘strategic culture’ (1977: v) that will ultimately become instructive in

influencing the argument of this thesis. Lustgarten speaks of the role of the law with regards to the intelligence services (2003: 323–324) and Bruneau and Dombroski highlighted the changing of an intelligence profession (2006: 21–23). The Geneva Centre for Security Sector Governance (DCAF) Intelligence Working Group defines control, accountability and different forms of oversight (2003). This is the context to the conversation on intelligence governance that necessitated the study.

The literature on transformation has been guided by the expertise of Chirwa who uses Security Sector Reform and Transformation of the Security Sector interchangeably (2015: 4). Snyder (1977), Lantis (2002 and 2005) and Gray (1981) develop the idea of strategic culture. Karacasulu and Uzgören engage with transformation and the contribution of constructivism to security studies (2007: 36–39) and Dannreuther reflects on the role of a security analyst (2013). Wulf defines security sector reform (2004: 3) and Hendrickson highlights how developing countries handle security sector reform in particular (1999: 25). Bryden and Olonisakin observes Security Sector Transformation in Africa (2010: 3–4). Similarly, Snyder's (1977) research strongly informs the case that this thesis seeks to make.

In order to arrive at these findings, the literature on intelligence culture was reviewed. Chiru defines intelligence culture as 'a set of explicit and implicit attitudes and behaviours related to intelligence which influence social perceptions' (2016: 503). Nykänen and Teirilä look at the legitimacy of the intelligence services (2016: 278–279). Duyvesteyn observes that strategic culture has been connected only peripherally to intelligence studies (2011: 522). Rietjens highlights that a historical analysis of the intelligence services is relevant to the continued development of culture (2019: 204). Willmetts argues that for there to be a 'cultural turn' in this field of study, transparency is necessary about cross-disciplinary theories and methodologies (2019: 800–801). Yelamos, Goodman and Stout show that the relationship between intelligence and culture can be examined in terms of the 'culture of intelligence', 'intelligence and culture' and 'intelligence in culture', approaches that can be explored through many theories and methodologies (2022: 475).

The literature on intelligence decision-making during a national crisis has similarly informed the research. Bryson defines a crisis as happening 'when a system is required or expected to handle a situation for which existing resources, procedures, laws, structures, and/or mechanisms, and so forth, are inadequate' (1981: 181). Herek et al claims that the standard of a decision-making procedure is connected to the result of the decision (1987: 218). Metcalfe identifies that central to intelligence decision-making during a national crisis is the co-ordination of policy (1994: 278). Miller reflects that the intelligence community should be able to respond to the demands of policy-makers quickly (2010: 6–8). Leslau's model presents four ways in which Intelligence affects the process of decision-making (2010: 429–431). Baubion notes five issues with regard to managing a crisis that decision-makers such as intelligence services should take note of during the policy-making process (2013: 3). Fägersten finds that trust develops over time and is important for intelligence co-operation (2015: 11). Cormac et al weighs in on the co-ordination of covert action (2016: 19).

The paradigm of enquiry is influenced by the research of Parsons (1995), Fox (2008) and Ryan (2006) who help in explaining a post-positivist approach to knowledge. Ryan's (2006) works are leaned on more heavily than others. The key theoretical frameworks were structured by all of the highlighted authors in the above section.

1.4 Executive practice to improve intelligence governance in South Africa: 2008 to 2022

The literature on South Africa has also been influenced by:

- the Constitution of the Republic of South Africa (1996);
- the Intelligence White Paper (1995);
- the National Strategic Intelligence Act (1994);
- the Intelligence Services Oversight Act (1994);
- the Intelligence Services Act (2002);
- the Regulation of Interception of Communication and Provision of Communication-Related Information (2002);
- the General Intelligence Laws Amendment Act (GILAA) (2013);
- the General Intelligence Laws Amendment Act (GILAA) (2024);
- Daniels (2019); and
- President Ramaphosa (2019).

South Africa is an important identifier because, from 1994 onwards, post-apartheid intelligence legislation went through a seismic overhaul. Out of this process came three pieces of key intelligence legislation: the National Strategic Intelligence Act 39 of 1994, the Intelligence Services Oversight Act 40 of 1994 and the Intelligence Services Act 65 of 2002. While supplemented by other pieces of legislation since then, such as the General Intelligence Laws Amendment Act 11 of 2013, these pieces of intelligence legislation for the most part continue to govern intelligence in South Africa.

The GILAA 2024 is the most current manifestation of the need to transform intelligence governance in South Africa.

Therefore, the evolution of intelligence legislation in South Africa created the intelligence structures, shaped the legislative oversight that would monitor the intelligence services, regulated the domestic and foreign intelligence services, governed signals intelligence, amended previous legislation and created the SSA; and it separates domestic and foreign intelligence.

This chapter is structured around reports from key intelligence commissions in South Africa over the past 30 years. These have included:

- the Matthews Commission report published in September 2008;
- the HLRP on Intelligence report published in June 2018;
- the 2020 and 2024 JSCI reports;
- the Expert Panel into the July 2021 Civil Unrest report established in August 2021; and
- the report of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State (Zondo Commission report) published in January 2022.

The Matthews Commission report set the stage for intelligence governance in South Africa. It assessed the work and functions of the intelligence services and their violations of constitutional rights, even though the report was not sent to parliament or the cabinet, so it is not official.

The HLRP on Intelligence report can serve as a beacon of hope towards the transformation of intelligence governance in South Africa. The report ultimately reviewed the ‘mandate, capacity and organisational integrity’ of the intelligence services (The Presidency, 2019).

The 2020 JSCI report showed little sign of progress towards the transformation of intelligence governance in South Africa but it did, however, make recommendations about the law, political non-partisanship and constitutionalism. And while the 2024 JSCI annual report findings highlighted the implementation of the HLRP recommendations, GILAB 2023 and Zondo Commission recommendations, this implementation continues to be slow.

The Expert Panel into the July 2021 Civil Unrest report was a sign that the transformation of intelligence governance in South Africa was regressing. The panel was constituted to examine the root causes of the unprecedented levels of violent civil unrest that South Africa experienced in July 2021.

The Zondo Commission’s final report affirmed the findings of the HLRP and the Expert Panel and offered further analysis of the brokenness of the security sector and the intelligence services. The government and Executive seemed unable to protect the people of South Africa either internally or externally.

1.5 Methodology

The methodology chapter and how the methodology was approached is structured around the philosophical approach to knowledge, the kinds of data collected, the data-collection methods and data analysis. Together, they make up the collective methods applied in this project. Source data was looked at where each data source or point was linked to each question and objective.

Regarding the philosophical approach to knowledge of the project, a philosophy of intelligence (PHILINT) approach to knowledge is advanced (Gaspard & Pili, 2022: 772). In particular, a PHILINT culture approach to knowledge is offered.

A mixture of data types were collected. The research methodology is qualitative where primary and secondary sources are relied on. The literature review (theory and concepts), executive practice to improve intelligence governance in South Africa: 2008 to 2022 chapter and case study originate from secondary sources, whereas the interviews that took the form of online semi-structured interviews with retired professionals and/or experts emanate from primary sources.

The purposive sampling method of data collection was used in this study, the design having been made up of a case study, applied research forms part of the methodology, and the data are collected thematically. Interviewees were interviewed through a questionnaire and ethics protocols were observed throughout the collection of data. The accessibility of the interviewees was a challenge in the process of data collection. Approximately 20 interviewees were identified and invited; however, only five responded and ultimately participated in the interviews.

The data were analysed as anonymously as possible, with confidentiality having been assured and consent having been obtained; and the positionality of the study is not biased. Audio recordings of the Zoom interviews conducted were saved, transcribed and applied to the study.

1.6 Intelligence culture: July 2021 civil unrest

The July 2021 civil unrest serves as an instructive case study of the intelligence culture and decision-making during a national crisis in South Africa. The report applies the findings of earlier chapters and shows the fundamental role of an intelligence culture in influencing decision-making during such a crisis.

Ultimately, the Expert Panel explained the inability for co-ordinated decisions to be made during a national crisis such as the July 2021 civil unrest. It also noted that there is no clarity in the intelligence legislation on the intelligence process that must be adhered to in order for information to arrive with decision-makers, which is why it was found that this gap must be resolved in the law or the regulatory framework (Expert Panel, 2021: 109). A recommendation of this dissertation is that this intelligence culture of co-ordinated exchange can help to transform intelligence governance in South Africa.

1.7 Findings

This chapter is framed with the research question in mind. The literature, historical context and background, the recommendations of all the panels and commissions (what was done and not done) as well as the opinions and views of the interviewees are integrated in chapter 7. It is a holistic assessment where the interviewees views are an element but not the whole.

The findings chapter is sourced from the semi-structured interviewees conducted between 31 January and 19 May 2023 with five interviewees. They were sent a participation information sheet, a consent form, five of the same interview questions in advance of the interviews; and each interviewee answered the five questions.

The chapter is a collection of the key data originating from the interviews. The data collected from these interviews have been saved in Zoom audio recordings and transcribed using Microsoft Word, which is consistent with what was agreed to in the participant information sheet and consent form.

1.8 Discussion

The discussion chapter considers the findings of the interviews, a consolidation of the research in the literature review (theory and concepts), the literature review (practice), and the methodology and case study chapters, and it seeks to reconcile these chapters with the data collected in the findings chapter.

Has South Africa transformed the governance of its intelligence sector (both control and oversight) to achieve the most appropriate balance between efficiency and transparency for the country? This is the research question that this chapter ultimately answers. In answering the research question, the answers are structured around the interviewees' views on culture and theory and also on concepts, executive practice to improve intelligence governance in South Africa: 2008 to 2022 chapter, methodology and the case study on culture. This study finds that South Africa can transform the governance of its intelligence sector (control and oversight) in order to achieve the appropriate balance between efficiency and transparency by transforming the intelligence culture of its intelligence sector.

The overall significance of the study and contribution to the literature will be explored.

1.9 Conclusion

The concluding chapter provides an understanding of and lessons for the problem identified in this study and reported on in this dissertation. In order to understand the problem of transforming intelligence governance in South Africa, the research question is asked: Has South Africa transformed the governance of its intelligence sector (control and oversight) to achieve the most appropriate balance between efficiency and transparency for the country?

Intelligence governance has not been transformed in South Africa and to bring about this transformation the intelligence culture of the intelligence services must be transformed. This problem and question is tested through the interviews, and the findings of these interviews ultimately shape the recommendations in the concluding chapter.

The conclusion follows from the interviews and seeks to bring together the rest of the chapters with the data collected in the findings and discussion chapters to arrive ultimately at a set of useful recommendations. Key general findings on balancing intelligence governance transformation, lessons from commissions and panels, transforming the intelligence culture, transforming the intelligence culture of crisis decision-making, and the 2021 July insurrection as an intelligence culture turning point are highlighted, in addition to the findings on culture.

Whereas the recommendations are about culture, intelligence governance, transformation, transparency and crises, seven key recommendations on culture are also identified.

1.10 Chapter conclusion

The journey of this research towards the transformation of intelligence governance in South Africa is by its very design descriptive and normative. The dissertation makes it clear that South Africa has not adequately transformed the governance of its intelligence sector (control and oversight) to achieve the most appropriate balance between efficiency and transparency for the country. And, if the trend continues in the direction of this lack of transformation over the past 30 years, it follows that the South Africa is unlikely to transform the governance of its intelligence sector adequately in the future. However, this research project offers recommendations about what must happen for South Africa's intelligence governance to transform adequately.

After 30 years of post-apartheid rule, the governance of the intelligence services continues to face an uphill battle. Furthermore, if the recommendations of the Matthews Commission, the HLRP on Intelligence and the Expert Panel on the 2021 July Unrest continue not to be implemented, transformation will become increasingly difficult. This is further reason why the seven recommendations on culture, based on the findings, are central to this thesis.

The fate of the GILAA 2024 will test this study. It is the most contemporary legislative tool that South Africa has at its disposal to help transform intelligence governance in the country.

The intelligence culture of the intelligence sector has not been adequately transformed. This research project has hoped to show that the transformation of intelligence governance in South Africa, while historically absent and normatively unlikely, is nevertheless possible.

The literature review (theory and concepts), executive practice to improve intelligence governance in South Africa: 2008 to 2022 chapter, methodology chapter, case study on intelligence culture and decision-making during a national crisis about the July 2021 civil unrest, findings, discussion and conclusion chapters that follow aim to make this case. And it is hoped that this study and dissertation will contribute to past, current and future bodies of work by developing this knowledge further.

2. Literature review (theory and concepts)

2.1 Introduction

The objective of this study is to show how South Africa can transform the governance of its intelligence sector (both control and oversight) in order to achieve the most appropriate balance between efficiency and transparency for the country. The transformation of intelligence governance in South Africa is being studied primarily through the prism of theory and concepts, on the one hand, and of executive practice to improve intelligence governance in South Africa: 2008 to 2022, on the other. This chapter forms part of the theoretical and conceptual study and is therefore for the most part a chapter of definitions. In defining concepts central to this project, definitions are proposed for ‘intelligence’, ‘intelligence governance’, ‘transformation’, ‘intelligence culture’ and ‘intelligence decision-making during a crisis’. Together, these concepts give meaning and direction to the topic of this study and dissertation.

2.2 Intelligence

Of the definitions of intelligence below, Kent’s definition of it being a kind of knowledge, organisation and activity resonates most closely with the objective of this study to show how South Africa can transform the governance of its intelligence sector (both control and oversight) in order to achieve the most appropriate balance between efficiency and transparency for the country (1966: 3–208). Here, knowledge is understood as theory and concepts and organisation and activity are framed as practice. Herman’s emphasis on the organisational element of this threefold definition is similarly aligned to the objective of this research (1996: 2).

Also pertinent is Hannah, O’Brien and Rathmell’s (2005: 1) framing of ‘intelligence’ as

a specialised subset of information that meets the stated or understood needs of policy-makers and has been collected, analysed and disseminated to support a state’s decision- and policy-makers.

Regarding intelligence governance and security sector transformation, this means that intelligence is ‘the production of unbiased information about threats to the national vision’ (Hannah, O’Brien & Rathmell, 2005: 1). Therefore, ‘intelligence governance’ speaks to information that is not biased about the risks that policy-makers have to take and the structures that support the national direction of decision- and policy-makers.

Intelligence can be a process, an organisation or a product. The process entails collecting and assessing information, the organisation actions the process and the final product is shared with policy-makers. The process is where data are broken down into a workable form for those making decisions; it is how organisations are shaped to gather and work through information and the way the systems are followed to ensure effective intelligence. The structure is determined by functions, duties and cross-overs of the intelligence services, what the primary analysis and assessment tool looks like, the requirement for control and accountability and oversight of the intelligence space. The product involves the gathering, analysis and distribution of information that provides intelligence on external or foreign risks, internal security threats and intelligence-driven decision and policy-making (Hannah, O’Brien & Rathmell, 2005: 4–7).

Lowenthal (2000) reminds us that defining intelligence is difficult and that it is unlike other government functions because a considerable amount of it is secret, which can be a source of mistrust to citizens, particularly in a democracy. It is similarly important to show the difference between information and intelligence where information is all things knowable regardless of how they become known, whereas intelligence is information that speaks to the needs of policy-makers and has been gathered, worked through and streamlined to meet these needs. This means that whereas not every piece of information is intelligence, any kind of intelligence is information.

The US Central Intelligence Agency (CIA) defined intelligence as ‘knowledge and foreknowledge of the world around us – the prelude to decision and action by ... policymakers’. This content must be delivered to military or civilian decision-makers to weigh up different hypotheticals. Generally, this system must be comprehensive, efficient and appropriate to policy demands (CIA, 2000: vii).

Herman (2001) therefore understands intelligence as a certain type of knowledge, the enterprise making this knowledge and the function traced by the enterprise. Intelligence works for national rather than local government. It deals with information uniquely from the information collection and the use by the government and military as a specialised activity without the work designation of other specialisations; and it has blurred lines as an institution. As a result, intelligence is often conflicted by its dual mandate of gathering and assessing information (Herman, 2001: 3–4).

The primary focus of intelligence is the collection of information and its use together with different forms of source analysis – covert usage being a lesser priority. According to Herman, the standard element of this work is the delicateness of the collection and use (including covert use) because of the need to conform to certain norms and legalities, the risk presented by sources and the means to respond – and the secrecy that underlies the intelligence relationship with the state and itself (Herman, 2001: 4–5).

There are extensive differences in the way sources are secured. This leads to understanding intelligence in terms of levels of risk. This in turn means that secrecy should be seen in relation to something and not in the absolute. And whereas intelligence agencies are no longer covert and have become increasingly amenable to releasing past information, on the whole intelligence is accepted as being a special kind of secret (Herman, 2001: 5–6).

Moreover, the uniqueness of intelligence is bolstered by the subject focus: it being rather on the other than us, with covert foreign influence, terrorism, sabotage, subversion and espionage making up the other. In addition, the range of foreign intelligence appears not to have a limit and there does not seem to be resources one can consult about the foreign material that intelligence should not engage with (Herman, 2001: 6–7).

But whereas the authority that intelligence carries with the government in certain areas is limited, in reality, the product of intelligence extends to other areas, such as international relations. In this respect, national security has offered a field of specialisation for intelligence’s expertise. Regarding passing the products of source collection or use to policy- and decision-makers, covert intelligence covers a wide array of areas. Accordingly, intelligence source collection and use fill in the blanks for governments, meaning that they make a broad but thin contribution versus the fewer areas that it is an authority in (Herman, 2001: 7–8).

Recently, economic espionage and the covert gathering of financial, technical and scientific secrecy have been publicised internationally. However, intelligence is still centrally involved in combating national threats such as military loss, threats to sovereignty, insurrection or revolutionary overthrow and variations of both; and it also serves as a warning system that is obsessed with measuring risk. What makes intelligence special is that it is a mixture of the subjects it deals with and secrecy (Herman, 2001: 9–10).

The intelligence product stems from the interpretation of information, where the levels of processing change, and it involves increasingly heightened and complicated processing. Intelligence convinces through proof, assumptions and findings. Processing is similarly supported by forecasting; and the product that is shared with different recipients must be helpful. Intelligence is therefore also discernible by judgement (Herman, 2001: 10–12).

Intelligence specialises in information through its navigation of power. In this way, ‘policy-free intelligence’ is an ideal involving the pursuit of trust and neutrality that enable states to speak the truth to power. It also has another role in ‘defensive security’, where states look to intelligence beyond information. But the line between the Executive and intelligence is contested: a separation between intelligence and policy is mostly the case. Although it is disputed as to whether objectivity is possible, this is seen as an ideal more than an outright achievement in practice (Herman, 2001: 12–16).

Herman (2001: 20) notes:

There is a general impression of politicized intelligence in Africa, though the direction taken by the South African system will be an important regional influence for the future.

Quality intelligence assessment safeguards against government irresponsibility and inspires leaders to trust the rational over the irrational. This objective criterion is central to good governance, national security and the international community. While this argument is as pertinent to multilateral humanitarian and security intervention, it is a lot less straightforward in practice. This is because, in addition to procedural and technical, problems also involve mindsets about intelligence. Intelligence’s double role of secrecy and covert means source analysis and objectivity remains an issue, where the former clouds the latter (Herman, 2001: 20–24).

Philosophical approaches make claims about what kind of knowledge is possible, how that knowledge is possible and normative goals of knowledge production. Gaspard and Pili (2022) have argued that philosophy should be central to intelligence theory and that a ‘philosophy of intelligence’ (PHILINT) must arise. PHILINT is used in line with the ‘INTs’ of intelligence, which relate to the gathering of information (Gaspard & Pili, 2022: 772).

Pursuant to Kent’s work, intelligence as ‘knowledge, organisation and activity’ can be framed by philosophy (1966: 3, 6 and 49). This not only pertains to the details but highlights an easing of restrictions on the analysis of intelligence theory descriptively and prescriptively (Gaspard & Pili, 2022: 772).

2.3 Intelligence governance

Intelligence must be governed because the secretive nature of their work runs against the norms of an open society. Therefore, the intelligence services should be under civilian control and

held democratically accountable. Born and Leigh identify five reasons why this is important (2005: 16):

1. Intelligence services work in secret which is not aligned with the transparency and openness central to democratic oversight;
2. The intelligence services have special powers which can infringe on human rights and need oversight;
3. Post Cold War and 11 September 2001, intelligence services around the world are in a period of adapting to new security threats;
4. Intelligence services are mandated to gather and assess information about potential threats and to deliver threat assessments; and
5. There are countries that were subject to an authoritarian regime and have only recently transitioned to democracy (such as South Africa) (Born & Leigh, 2005: 16–17).

Gill (2016: 4) describes intelligence governance as follows:

Democratic governance of intelligence is manifested in two complimentary ways: control, whereby agencies are established and funded solely by Parliaments and, for example, ministers authorise intrusive activities such as communications interception. The second requirement is for oversight – both internal and external – to review the legality, propriety, efficiency and effectiveness of intelligence agencies.

Further to Gill's description of intelligence governance, it is implied that the term intelligence governance means democratic governance. It is however noted that governance could be weak or poor/bad too. So for the purpose of this dissertation, it should be qualified that democratic governance is what is being referred to with regards to intelligence governance.

Leigh (2003) points out that equality, proportionality, accountability, transparency and legality are the five principles governing intelligence. These are applicable to independent review, retention and use, information gathering, human source control, surveillance powers, accountability mechanisms and legal structures. These principles are best protected by public opinion, the media, administrative and political culture in addition to legislation. Similarly, a pledge to defend human rights and the rule of law is imperative. Leigh proposes a framework of intelligence norms that cover constitutional, legislative and administrative oversight (Leigh, 2003: 115, 125–126).

According to Hannah, O'Brien and Rathmell (2005), a critical element of intelligence in security-sector transformation is the creation of a national vision of security. This can be arrived at through a review of national security to develop relevant policy, as proposed by the HLRP on the SSA in South Africa. This would help the government to ascertain credible security and prioritise resources (Hannah, O'Brien & Rathmell, 2005: 8–9).

Control means 'ensuring that specific procedures are followed' or 'creating the conditions that lead to the achievement of agreed standards of performance, including the desired findings as well as compliance with law and policy' (DCAF Intelligence Working Group, 2003: 39). This is known to take place through both formal and informal means. Control includes parliament's decisions which have an impact on national defence, such as calling for war, peace and the budget (Leigh, 2003: 116).

Accountability is 'a relationship based on the obligation to demonstrate and be responsible for performance in light of agreed expectations' (DCAF Intelligence Working Group, 2003: 39). It is necessary so that the intelligence services put in place and comply with legal oversight.

This similarly requires internal and external political buy-in and credible oversight structures. The constitutional implications extend from intelligence oversight shifting in part to the Legislature and the Judiciary (Hannah, O'Brien & Rathmell, 2005: 10–11).

Matei and Halladay observe that, whereas accountability, transparency and political impartiality are central to democracy, secrecy lies at the heart of intelligence services (Matei & Halladay, 2019: 1). Caparini (2007: 4) argues that intelligence services are, by design, difficult to oversee even in 'mature' democracies. Therefore, an accountability framework is offered by Caparini where:

Vertical, horizontal and third/external dimensions of accountability reminds us of these interconnecting mechanisms of accountability and public oversight, which when taken together may help to mitigate their individual weaknesses (2007: 23).

Whereas control refers to the limitations under which an agency can work, accountability is a process of information where intelligence services are legally obliged to respond honestly to the authority to which they account. Appropriate accountability and oversight include legal compliance, parliamentary oversight and executive accountability. According to Hannah, O'Brien and Rathmell (2005), legal compliance is mostly ensured through judicial review; parliamentary oversight enhances legitimacy and democracy, places state over more political or other interests and helps to ensure the effective management of public funds; while executive accountability is seen through ministers who need enough power to control and require information from the intelligence services (Hannah, O'Brien & Rathmell, 2005: 12–13).

Questions about what the intelligence services are accountable for, and to whom, remain crucial. According to Gill (2003), it is as important to separate control from accountability. Control refers to having an external group overseeing the actions of the intelligence services. Accountability speaks of the onus of the intelligence services to make sense of their behaviour to another body. These are important elements for understanding the independence of a service (Gill, 2003: 282–283).

Control and accountability can either be found in the Executive or be somewhat or wholly separate from the government. Therefore the intelligence services must be at arm's length from policy-makers, not be aligned to a political party and be neutral (DCAF Intelligence Working Group, 2003: 40). However, we should remember that 'strategic culture' claims that officials work from a particular viewpoint, criteria or beliefs which are shaped by dominant elites. These officials are socialised into a particular way of thinking and cannot work 'independently', 'impartially' or 'neutrally' (Snyder, 1977: v).

Intelligence agencies must be under the democratic control of elected public representatives, Leigh (2008) asserts. Assistance with policy and democratic control are reliant on a two-way stream of access between officials and ministers. In contrast, executive control in itself puts the intelligence services at risk of becoming too secretive and politicised (Leigh, 2008: 121–122).

The development of norms, oversight and leadership of institutional controls is what Matei and Halladay (2019) use to understand how intelligence is controlled by civilians in a democracy. These controls give leadership to the intelligence services through institutions create through regulations and laws that empower civilian leaders in teams led by civilians together with skilled functionaries. Moreover, fulfilling roles and missions can take the form of a strategy or a doctrine; but plans must exist for its formulation and execution, and resources must be

allocated to guarantee sufficient assets, skilled staff and equipment (Matei & Halladay, 2019: 9–10).

Regarding dealing with politically delicate intelligence issues involving executive oversight, the external control of intelligence services must fall on the shoulders of the Executive. But executive control and parliamentary oversight are not at odds with each other: parliamentary oversight depends on executive control. Having sufficient control over the intelligence services and the ability to ask for information from them are two powers that cabinet ministers require in order to enforce their responsibility for the intelligence services. But effective control does not mean being directly responsible for intelligence work, Born and Leigh (2007) point out: the minister and director functions should be enshrined in law and be different but mutually reinforcing. Ministers should not and cannot engage excessively in the day-to-day running of the intelligence services, because that would undermine the external control and democratic oversight of the services (Born & Leigh, 2007: 199).

With regard to legislative oversight, it is defined as

a system of accountability in which those vested with the executive authority in an organisation have their actions reviewed, sometimes in advance, by an independent group that has the power to check those actions (DCAF Intelligence Working Group, 2003: 46).

This accountability should apply to democratically elected representatives or parliaments. Parliaments should in turn be a part of oversight and transparency (DCAF Intelligence Working Group, 2003: 46–47). Oversight arises from the separation of powers and permits the Legislature to hold the Executive accountable for the intelligence funds required and the way these funds are spent. This oversight should ensure the appropriate use of resources and should also influence intelligence policy (DCAF Intelligence Working Group, 2003: 47–48).

In addition to accountability, legislators can make intelligence more transparent to the public through reports and debates (DCAF Intelligence Working Group, 2003: 49). These committees must be trusted by the public, should have a different opinion to the Executive and should not be bureaucratic to the point of affecting intelligence work negatively. They should also navigate their independence and criticism in their relationship with the committees and services (DCAF Intelligence Working Group, 2003: 50–51). Furthermore, committee members should undergo a background security check prior to their appointment, be appointed by parliament instead of by party structures and take an oath of secrecy (DCAF Intelligence Working Group, 2003: 52).

Legislative structures should also follow the duties, management and control, including oversight and guidance for accountability, for Intelligence. Secrecy and democratic oversight must be accountable for this legislation to work and in this way legislative oversight further legitimises the intelligence services, while at the same time encouraging respect for democracy (Hannah, O'Brien & Rathmell, 2005: 10–11).

With regard to the role of parliament, one idea is for the brief to be holistic and include both operations and policy. Alternatively, the role of the parliamentary oversight committee can be focused only on finance and policy or the rule of law and human rights (Born & Leigh, 2007: 203–204). Secret information necessitates delicate parliamentary investigations that require another safe space in parliament for papers to be tabled and witnesses to testify. Parliamentarians who are therefore trusted and credible must play a part in them. Here the

parliamentary and oversight bodies must be able to source documents and information from both the intelligence services and the government and for this reason parliamentary leaders should decide on the selection of a suitable parliamentarian to serve on the intelligence committee (Born & Leigh, 2007: 205–206).

Constitutions try to capture the essence of a nation as protected by national security. They also embody national goals at an important time in the past, such as during the transition to a democratic South Africa. Key rights are enshrined in them, particularly those against the state and those concerned with constitutional court review (Leigh, 2003: 116). Succinctly stated, in the view of Leigh, constitutions speak more about defence than security (Leigh, 2003: 118).

It is important, Leigh (2003), claims, that the powers of intelligence agencies stem from legislation as opposed to special powers: this legitimises public representatives to govern intelligence and put in place limits on intelligence work. Furthermore, parliamentary consent to the powers, mandate and creation of intelligence services ensures that the rule of law is respected (Leigh, 2003: 118–119).

Democratic oversight in intelligence governance involves proper decision-making about the goals and running of the intelligence services and making oversight that respects democracy. Legalising the briefs of intelligence services may help them psychologically and with compliance. Building a legal structure where the institutions can run enables victims to achieve justice against the abuse of power. Legalising intelligence services also has constitutional implications (Lustgarten, 2003: 323–324).

Besides parliamentary and legislative oversight, judicial control and supervision is key because intelligence work must be overseen by the law to ensure its transparency, protection and implementation. This form of governance is constrained by legal matters and reviewing intelligence practice. Judicial control should push back against too much government secrecy by using the law to review intelligence practice (DCAF Intelligence Working Group, 2003: 53). Best practice should also ensure that internal intelligence practices protect and respect civil rights, liberties and privacy (DCAF Intelligence Working Group, 2003: 54). In fact, giving judges full access to classified information should be best practice. The intelligence services and their staff are similarly governed by the judicial system or employment tribunals (DCAF Intelligence Working Group, 2003: 55–56).

Judges are thought of as being independent of the government and are considered to be external, lending legitimacy to the process of oversight in the view of the public. However, judicial control comes with its own problems because the Judiciary and judges are products of the political system, not outside of it, so a delicate balance is required, which often breaks down – as is evident when judges are to be elected or appointed. Similarly, sensitive information must be used outside of the intelligence sector. But, Leigh (2003) cautions, too much judicial involvement can blur the separation of powers between the Judiciary and the Executive. For this reason, the Judiciary's intervention should be limited to instances when people's rights are involved. There are concerns that judges could lose their independence and outside perspective by becoming involved in the oversight process (Leigh, 2003: 122–123).

Furthermore, complaint systems are needed to help those who have been affected negatively by the intelligence services. This mechanism could also increase their accountability and improve delivery. Such systems should be impartial, strong and reasonable to the complainant, on the one hand, but sensitive to security, on the other. An impartial representative might be

able to report or investigate a complaint against a service or, alternatively, an independent inspector-general may be used. Otherwise, commissioners specified in laws dealing with data-protection or freedom of information may be able to deal with complaints against the agency – it is less common to deal with these issues through a parliamentary intelligence oversight committee. In South Africa, though, members of the intelligence services can bring these problems to a parliamentary oversight body or an ombudsman. Alternatively, a specialist tribunal could deal with complaints about an agency or the use of certain powers (Born & Leigh, 2007: 210–212).

The role of inspectors-general and auditing can be understood by means of an example in South Africa. Here, the role of the Inspector-General is to report to parliament. In so doing, the office breaks the circle of secrecy and reassures the public through its report to parliament that the activities of the intelligence services have been looked at by someone impartial who has access to the appropriate content. The Inspector-General is permitted to share their sources with other oversight bodies but cannot release much of the content on which the investigation into the services' work was conducted. An additional independent role lies in the auditing of the intelligence services' finances (Born & Leigh, 2007: 212–213).

Another type of body that can help to monitor the intelligence services is the civil society organisation (CSO). These include the media, political parties, human rights groupings and non-governmental organisations (NGOs) (DCAF Intelligence Working Group, 2003: 56). But here the problem is that there is not much civilian knowledge of what the intelligence services actually do; furthermore, the services are not transparent, nor do they have civilian oversight processes in place (DCAF Intelligence Working Group, 2003: 62). It is therefore necessary to draw up a plan that will fundamentally transform the old system into a new one.

For this plan to be built, the ideal laws and policies governing the intelligence services must be envisioned. Here, public debate is key to the consensus-building that is necessary for institutional transformation to take place. For this reason, many countries have gone back to basics, starting with the basic principles that institutions and laws must adhere to (DCAF Intelligence Working Group, 2003: 62–63). In this regard, Bruneau and Dombroski (2006: 21–23) found that changing an intelligence profession

can be accomplished only by committing serious attention and resources to recruitment and training, and by obligating the services to remain involved in the larger polity and society ... One of the greatest obstacles is the tendency of governments to recruit retired military personnel into civilian intelligence positions ... A practical problem in reforming intelligence activities involves the organisational dynamics of transforming a bureaucracy.

It is often the case that retired military personnel may no longer work for the old guard yet their beliefs and allegiances tend to not change. It remains a concern whether they will transfer their duty to the new state from their previous employer if new staff cannot be secured. In most countries, less priority is placed on advocating this spirit of duty to the state in the intelligence community: more mature democracies have less need for it as it is generally an accepted societal norm (Bruneau & Dombroski, 2006: 21).

A counter-argument against intelligence governance is that the process will put the country at risk to external and internal threats. Many civilian intelligence agencies will witness a decrease in efficiency as a result. But this decrease should be halted while at the same time the organisation's recovery time is speeded up. Ironically, reorganising an entity to enhance its efficiency often leads to another decline in efficiency as the service cannot keep up with the

transformation. This issue can become service-wide as the organisation is not given sufficient time to recover its efficiency (Bruneau & Dombroski, 2006: 22). This development can see the leaders' efficiency expectations rather met by an organisation sitting idle at a lower level of efficiency. When enhancements do not occur as expected, the restructuring often leads to a further efficiency decrease and yet more restructuring. This can become a pointless cycle (Bruneau & Dombroski, 2006: 23).

Born and Leigh (2007: 214) note:

Many services have been granted increased personnel numbers and higher budgets ... the special powers of intelligence services have significantly increased ... higher levels of international co-operation have increased the need for effective executive control ... [there is] an urgent need to insulate the services from political manipulation.

A challenge to maintaining oversight is reconciling the need both for secrecy and transparency. Political leaders can be tempted to weigh rights and responsibilities between the services and politicians and lean on tools outside of the Executive. Another challenge of intelligence services in new democracies concerns the transition from authoritarianism to democracy. Historically, those services sought to protect those states from their people rather than defending the state or the constitution; their role was therefore mostly repressive. Intelligence governance from that as a means of repression into that implementing modern security policies calls on parliaments and the Executive to monitor the services carefully (Born & Leigh, 2007: 196–198).

With respect to international intelligence co-operation, a concern is the risk of intelligence services looking for information on serious matters while overlooking the means an international partner used to acquire the information. Similarly, international intelligence co-operation might involve passing on information about national citizens to foreign intelligence services (Born & Leigh, 2007: 200–201).

Safeguards against the ministerial abuse of intelligence services deal with excessive secrecy on the part of the government, which then treats the content gathered by the civil service as its own property. There is also the possibility that the Executive may intend to use security or the services' capabilities to obtain information that could be used to bolster its own position. For this reason, ministerial requirements should be in writing. These protections also advocate the bipartisan and politically neutral use of the intelligence services: the 'open-door policy' that gives the head of the intelligence services access to the president to voice any political concerns. There are also legal constraints on what can be expected of an intelligence service, such as the protections attached to the appointment and dismissal of the head of the intelligence services and the independent ways of working through seemingly illegal actions such as grievance processes or whistleblowing (Born & Leigh, 2007: 201–202).

The challenges to intelligence that Matei and Halladay identify include external challenges such as non-state and state adversaries that put a country's national security at risk, unplanned challenges that inadvertently get in the way of intelligence and internal challenges such as weaknesses in the design of a system that are not apparent externally (Matei & Halladay, 2019: 7–8).

Matei and Halladay (2019: 16–17) identify three incentives for the democratic reform of the intelligence function:

The first incentive is personal prestige and recognition ... A second possible incentive is awareness and understanding of the threats, as well as the importance of the role of policymakers in the cycle for successful security policies... A third possible incentive is receiving financial support and assistance, to include education and training, from other countries.

These incentives are applicable in the South African context, particularly regarding the role of policy-makers in the cycle for developing successful security policies.

2.4 Transformation

Central to the idea of transformation are the terms ‘security sector reform’ (SSR) and ‘transformation of the security sector’ (TSS). Constructivist theories are used to further ground these ideas of transformation, while Snyder’s idea of ‘strategic culture’ remains key to understanding the transformation of intelligence governance in South Africa. On the question of transformation, Chirwa (2015: 4) makes the following observation:

It must be noted, however, that the terms Security Sector Reform and Transformation of the Security Sector are interchangeably used in this study. Nevertheless, the main theme and focus is weighted on the term TSS. Such a task in newly democratic states may require new sets of values among political leaders as well as throughout the ranks of security institutions.

This research similarly uses the terms SSR and TSS interchangeably; however, TSS remains the focal theme and term. Here the idea of ‘strategic culture’ is also considered. In this regard, Snyder’s seminal paper has survived well beyond its years:

It is useful to look at the Soviet approach to strategic thinking as a unique ‘strategic culture’. Individuals are socialised into a distinctively Soviet mode of strategic thinking. As a result of this socialisation process, a set of general beliefs, attitudes and behavioural patterns with regard to nuclear strategy has achieved a state of semipermanence that places them on the level of ‘culture’ rather than mere ‘policy’ (Snyder, 1977: v).

Lantis elaborates on Snyder’s work as follows:

Other important elements of strategic culture, according to Snyder, include the context associated with perceived security threats and technological development; strong cognitive content associated with attitudes and beliefs; historical legacies; and beliefs about the role of the military and concerned institutions in the policy-making process (2002: 94).

And Gray takes the position that

strategic culture provides the milieu within which strategic ideas and defense policy decisions are debated and decided (1981: 22).

Regarding theories of transformation and the contribution of constructivism to security studies, there is a considerable distinction between constructivism and rationalism based on their dedication to ontology. Constructivists claim there is socialising and therefore prefer a social ontology. They look to the effect of strategic cultures, identities and norms in global security – where norms are interpersonal thoughts enabled through social use. And they look at the social design over the material one in the world (Karacasulu & Uzgören, 2007: 36).

Constructivism views knowledge as a social construct and an element of power, particularly as it affects state identities and interests. Constructivists seek to know what power means and does, whether purposely or not. But constructivism does not negate the view that interests and power matter: the theory questions those interests and explores how and why power is used. Interests are determined by norms and they determine actions. On top of power, norms and identities shape security interests. Productive power made and changed through usage, institutional power through indirect control and hard power are part of the constructivists' understanding of power (Karacasulu & Uzgören, 2007: 36–37).

Importantly, constructivists' understanding of threats is different from what realists think. They claim that a threat is constructed and argue that security is a political construct, and so they focus on norms, rules, identity and social interaction. To them, threats and security are a social construct and are not a foregone conclusion. Following this argument, then, by changing their circumstances and behaviour, states can alter the way they perceive threats (Karacasulu & Uzgören, 2007: 38).

The theory posits that identities, interests, sovereignty and anarchy are a social construct; as a result, constructivism can better make sense of the change in sovereignty than realism. The interests of a nation are an interpersonal account of what it takes to develop influence, wealth and power. Therefore, the theory holds, social behaviour can create 'co-operative anarchy'. Accordingly, international relations can be socially constructed based on normative and value-driven measures rather than on material need. Social interaction can lead to a change in identity that will affect the security action of states, which, by extension, affects anarchy (Karacasulu & Uzgören, 2007: 39).

Constructivists can reduce security dilemmas through focusing on identities that are certain from those that are not. Uncertainty is not constant, but changes. Conflicts, threats and enemies are a social construct because international reality is formed through ideas and material elements. For actors, the socially constructed reality can be either good or bad. But constructivists experience a normative dilemma where the impact of communication hinges on the current language of security which leans on the intention of an actor to securitise an idea (Karacasulu & Uzgören, 2007: 39).

Responding to these assertions, Dannreuther (2013) raises a number of questions:

What sort of role can the academic security analyst play? Is the subject a science or an art? Can one hope for objectivity or are the limitations of time, place and culture such as to make all judgement inevitably subjective and culturally limited? Should the security analyst be at the service of those who wield power or is it their proper role to be a tireless critic of the powerful and a defender of the marginalised and the powerless?

He does not defend the argument that the security analyst is unable to be objective or offer a thorough account of outside occurrences. He therefore supports the need to look at the world as if it is real, otherwise there is no alternative to relativism. There is also a risk in veering too far in the opposite direction and being so hopeful about the security space that certain security threats are not taken seriously enough (Dannreuther, 2013).

International security studies have asked how internationally positioned the security analyst can be in reality. International security is by design multidimensional and not straightforward, meaning it cannot easily be contained. The security analyst must therefore offer an

internationalist and multidimensional view that considers the security opinions of others but without sacrificing their own values and cultural ways (Dannreuther, 2013).

Ultimately, Dannreuther makes the point that the security analyst knows the normative political difficulty of the tricky connection between security and other values the world interprets as essential to the 'good life'. This means that the security analyst must take on the role of a political philosopher. The reason for this is that security as a value conflicts with and is dependent on other values such as justice, prosperity and freedom (Dannreuther, 2013).

Wulf (2004: 3) defines security sector reform as:

the transformation of the security system which includes all the actors, their roles, responsibilities and actions, so that it is managed and operated in a manner that is more consistent with democratic norms and sound principles of good governance, and thus contributes to a well-functioning security framework. The overall objective of security sector reform is to contribute to a secure environment that is conducive to development.

Reforms should not have to mean going back to previous types of military development which can constitute the issue trying to be fixed. In 1999, at the time of publication of his work, Hendrickson noted that not enough research had gone into the way developing countries ought to handle the restructuring and control of their security agencies and military forces and that there was a poor understanding of how military institutions work and how military and state officials understand their security considerations. While Hendrickson was writing more than 25 years ago, his observations and argument add further impetus to the topic of this research (1999: 25).

In the light of these developments, Bryden and Olonisakin highlight security-sector transformation, reconstruction, management and development as being a different conceptual framing which all show a different approach or context. But SSR continues to be the main focus of policy. The requirement for the productive use of human and state security through the lens of democratic governance lies at the heart of this concept (Bryden & Olonisakin, 2010: 3).

A considerable number of mostly African actors consider transformation as opposed to reform as a starting point for effecting optimistic change regarding governance in Africa in general and in the security sector in particular. As a result, SST is starting to enter the lexicon of international organisations working in this space. They argue that problems surrounding SSR and SST analysis stem from an apparent interchangeability of terminology without taking into account their resonance, inference and meaning and a supposed comparison of the sustainability and legitimacy of the two terms. Bryden and Olonisakin aim to transcend these constraints by clarifying the SST discourse while looking at lessons from authorities to better grasp how the SST agenda can be brought to life in Africa (2010: 3–4).

These authors favour the SST concept because it can be traced to the region that is a serious space for SSR work. They claim that an African lens to this concept is needed to seriously change the material conditions that support security governance – which renders temporary contributions only somewhat relevant in many African societies. They track governance and security in Africa historically and analyse whether modern concepts are appropriate to the region's security context. Their argument considers socio-economic, security and political factors in different African countries and contests the idea of transformation into real life on the ground. Instead, they clarify transformation in a regional and national context that includes

institutions and actors important to making the transformation concept a reality (Bryden & Olonisakin, 2010: 4).

SST pursues wholesale change that fundamentally shifts the norm of power relations with regard to the oversight, management and provision of security in a region. Therefore, the security sector governance (SSG) concept serves as a supplementary concept to champion the cleansing of the old that is necessary for transformation to take place. On the ground, a SST programme requires institutional and human capacity-building. Bryden and Olonisakin point out four types of transformation in the security sector:

- organisational character
- cultural make-up
- human resource practices
- political relationships with elected authorities and the civil power (2010: 6).

A core tenet of transformation is the importance of changing the character and culture of the security actors: regional and national history and context must lead to transformative action. For this reason, international and regional players have key roles to play in allowing this to happen. However, the disjuncture between external actors and the vacuum of domestic change-makers limits the implementation of SST in earnest (Bryden & Olonisakin, 2010: 7).

SST was often viewed as being the opposite of SSR and has been defined as:

a more profound intent on behalf of elected governments to ensure that the practices of the security organisations are consistent with the democracies that they serve. Countries with serious governance deficits may require a fundamental transformation of relations between the civil authorities and civil society on the one hand and the security organisations on the other hand. Such transformations should occur within a framework of democratic oversight and control (Bryden & Olonisakin, 2010: 7).

Bryden and Olonisakin argue that comparatively small gains have come from SSR efforts in the region so far. SSR, it is also argued, has become less popular in Africa, where armed conflict has led to a mostly smooth conflict-management cycle and an international intervention to help with state-building and/or peace-building that is not challenged. Also, key areas of transformation mostly do not happen in SSR implementation (Bryden & Olonisakin, 2010: 9–10).

It is therefore important to question whether policy formulation and programme interventions reflect the SSR and SST concepts on the ground. Modern accounts of SSR that refer to an overhaul of the whole system without examining the bigger picture beneath it do allow for SSR to be categorised as transformation. The concept of SSR as framed by the Organisation for Economic Co-operation and Development (OECD) and others is highly transformational in its aspirations. Therefore the distinction between SSR and SST becomes one of implementation and not of conceptualisation. This is another reason why the present research continues to treat SSR and SST as conceptually interchangeable (Bryden & Olonisakin, 2010: 10).

Classic state security structures in the region continue to focus mostly on states and not people, even where ideas of security are evolving. Many African states do not dominate the levers of violence. Times of change such as the undoing of colonialism and the end of the Cold War that created moments to transform the security space have not always been supported by a genuine interest in fundamental change (Bryden & Olonisakin, 2010: 12–13).

Indeed, Bryden and Olonisakin (2010) argue, institutions and actors exhibit more transformative roles at different times. Spaces and opportunities might become amenable to historically suppressed actors and roles to be empowered to act according to roles conferred by a constitution. This leads to some actors and not others becoming important during a crisis or a power vacuum (Bryden & Olonisakin, 2010: 15–16).

Regarding SST domestically, much depends on the context in which certain players participate in transformation. In post-authoritarian settings, elite control over power remains entrenched. In contrast, an engaged parliament with a central group of reformist parliamentarians is one of the clearest signs of transformation. Moreover, the inclusion of women in the security sector and gender relations is also an important measure of transformation. Ultimately, the changing power relations in transitional contexts function as solid indicators of transformation (Bryden & Olonisakin, 2010: 17–18).

2.5 Intelligence culture

This section reviews the literature on intelligence culture. Where appropriate, it applies this literature to the transformation of intelligence governance in South Africa and in so doing it paves the way for the following section on decision-making during a national crisis.

Intelligence culture has been defined as ‘a set of explicit and implicit attitudes and behaviours related to intelligence which influence social perceptions’ (Chiru, 2016: 503). This is the definition of intelligence culture referred to in this dissertation. This is important to enabling public confidence in the intelligence services, particularly because trust is related to the efficiency of the intelligence services (Chiru, 2016: 503). It is necessary to adopt a new way of working out how to develop an intelligence culture. The social responsibility theory has been suggested as a means of analysing how it can be used to develop a sound intelligence culture (Chiru, 2016: 504).

New connections have developed between public opinion and the intelligence services. While the function of intelligence services can be understood as aiming to deliver intelligence to policy-makers, this function is followed in a political and a social context (Chiru, 2016: 506–507). Intelligence services are arguably a ‘social enterprise’: their framing of their meaning to secure their relevance is based on the way in which they view their position in society (Chiru, 2016: 507). This applies to the socio-political context of the intelligence services in South Africa.

Organisational reputation can be witnessed in the actions of stakeholders towards the intelligence services. These actions result from a good reputation and should be welcomed in a sound intelligence culture. The consequence of reputation with regard to an intelligence culture can be seen in totalitarian states, where the intelligence services served as a tool of state police and repression. A healthy intelligence culture can make possible better public knowledge of the intelligence services, with people feeling that they are participants in and beneficiaries of Intelligence (Chiru, 2016: 509).

The alignment of crowd-sourcing to enhance the intelligence culture has been proposed. The viability of this in building an intelligence culture could be realised through thorough engagement with non-governmental organisations (NGOs) and other intelligence stakeholders. Doing so would improve public success and add value. This initiative could be based on an

analysis of intelligence culture to allow knowledge-sharing, which could then help with the crowd-sourcing. A challenge would probably be the intelligence services capacity to work with such project in the light of their culture and secrecy concerns – which is a legitimate issue with the intelligence services (Chiru, 2016: 509–511). The fact that NGOs and other intelligence stakeholders are often funded by foreign donors complicates this consideration further.

Public exchange is pertinent as a building block towards enabling the growth of trust and legitimacy between the intelligence community and the populace. Transparency is a crucial part of intelligence governance, as is the legality underpinning the intelligence process. Legislation and education are additional areas that can play a part in achieving this outcome. According to Nykänen & Teirilä (2016: 278–279), the public aspect of this issue brings themes of legitimacy, legality and transparency to life, as in the case of the implementation of the recommendations of the HLRP and Expert Panels.

While the legitimacy of the intelligence services may conceal their behaviour through secrecy or covert action, public appropriateness requires them to do their jobs within the confines of the law. Attaining this necessary openness can be assisted by the media, whereas legality and trust can be ensured through parliamentary oversight. Similarly, the public, practitioners, politicians and researchers should play a part in these processes (Nykänen and Teirilä, 2016: 279–282). However, it becomes problematic when the parliamentary oversight mechanism, such as the JSCI in South Africa, protects the intelligence services over the public by prioritising secrecy over transparency.

In considering the bigger picture, events in history have played a key role in shaping the legitimacy of the intelligence community. What recent history has taught us is that the education of the intelligence services is critical, even though experience has shown that teaching the intelligence community alone is insufficient to secure the best outcomes. What is actually needed is a broader knowledge of intelligence beyond the ambit of the intelligence community (Nykänen & Teirilä, 2016: 291–292). In the context of South Africa, the Intelligence Academy has an opportunity to play this educational role with the intelligence services.

Strategic culture has been connected only peripherally to intelligence studies (Duyvesteyn, 2011: 522). Unfortunately, according to Duyvesteyn (2011: 522), there has not been sufficient focus on the role of individuals and states in intelligence collection, where limited cultural perspectives are viewed from different viewpoints. Such constraints have extended to the relationship between intelligence and culture in preparations for war (Duyvesteyn, 2011: 523). Above all, there has been too much preoccupation with intelligence failures over successes (Duyvesteyn, 2011: 523). In order to transform intelligence governance in South Africa in such a way that achieves control, oversight, efficiency and transparency, the strategic culture of the intelligence services must be transformed.

The methodology of the intelligence cycle aligns appropriately with a culture comparison. The part played by culture follows from a cogent consideration of the intelligence cycle. Here, considering culture and intelligence can bridge a gap in the continuing intelligence debate. Not much research has explored this angle, even though there are signs that culture does contribute to the intelligence cycle and intelligence culture does play a part in intelligence failures. Here the intelligence cycle can be broken down into connections between cultural preconceptions and intelligence (Duyvesteyn, 2011: 524), as in the cases of the role the intelligence culture of the intelligence services played in failing to prevent the July 2021 civil unrest.

According to Duyvesteyn, the priorities of intelligence organisations are shaped by culture through identifying ‘who they are and what is possible, and thereby suggesting what they should do’ (2011: 525). Preferences can be perceived to be based on culture. Previously there has been an absence of understanding, insufficient data and an inability to link the existing data due to assumptions having been made. What followed was insufficient preparedness for decolonisation conflict, the Cold War and the post-Cold War instability (Duyvesteyn, 2011: 526). Consequently, there was a problem with the priorities of the intelligence services in South Africa, which had an impact on the intelligence culture and this led to the failure of the intelligence services to mitigate the July 2021 civil unrest.

In addition, certain cultures are susceptible to some weaknesses. For instance, whereas ‘integrative cultures’ are easily affected by the thinking of the group, ‘disintegrative cultures’ can be triggered by disagreements about areas of influence and territory (Duyvesteyn, 2011: 527). Analytical problems can be understood through insufficient estimating, maintenance, thinking of the group and institutional alignment. Cultural positionality in intelligence organisations probably played a role in these findings of analysis (Duyvesteyn, 2011: 528). The weaknesses of these cultures and groupthink continue to be seen in the influence of the governing party on the governance of the intelligence services in South Africa.

A combination of political plans, intelligence analysis and distribution can be dangerous. There can be an introspective culture with a propensity for calculated agenda-making which intelligence must respect. The absence of political analysis is different from an absence of intelligence analysis, while many problems in the distribution process can be highlighted. The political lobbying, intelligence engineering and assessment analysis stemmed from concerns about not being able to be a part of decision- and policy-makers. In certain circumstances, Duyvesteyn points out, intelligence and culture can be mutually reinforcing – where culture influences intelligence distribution and distribution determines culture (2011: 528–529). The decision-making culture between the intelligence services and the Executive have been plagued by this vulnerability.

A historical analysis of the intelligence services is relevant to the continued development of culture. Often painful combined or country events moulded a country’s intelligence culture (Rietjens, 2019: 204). In future, more must be done to implement best practices and outcomes in different areas. Similarly, an organised comparison of states must be concentrated on (Rietjens, 2019: 206).

For there to be a ‘cultural turn’ in this field of study, transparency is necessary about cross-disciplinary theories and methodologies. Research is also required into certain themes of this field of study, such as the cultural positionality that comes with the intelligence space, ‘mentalities’, publicity and secrecy (Willmetts, 2019: 800–801). The PHILINT, particularly the PHILINT culture proposed in this dissertation, is one such example, one where the ‘cultural turn’ referred to can be understood in theory and practice (Willmetts, 2019: 807–808).

Underlying this is the reality that the intelligence services do not exist in a bubble: on the contrary, their work is moulded by outside cultural values and other variables. These values can be influenced by the intelligence services (Willmetts, 2019: 803) and the Covid-19 pandemic could be argued to be one such variable.

The knowledge of intelligence agency history is to a degree a cultural development. In line with the ‘cultural turn’, cultural literature is treated as key stakeholders in intelligence services history (Willmetts, 2019: 809). The history of the intelligence governance in South Africa has been an important consideration in the research.

Intelligence can be shaped by cultural ‘mentalities’. This can refer both to what is stated and to what is not stated. Whichever is the case, though, intelligence employees are socio-cultural actors who are influenced by their mentalities (Willmetts, 2019: 809–811), the group-think of cadre deployment in the intelligence services in South Africa being one such mentality.

The relationship between intelligence and culture remains understudied, though. But it is hoped that this dissertation will serve to shine a light on this relationship. The relationship can be examined in terms of the ‘culture of intelligence’, ‘intelligence and culture’ and ‘intelligence in culture’, approaches that can be explored through many theories and methodologies (Yelamos, Goodman & Stout, 2022: 475).

Intelligence culture stems from a nation’s culture and it mainly emulates similar ‘inputs’ and ‘outputs’ from the ways in which groups of people grow their specific cultures. These inputs or influences develop cultural outputs; this process is the same for national cultures. Intelligence culture is also constantly evolving and can originate from the top or the bottom (Yelamos, Goodman & Stout, 2022: 475–476). For example, the national culture of constitutionalism, political non-partisanship and respect for the rule of law should be equally complied with by the intelligence services in South Africa.

The intelligence services also encounter external cultures and understanding this is important when gathering intelligence. By extension, it becomes pertinent to comprehend the culture of targets, because a nation’s culture might not be well received. For this reason, Intelligence can have a serious impact on external cultures (Yelamos, Goodman & Stout, 2022: 476–477). For example, it’s reasonable to infer that the intelligence culture of the intelligence services in South Africa has been influenced to a certain degree by the UK intelligence services, given the two countries’ former colonial and historical ties.

Moreover, intelligence is publicised in social culture, with museums of intelligence found worldwide that educate people about intelligence (Yelamos, Goodman & Stout, 2022: 478). An increasing body of literature about intelligence in South Africa has also been released in the past 30 years.

2.6 Intelligence decision-making during a crisis

van Nieuwkerk and Ngcobo have applied Boin et al’s five-task leadership model to the leaders in West Africa who dealt with the Ebola crisis (2016: 12). This model includes ‘sense making ... decision making and response co-ordination ... meaning making ... terminating ... learning ...’ – an application of which can be found in the section below (van Nieuwkerk & Ngcobo, 2016: 14–20). A crisis has been defined as happening ‘when a system is required or expected to handle a situation for which existing resources, procedures, laws, structures, and/or mechanisms, and so forth, are inadequate’ (Bryson, 1981: 181). It follows from Bryson’s research that a crisis should be predictable and that administrators and public representatives should use opportunity spaces at more senior levels of government because of a crisis and implementation should show normality by reassuring us of a stable outcome following the crisis (1981: 192).

This decision-making used by policy-makers is sometimes analytical. When these processes are followed, the decisions that are made are more aligned to the aims. Therefore, the standard of a decision-making procedure is connected to the result of the decision (Herek et al, 1987: 218). Managing crises can be enhanced by applying problem-solving to the process of making policy. This could lead to the better management of crises and, in so doing, decrease conflict while at the same time advancing the national interests of policy-makers (Herek et al, 1987: 223).

Furthermore, central to intelligence decision-making during a national crisis is the co-ordination of policy. Metcalfe defined co-ordination as when ‘the parts of a system work together more effectively, more smoothly or more harmoniously than if no co-ordination took place’ (1994: 278). The policy co-ordination scale created in his research enables one to distinguish the components of relationships between organisations that create a rational chain in the scope of co-ordination. The scale, Metcalf asserts, can be geared towards analysing co-ordination in certain situations and towards contrasting different cases (1994: 272). He defined the tiers of the policy co-ordination scale as comprising the following nine levels:

1. Independent decision-making by ministries.
2. Communication to other ministries (information exchange).
3. Consultation with other ministries (feedback).
4. Avoiding divergences among ministries.
5. Interministerial search for agreement (seeking consensus).
6. Arbitration of interministerial differences.
7. Setting parameters for ministries.
8. Establishing governmental priorities.
9. Overall governmental strategy (Metcalf, 1994: 282–284).

Miller’s (2010) lessons for helping Intelligence with policy-making in times of crisis are poignant. He reflected that the intelligence community should be able to respond to the demands of policy-makers quickly. Obvious analysis and reports should not be relied on, and managers must be more up to speed on the policy-making procedure. More analysis about opportunities should also be delivered. Knowing the size and function of the intelligence decision-making body might help with reassessing the way in which the body helps the procedure of policy-making between agencies. As a part of this, dissemination processes should be repaired where necessary. Finally, the fact that policy-makers and not the intelligence services themselves determine policy must be accepted (Miller, 2010: 6–8).

Leslau’s model presents four ways in which Intelligence affects the process of decision-making. First, it can have a ‘great degree of influence’. Second, it can experience ‘politicisation’ when intelligence-makers align the analysis with the decision-makers’ plan or when the only analysis given is one that substantiates the decision-maker. Third, Intelligence can have ‘partial acceptance’, which means it prevents stakeholders from supporting their decisions with the wrong data. Finally, Intelligence can be confronted with ‘complete estrangement’ when the intelligence is unrelated to the process of decision-making (Leslau, 2010: 429–431).

These four options can have an impact on the decision- and intelligence-makers’ characters and also on the professional standing of the intelligence service. The ‘great degree of influence’ happens when decision-makers listen, when the intelligence-maker is professional and when the professional status of the intelligence service is acknowledged. ‘Politicisation’ occurs when

the intelligence-maker is not partial and the decision-maker is insular. ‘Partial acceptance’ comes about when the decision-maker is open to intelligence that does not necessarily align with their plan listens, but the intelligence service might not have a professional reputation. ‘Complete estrangement’ unfolds when a decision-maker who does not listen connects with professional intelligence (Leslau, 2010: 433–435).

Leslau’s findings result in four considerations for intelligence theory:

- A. Accurate intelligence does not necessarily lead to good policy.
- B. The decision-maker’s degree of receptivity.
- C. The intelligence community’s prestige.
- D. The intelligence officer’s professional character (2010: 443–444).

Five issues with regard to managing a crisis that decision-makers such as intelligence services should take note of during the policy-making process include:

- a crisis governance structure;
- the function of experts;
- leadership problems;
- governing reaction systems; and
- international co-operation (Baubion, 2013: 3).

The crisis governance structure in a country should ensure that frameworks are in place to navigate both standard crises and those that have not happened previously. Experts should stem from many disciplines and should form a structure ahead of and during the crises. Leadership is important to win back trust from the public and must adhere to professional standards through specific training. Governments should plan to work with big multi-stakeholders and multi-sector networks so as to bolster reactions to crises. The capacity of international co-operation to help with managing a crisis should be reinforced (Baubion, 2013: 21–22).

It is similarly clear that trust develops over time and is important for intelligence co-operation. Co-operation often precedes formal measures and institutionalisation: growing trust over time will work better than pressuring co-operation through established or legal arrangements (Fägersten, 2015: 11). Regarding the co-ordination of covert action, covert action remains beneficial and should not be taken for granted; however, it remains high risk and emotional. Therefore, sound co-ordination of covert action is imperative (Cormac et al, 2016: 19).

2.7 Key conceptual frameworks

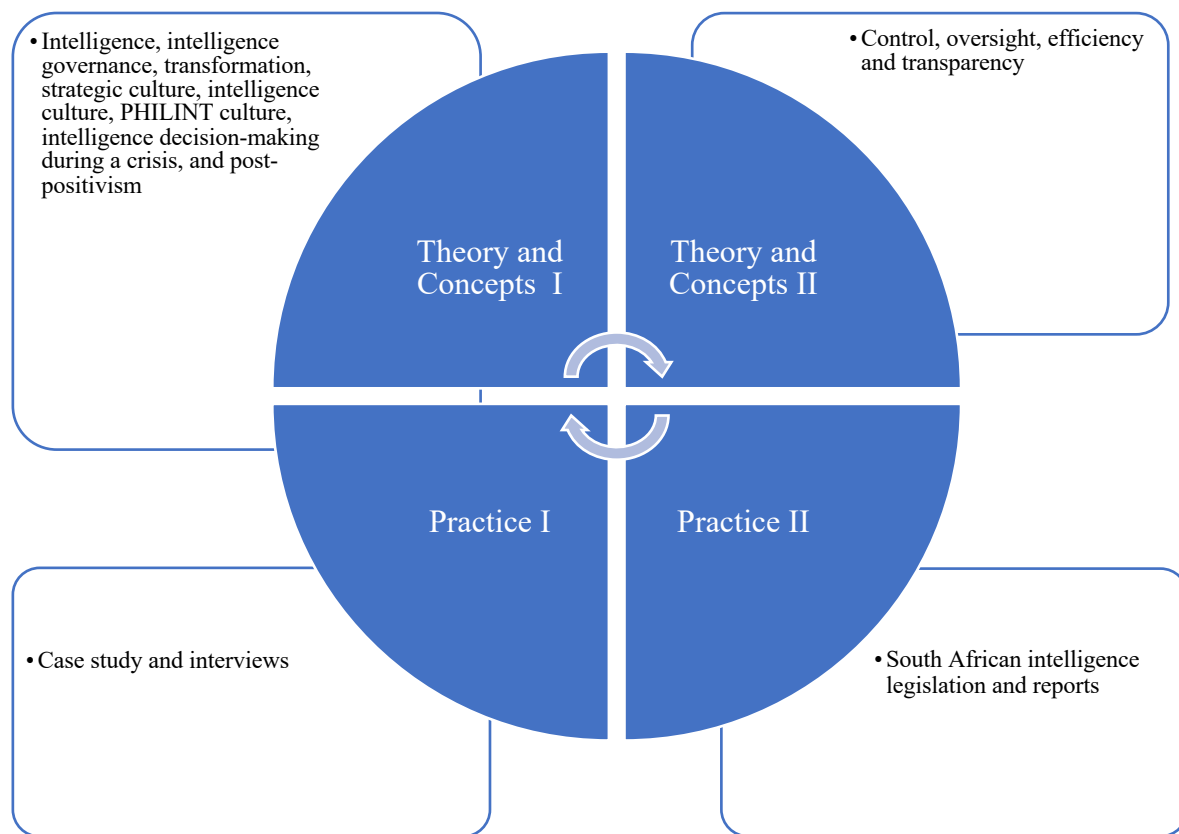


Figure 2.1: Theory, concepts and practice

Key theoretical frameworks are structured by concepts and executive practice to improve intelligence governance in South Africa: 2008 to 2022. Here the conceptual frameworks are subdivided into a branch of concepts such as intelligence, intelligence governance, transformation, intelligence culture, strategic culture, PHILINT culture, intelligence decision-making during a crisis and post-positivism and a different branch of concepts that interacts with the concepts of control, oversight, efficiency and transparency. The practical frameworks are subdivided into intelligence legislation and reports from South Africa, and the case study and interviews.

This is being described because the conceptual and practical literature ultimately reinforces the findings and recommendations in the findings, discussion and conclusion chapters. For example, the findings and recommendations on the role of intelligence culture in transforming intelligence governance in South Africa in the findings, discussion and conclusion chapters are supported by the literature in the literature review (theory, concepts and executive practice to improve intelligence governance in South Africa: 2008 to 2022).

Herman (1996 and 2001) and Kent's (1966) ground-breaking work on intelligence theory help shape the messaging. Caparini's (2007: 23) accountability framework of vertical, horizontal and third/external accountability structure was applied to the conceptual framework. The CIA intelligence guide offers similarly best practice in this area of research.

Transformation and reform are understood through theories of SSR and SST. Ultimately, these concepts are used interchangeably even if that comparison changes through implementation.

This research understands the term SSR through Wulf (2004: 3) and Hendrickson's (1999: 25) theories, whereas SSR and SST were framed through the prism of Bryden and Olanisakin's work (2010: 3-4). Hannah, O'Brien and Rathmell (2005: 8-9), Lowenthal (2000) and Chirwa's (2015: 4) work were also instructive here.

Snyder's (1977), Lantis's (2002 and 2005) and Gray's (1981) theories on 'strategic culture' were explored. This helped the conceptual framework to further operationalise transformation. Karacasulu and Uzgören's (2007: 36-39) explanation of social constructivist contributions to security studies were similarly explored, whereas Dannreuther's reflections on the role of a security analyst as a scientist, internationalist and moralist was unpacked in the literature review (2013).

The focus of the conceptual framework is on how to develop transformation in intelligence governance in South Africa. Here an overall theoretical and conceptual paradigm that prioritises the importance of democratic governance in the security sector through transparency, accountability, legality and oversight pursuant to the research of Ball and Fayemi (2004) is adopted.

Bruneau and Dombroski's theory of transforming the intelligence profession was applied to the conceptual framework (2006: 21-23). Born and Leigh's theory of a legislative framework, reconciling secrecy and transparency, executive oversight, international intelligence co-operation, safeguards against ministerial abuse, the role of parliament, secret information, role of the Judiciary, complaints systems and the role of auditing and inspectors general assisted with framing the concept (2005: 16-17). As did Gill's contribution to the literature (2016: 4).

Matei and Halladay's theory on accountability, transparency and political impartiality, challenges to intelligence, the development of norms, oversight and leadership over institutional controls and incentives for the democratic reform of intelligence collectively aligned with the conceptual framework (2019: 1). Lustgarten's work complimented this theory (2003: 323-324).

The DCAF Intelligence Working Group's definitions of control and accountability were applied to the conceptual framework. Including an understanding of executive control. A definition of legislative oversight was operationalised, as was control by the Judiciary and supervision and indirect and informal supervision (2003).

Chiru's definition of intelligence culture as 'a set of explicit and implicit attitudes and behaviours related to intelligence which influence social perceptions' (2016: 503) was helpful. While Nykänen and Teirilä (2016), Duyvesteyn (2011), Rietjens (2019), Willmetts (2019) and Yelamos, Goodman and Stout (2022) explored the concept further.

Bryson's definition of a crisis as happening 'when a system is required or expected to handle a situation for which existing resources, procedures, laws, structures, and/or mechanisms, and so forth, are inadequate' (1981: 181) was equally useful. Herek et al (1987), Metcalfe (1994), Miller (2010), Leslau (2010), Baubion (2013), Fägersten (2015) and Cormac et al (2016) build on this concept of intelligence decision-making during a crisis.

Various intelligence reports were consulted as part of literature review (executive practice to improve intelligence governance in South Africa: 2008 to 2022). These included:

- the report of the Expert Panel into the July 2021 Civil Unrest Final Report to the Minister for Intelligence Services the Honourable Mr Ronnie Kasrils, MP;
- Report of the High-Level Review Panel on the State Security Agency;
- Annual Report of the Joint Standing Committee on Intelligence for the Financial Year ending 31 March 2020 including the period up to December 2020;
- Annual Report of the Joint Standing Committee on Intelligence for the Financial Year ending 31 March 2024 including the period up to May 2024; and
- the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State.

Similarly online semi-structured interviews with five interviewees who were either retired professionals and/or experts were conducted.

The section of the HLRP's recommendations on oversight is particularly instructive. Given the demands of intelligence oversight - intelligence culture, intelligence decision-making during a crisis and the Expert Panel will be explored in the case study.

Theory, concepts and practice shaped the primary theoretical frameworks. The concepts of intelligence, intelligence governance, transformation, strategic culture, PHILINT culture and post-positivism and the concepts of control, oversight, efficiency and transparency added value to the theoretical and conceptual frameworks. There was similarly a subdivision of the practice frameworks into intelligence legislation and reports stemming from South Africa and the interviews.

2.8 Conclusion

South Africa can transform the governance of its intelligence sector (both control and oversight) and achieve an appropriate balance between efficiency and transparency for the country. This chapter adopted a largely theoretical approach to the transformation of intelligence governance in South Africa.

Definitions were proposed for 'intelligence', 'intelligence governance', 'transformation', 'intelligence culture' and 'intelligence decisionmaking during a crisis'. These concepts are central to the study and together give meaning and direction to the transformation of intelligence governance in South Africa. Of the definitions of intelligence provided, Kent's (1966: 3-208) definition resonated most closely with the objective of this study, where knowledge will be understood as theory and concepts, and organisation and activity will be approached as practice.

At the heart of the idea of transformation are the terms 'security sector reform' (SSR) and 'transformation of the security sector' (TSS). Snyder's idea of 'strategic culture' remains key to understanding the transformation of intelligence governance in South Africa. As a key identifier, South Africa was defined post-Cold War and from 1994 onwards through the prism of post-apartheid intelligence legislation.

3. Executive practice to improve intelligence governance in South Africa: 2008 to 2022

3.1 Introduction

The objective of this study is to show how South Africa can transform the governance of its intelligence sector (both control and oversight) in order to achieve the most appropriate balance between efficiency and transparency for the country. The transformation of intelligence governance in South Africa was studied primarily through the prism of theory, concepts and practice. This chapter's literature review considers matters of executive practice to improve intelligence governance in South Africa: 2008 to 2022.

In the case of this chapter, 'practice' entails the reports of commissions, panels and a committee. This story of wasted opportunity, wilful deceit, neglect, avoidance, incompetence, further politicisation and corruption stems from the Matthews Commission Report (hereafter Matthews Commission), the Report of the HLRP of the State Security Agency, the 2020 and 2024 JSCI Annual Reports, the Report of the Expert Panel into the July 2021 Civil Unrest (hereafter Expert Panel) and the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State (hereafter Zondo Commission).

An examination of these reports was undertaken because they give meaning to the transformation of intelligence governance in practice. Whereas the Matthews Commission set the stage, the HLRP functioned as a beacon of hope, the JSCI showed little signs of progress, the Expert Panel showed that transformation was having an increasingly negative effect on intelligence governance and the Zondo Commission further showed the state of disrepair of intelligence governance in South Africa.

3.2 South Africa

South Africa is an important identifier because, from 1994 onwards, post-apartheid intelligence legislation went through a seismic overhaul. Out of this process came three pieces of key intelligence legislation: the National Strategic Intelligence Act 39 of 1994, the Intelligence Services Oversight Act 40 of 1994 and the Intelligence Services Act 65 of 2002. While supplemented by other pieces of legislation since then, such as the General Intelligence Laws Amendment Acts 11 of 2013 and 37 of 2024, these pieces of intelligence legislation for the most part continue to govern intelligence in South Africa. The GILAB 2023 seemed to be setting a secretive precedent for legislating by the JSCI (Merten, 2023).

According to Chapter 11 of the South African Constitution on security services, the principles in section 198 governing national security are:

- (a) National security must reflect the resolve of South Africans, as individuals and as a nation, to live as equals, to live in peace and harmony, to be free from fear and want and to seek a better life.
- (b) The resolve to live in peace and harmony precludes any South African citizen from participating in armed conflict, nationally or internationally, except as provided for in terms of the Constitution or national legislation.
- (c) National security must be pursued in compliance with the law, including international law.

(d) National security is subject to the authority of Parliament and the national executive (The Constitution of the Republic of South Africa, 1996: 103).

The section of the White Paper on Intelligence on ‘towards a new national security doctrine’ provides a helpful window into past legislative and policy documents and task team and commission reports. It argues that the pursuit of national security should be the main goal of any government or intelligence service – including progress, development, stability and peace – towards the understanding of national security (Intelligence White Paper, 1995).

At that time there was a transition from a limited military doctrine to one of security, and security came to be understood beyond the confines of the Cold War lexicon. This included transnational reliance, developmental and security risks and non-military security considerations (Intelligence White Paper, 1995). Accordingly, the features of a new national security doctrine meant:

- Security is conceived as a holistic phenomenon and incorporates political, social, economic and environmental issues.
- The objectives of security policy go beyond achieving an absence of war to encompass the pursuit of democracy, sustainable economic development and social justice.
- Regional security policy seeks to advance the principles of collective security, non-aggression and Peaceful settlement of disputes (Intelligence White Paper, 1995).

Security policy therefore sought to focus more generally on the complexities surrounding societal vulnerability. National security objectives as a result included the values and principles connected to development, prosperity, social justice, freedom and a better quality of life (Intelligence White Paper, 1995).

Following the introduction of the Intelligence White Paper, a number of pieces of intelligence legislation have been passed . These have included:

- the National Strategic Intelligence Act 39 of 1994;
- the Intelligence Services Oversight Act 40 of 1994;
- the Intelligence Services Act 65 of 2002;
- the Regulation of Interception of Communication and Provision of Communication-Related Information Act 70 of 2002;
- the General Intelligence Laws Amendment Act 11 of 2013 (GILAA 2013); and
- the General Intelligence Laws Amendment Act 37 of 2024 (GILAA 2024).

The purpose of the National Strategic Intelligence Act 39 of 1994 was stated as follows:

To define the functions of members of the National Intelligence Structures; to establish a National Intelligence Co-ordinating Committee and to define its functions in respect of intelligence relating to the security of the Republic; and to provide for the appointment of a Co-ordinator for Intelligence as chairperson of the National Intelligence Co-ordinating Committee, and to define his or her functions; and to provide for matters connected therewith (National Strategic Intelligence Act 39 of 1994).

While this Act sought to create the intelligence structures, the Intelligence Services Oversight Act aimed

[t]o provide for the establishment of a Committee of Members of Parliament on Intelligence and to define its functions; and for the appointment of Inspectors General of Intelligence and

to define their functions; and to provide for matters connected therewith (Intelligence Services Oversight Act 40 of 1994).

Rather than setting out the intelligence structures, therefore, this Act aimed to shape the legislative oversight that would monitor the intelligence services in South Africa. The Intelligence Services Act attempted

[t]o regulate the establishment, administration, organisation and control of the National Intelligence Agency, the South African Secret Service and the South African National Academy of Intelligence; to establish and regulate the Intelligence Services Council on Conditions of Service; to repeal an Act; and to provide for matters connected therewith (Intelligence Services Act 65 of 2002).

Therefore, this Act existed for the most part to regulate the domestic and foreign intelligence services. While not specifically a piece of intelligence legislation, the Regulation of Interception of Communication and Provision of Communication-Related Information Act came about in order

[t]o regulate the interception of certain communications, the monitoring of certain signals and radio frequency spectrums and the provision of certain communication-related information (Regulation of Interception of Communication and Provision of Communication-Related Information, Act 70 of 2002).

In effect, this Act arose to govern signals intelligence in South Africa. And ultimately the General Intelligence Laws Amendment Act (GILAA 2013) was passed, with the following stated objectives:

To amend the National Strategic Intelligence Act, 1994, the Intelligence Services Oversight Act, 1994, and the Intelligence Services Act, 2002, and repeal the Electronic Communications Security (Pty) Ltd Act, 2002, so as to accommodate the establishment of the State Security Agency as a body into which certain governments components are absorbed (General Intelligence Laws Amendment Act 11 of 2013 (GILAA 2013)).

This Act in essence amended previous intelligence legislation and created the State Security Agency (SSA).

Ultimately, the General Intelligence Laws Amendment Act 37 of 2024 amends previous legislation. And was signed into law to:

To amend the National Strategic Intelligence Act, 1994, Intelligence Services Oversight Act, 1994 and the Intelligence Services Act, 2002, to provide for the establishment of the evaluation committee within a period of twelve months; to amend and insert certain definitions; to provide for the establishment of the South African Intelligence Service, South African Intelligence Agency, the National Communications Centre and the South African National Academy of Intelligence; to provide for the functions of the Intelligence Service Structures and bulk surveillance; to provide for more independence of the Office of the Inspector-General and Nicoc; to provide for additional matters that must be regulated by the Minister; to provide for matters relating to former members of Intelligence Services; to effect consequential amendments to other laws; and to provide for matters connected therewith (General Intelligence Laws Amendment Act 37 of 2024).

Therefore, the evolution of intelligence legislation in South Africa created the intelligence structures, shaped the legislative oversight that would monitor the intelligence services,

regulated the domestic and foreign intelligence services, governed signals intelligence, amended previous legislation and created the SSA; it separates domestic and foreign intelligence and again amended previous legislation.

South Africa's NSS was approved by the cabinet in 2013 but has been classified as Top Secret. The Report of the HLRP into the SSA, which advised on the pressing need for an NSS (Daniels, 2019: 1), will be further explored alongside other similar reports and commissions in this chapter.

The reason for the lack of implementation of previous intelligence reviews seems to stem from a lack of prioritisation of transformation. In his second State of the Nation Address on 7 February 2019, even President Cyril Ramaphosa called for reform by committing the government to

the re-establishment of the National Security Council chaired by the President in order to ensure better coordination of the intelligence and security related functions of the State as well as the re-establishment of two arms of our intelligence service one focusing on domestic and the other on foreign intelligence (Ramaphosa, 2019).

3.3 Matthews Commission

Almost 15 years ago in the wake of a flurry of intelligence issues, the Ministerial Review Commission on Intelligence, generally known as the Matthews Commission, looked into the mandate and work of the intelligence services and possible violations of constitutional rights. Examples of these intelligence issues at the time included:

- domestic intelligence having too wide a function;
- the abuse of power and accountability by ministers;
- the part played by the Inspector General in the intelligence problems of 2005/6;
- issues with the National Intelligence Agency's (NIA) political intelligence;
- the need for judicial authorisation of intrusive methods and the National Communications Centre's (NCC) concern over too much oversight and regulation;
- unpublished intelligence services audit reports;
- a politicised and unconstitutional intelligence culture with insufficient legal skills, and
- problems with transparency and secrecy (Matthews Commission, 2008: 3–6).

This set the stage for the transformation of intelligence governance in South Africa (Memdutt, 2013). A trend can be discerned where, since the publication of the Matthews Report, all of these intelligence issues appear to have been identified by the HLRP, JSCI, Expert Panel and Zondo reports respectively.

It was a devastating report that demonstrated a concerning lack of care for constitutionalism in the intelligence services, highlighting issues such as:

- the excessively wide mandate of the field;
- insufficient controls to safeguard against abuses of power;
- not enough space for public oversight;
- inadequate independence for the Inspector-General of Intelligence;
- a JSCI that operated too secretively, and
- not enough regulation of state surveillance (Matthews Commission, 2008).

The commission called for a public review of Intelligence and many interventions to enhance accountability (Memdutt, 2013).

The report was unfortunately never submitted to parliament or the cabinet and consequently the document does not have official status. Regarding information that is in the public domain, the government and the Executive do not appear to have given an explanation of this. This is important, because it speaks further of a culture of tolerance of secrecy and misbehaviour. Many of the main recommendations of the commission relevant to the law, political non-partisanship and constitutionalism, which have mostly gathered dust since then, can be found in the paragraphs below (Memdutt, 2013). While the report never received official status, it influenced the media cycle at the time and, by extension, public opinion. The *Mail and Guardian* and *Right2Know* engaged prominently as stakeholders following its release. The commission received significant attention together with a perceived political intention of silencing the report.

This commission's recommendations in the paragraphs that follow are a response to violations it detected. The violations included:

- ministerial control and responsibility over the delivery of intelligence to the minister;
- the delivery of departmental intelligence and intelligence to the president;
- the transfer, suspension and dismissal of a director-general;
- ministerial regulations, internal controls and policies, financial controls and oversight;
- all ministerial and existing regulations published in the *Government Gazette*;
- the JSCI, Inspector-General of Intelligence and Minister of State Security guaranteeing compliance with the law and the standard of legal advice in the intelligence services needing to be improved by the intelligence leadership;
- the minister and staff needing to be sent for more training (Matthews Commission, 2008).

Intelligence legislation should criminalise instances of intelligence employees being politically partisan or meddling in lawful political work and if and when others ask this of them (Matthews Commission, 2008: 103–259).

The Minister of State Security must be a set receiver of national strategic intelligence and of intelligence about threats to national security. For this reason, the National Strategic Intelligence Act should be changed to reflect the necessity that the NIA and the SASS must let the minister know of domestic and foreign threats to national security and that the NICOC must give the minister national strategic intelligence and intelligence pertaining to national interests and threats to national security. The power and restrictions of the minister's intelligence reports should be clarified in a ministerial directive which is put together with and agreed to by the JSCI (Matthews Commission, 2008: 103–104).

The National Strategic Intelligence Act should be changed to show that the NIA, the SASS and the NICOC may provide departmental intelligence only with the agreement of the minister and that asking the NIA, SASS and NICOC for departmental intelligence should be made nationally by the relevant minister or provincially by a premier to the Minister of State Security. Similarly, the minister must release guidelines that regulate the delivery of departmental intelligence (Matthews Commission, 2008: 104).

A presidential directive, ministerial regulations and the National Strategic Intelligence Act must govern the NIA, SASS and NICOC's delivery of intelligence and access to the president.

This intelligence given to the president should also be delivered to the Minister of State Security (Matthews Commission, 2008: 105).

The minister must put forward regulations and legislation about disciplinary actions against and the transfer, demotion, suspension and dismissal of the heads of the South African National Academy of Intelligence (SANAI), NICOC and the intelligence services. The Minister of State Security must sort out the holes and confusion through legislative amendments to the Intelligence Services Act and the Public Service Act because the relationship between this legislation in terms of the work of the head of an intelligence service is neither straightforward nor clear (Matthews Commission, 2008: 106–107).

The minister should release regulations on the behaviour of counter-measures, counter-intelligence and intrusive operations, intelligence delivered to the minister, departmental intelligence delivered to government departments, the creation and release of intelligence for review by the Executive and cabinet, the power to task the NICOC, SASS and NIA to collect and deliver intelligence, disciplinary measures towards and the transfer, demotion suspension and dismissal of SANAI, NICOC and the heads of the intelligence services and the Inspector-General's inspections, investigations and approval of the reports released by the heads of the intelligence services. These issues must similarly be considered through appropriate legislation. Those issued by the minister and current regulations should be shared in their entirety in the *Government Gazette* and the rules that must remain confidential because of operations must be released as ministerial directives (Matthews Commission, 2008: 107–108).

The operational policies of the intelligence services must accurately reflect and be consistent with the legislation and the Constitution. It is necessary for operational directives and ministerial regulations to strengthen the controls of intrusive operations. Intrusive operations need to be governed by legislation and be overseen by ministerial and judicial approval. The assessment of standards of supervision, management and authorisation of an intelligence job must mitigate the risk of infringing on constitutional rights and meddling with democratic procedures (Matthews Commission, 2008: 217–218).

The Secret Services Act 56 of 1978 and the Security Services Special Account Act 81 of 1969 must be repealed and the funds that parliament sets aside for the intelligence services must be directed to them (Matthews Commission, 2008: 232–33).

All ministerial and existing regulations should be published in the *Government Gazette*. The minister should table the Draft Regulations on the Coordination of Intelligence as an Activity: Determination of Intelligence Priorities and Prescripts Relating to the Conduct of Intelligence Services for public and parliamentary comment and these should then similarly be published in the *Government Gazette*. The intelligence services should have pages on their websites that help the public to access information in accordance with the Promotion of Access to Information Act (PAIA) legislation (Matthews Commission, 2008: 279–80).

The leadership of the intelligence services must not tolerate illegality and misconduct by employees, where the JSCI, Inspector-General of Intelligence and Minister of State Security must guarantee compliance with the law. The civic education technical and steering committees must consistently submit reports to the minister. The intelligence services leadership must create monitoring systems to measure institutional culture and the impact that the civic education programme has, where bi-annual reports should be submitted to the minister (Matthews Commission, 2008: 257–259).

Regarding political non-partisanship, when intelligence employees are politically partisan or meddle in lawful political work and if others ask this of them, intelligence legislation should criminalise this behaviour. The minister should accordingly engage with the labour rights of employees in talks with the civilian intelligence services. By the same token, the minister should ask the Intelligence Services Council on Conditions of Service to put together suggestions on improving the tools to settle issues in the intelligence services and should ensure that the independent appeals board is created as a matter of urgency (Matthews Commission, 2008: 257–259).

The standard of legal advice in the intelligence services must be improved by the Intelligence leadership; and the minister and staff should be sent for further training, draft operational policies should be sent to the IG and outside experts for comment, and legal experts should be placed in high-level appointments. The minister should ultimately ask the Inspector-General of the SANAI to investigate the ways in which international law has an impact on intelligence operations and what this means for operations. Proposals should then be put forward for necessary changes to local policies and laws. International law should similarly be included in the civic education curricula by the Technical Committee of the Civic Education Programme (Matthews Commission, 2008: 257–259).

This report was important because of the compromised mandate and work of the intelligence services and disregard for constitutionalism received by the commission. The report is similarly important because it remains unofficial as it was ultimately silenced by the Executive. It served to further entrench the culture of excessive secrecy within the intelligence sector.

3.4 High Level Review Panel

The HLRP on the SSA received heightened political, public and academic attention. And although, unlike the Matthews Commission report, this was a report with official status, at the time it was also the first commission report released on intelligence governance for almost a decade. The report was similarly released reasonably early into President Ramaphosa's first term in office and was arguably framed within his administration's purported focus on 'renewal'.

As recently as five years ago and on the back of former President Zuma's 'nine wasted years' (*News24*, 2020) at the helm of an illegal, politicised and unconstitutional intelligence service, President Ramaphosa approved the release of the report of the HLRP, which reviewed the 'mandate, capacity and organisational integrity' of the intelligence services (The Presidency, 2019). This report can be considered a beacon of hope for the transformation of intelligence governance in South Africa.

After the HLRP had concluded its work, a team of experts was put together to devise ways of implementing the recommendations which were endorsed by the President. The team indicated that implementation would be executed using a two-phased approach. The first phase focused on the amendment of pieces of legislation such as the Intelligence Services Act 38 of 1994, the Intelligence Services Oversight Act 40 of 1994 and the National Strategic Intelligence Act 39 of 1994. The second phase would focus on the review of the White Paper on Intelligence (1994) and other fundamental changes (The Presidency, 2019).

It was expected that migration would be done to implement the new structure and a new National Security Strategy would be drafted, the White Paper on Intelligence reviewed and a council provided for by the Secret Service Act would be established. The main objectives of reorganising the SSA included decentralising the intelligence services, the optimal use of resources, a greater focus on professionalism, and enhanced operational effectiveness. Some of these detailed recommendations of the HLRP pertaining to the law, political non-partisanship and constitutionalism are outlined below (The Presidency, 2019).

Similarly, and based on this NSS and taking other factors into account, the HLRP recommended a review of the security sector which looks at:

- a) The separation of the SSA into two services – a domestic and a foreign service – with maximum or, preferably, total separation.
- b) Locating the Coordinator for Intelligence and the NICOC analysis arm in the Office of the Presidency.
- c) Formally re-establishing the National Security Council (HLRP, 2018: 3).

In addition, it recommended:

- a) Refining the mandates of the intelligence departments, including defence intelligence and crime intelligence, to ensure minimum duplication and maximum coordination (HLRP, 2018: 3).

The detailed recommendations of the panel should be seen as the True North for the theoretical and practical transformation of intelligence governance in South Africa. Regarding policy and prescripts, an NSS should be drafted with haste to be discussed in parliament and in the public domain to grow intelligence policy and prescripts further. Then the current White Paper must be brought up to date, retaining the spirit and purport of its present form (HLRP, 2018: 4–5).

It is critical that the SSA be split into foreign and domestic services, with the maximum possible independence for both and with as few shared services between them, if any at all. The National Communications Centre (NCC), with its purported focus on foreign SIGINT, should be based in the foreign service, at least initially. The SSA and ministerial titles must change to reflect our democratic and constitutional foundations (HLRP, 2018: 5).

Controls such as urgent investigations into the Principal Agent Network (PAN) must lead to prosecutions. Controls governing intrusive operations must be reviewed against those of other countries. The SSA and the ministry must explore different forms of payment that protect sensitive information. The agency must ensure that the rules overseeing the temporary advance system are secure and implemented, and that disciplinary hearings must be instituted against those who have abused the system and to recoup moneys from the abusers. The agency and the ministry should review the SSA's yearly planning in connection with the budget. An appropriate means for auditing agency finances must be determined by the agency and the ministry, and the agency must ensure compliance accountability (HLRP, 2018: 7).

The Executive must have sight of a legislative review of the minister's powers over the services. The power to appoint a head of service should remain with the president. The previous Special Operations (SO) head must be removed from their government role (HLRP, 2018: 8).

Those who use and carry out illegal orders must face serious repercussions, and a process must be put in place to define illegal orders in Intelligence and to offer practices for pursuing these. The directives, regulations and legislation for illegal orders should be amended. The training

of intelligence officers should include knowledge of the relevant legislation and the Constitution, the definitions of illegal orders and the processes involved in effecting them (HLRP, 2018: 8–9).

In addition, the NICOC should be moved back to the Presidency. The panel's recommendation on the NICOC and intelligence co-ordination should be included and the intelligence services must comply with the White Paper and the intelligence legislation (HLRP, 2018: 10).

And ultimately regarding breaches of the law, regulations and other prescripts, the HLRP recommended the following:

The Panel recommends that the President instructs the appropriate law enforcement bodies, oversight institutions and internal disciplinary bodies to investigate all manifest breaches of the law, regulations and other prescripts in the SSA as highlighted by this report with a view to instituting, where appropriate, criminal and/or disciplinary prosecutions (HLRP, 2018: 3–4).

Associated with this, the HLRP indicated that a high-level task team should review appropriate directives, regulations and legislation. Furthermore, the president should submit the Protection of State Information Bill (POSIB) either to parliament or to the Constitutional Court and the Secret Services Act should be explored, while a procedure must be instituted for investigating breaches of the regulations (HLRP, 2018: 4–5).

Moreover, the relevant ministers must speed up the review of the RICA legislation: the appropriate ministries should repeal necessary legislation such as the Secret Services Special Account Act and the Secret Services Act (HLRP, 2018: 7).

The most imminent recommendations include the investigations and consequences (HLRP, 2018: 3), including the recommendation that the regulations which govern the Inspector-General of Intelligence must be passed immediately (HLRP, 2018: 10).

This report was key as it was the first commission report released on intelligence governance for almost ten years and reviewed the intelligence services. It is arguably the most authoritative intelligence governance report in post-apartheid South Africa and seems to be a report that other subsequent intelligence governance reports, like the report of the Expert Panel on the July 2021 civil unrest, continues to benchmark against and use as a frame of reference. The report provides hope for the transformation of intelligence governance in the country.

3.5 Joint Standing Committee on Intelligence

Whereas the JSCI has often made recommendations consistent with those of the various intelligence commissions and panels, it has as often not practised what it has preached. Therefore, while, for example, the 2020 JSCI report made proposals on RICA, the White Paper on Intelligence, the amalgamation of the NIA and SASS, GILAB, legislative compliance and loopholes, the committee's handling of the (2023) GILAB – which received considerable political, public and academic attention – was excessively secretive. Many of the key recommendations of, for example, the HLRP and the Expert Panel were not included in the Bill. This does not bode well for the transformation of intelligence governance in South Africa.

The JSCI exists to execute its oversight mandate in terms of the Intelligence Services Oversight Act 40 of 1994. This is with regard to the intelligence and counter-intelligence role of the intelligence services, including their administration, financing and spending (JSCI, 2021: 7).

Following the Mathews Commission Report in 2008 and HLRP Report in 2018, it was clear to the JSCI that there were few signs of progress towards the transformation of intelligence governance in South Africa. What follows are some of the recommendations of the JSCI's 2020 and 2024 Annual Reports pertaining to the law, political non-partisanship, constitutionalism and slow implementation.

It was proposed that all services be part of the RICA review regarding the bulk surveillance judgement. The JSCI was going to communicate with the Justice and Correctional Service Committee about changing RICA (JSCI, 2021: 28).

The JSCI must review the White Paper on Intelligence. This has not happened since 1995 and must be done when the rest of the relevant legislation is reviewed. Timelines regarding the procedure for the president's order to split the SSA into the NIA and the SASS were necessary and the SSA had to add information in its quarterly reports to the JSCI. There must be constant quarterly engagement on the General Intelligence Laws Amendment Bill (JSCI, 2021: 29).

The JSCI stressed that legislative compliance is necessary and that supply-chain management policies must be consistent with the regulations (JSCI Annual Report, 2021: p. 31). Pertaining to defence intelligence audited financial statements, inconsistencies such as not abiding by laws and supply-chain management must be fixed so that no qualified audit is received from the Auditor-General South Africa (JSCI, 2021: 32).

The legislative loopholes observed about intelligence failures, the JSCI pointed out, needed to be fixed when legislation is reviewed (JSCI Annual Report, 2021: 29). Regarding crime intelligence certificates of activities, crime intelligence must retrieve money that was stolen from the Secret Service Account. The IGI and crime intelligence should consider holding a workshop on reporting standards in order to guarantee compliance (JSCI, 2021: 32). Regarding defence intelligence certificates of activities, the South African National Defence Force (SANDF) and defence intelligence must co-operate with the necessary departments on the RICA legislation review (JSCI, 2021: 32).

The most relevant of the findings of the 2024 JSCI annual report worth reflecting on was with regards to the implementation of the HLRP recommendations, GILAB 2023 and Zondo Commission recommendations. The JSCI highlighted that the implementation of the HLRP recommendations had been sluggish, that the GILAB 2023 would be the quickest means of guaranteeing the fast implementation of the HLRP recommendations, that the JSCI has purportedly been implementing recommendations of the Zondo Commission and that the SSA was supposedly implementing HLRP recommendations through a plan followed by senior leadership but that this depended on the conclusion of the GILAB 2023. Most of this update pertaining to the slowness of the implementation of HLRP and Zondo recommendations and GILAB 2023 developments can be expected and provides all the more reason why South African needs a culture of rigorous implementation (JSCI, 2024: 38-40).

The JSCI report is pertinent because of the excessive secrecy and lack of transparency of the committee. Many of the main recommendations of the HLRP and Expert Panel had not found their way into the GILAB Bill via the JSCI. This is an impediment to the transformation of intelligence governance in South Africa.

3.6 Expert Panel

Surprisingly, the political, academic and public attention received by the Expert Panel on the July 2021 civil unrest did not appear to be as heated as that which the Matthews Commission, HLRP or JSCI received at the time. This report was commissioned on the back of a national crisis in the country. And as the crisis and the report reflected so damagingly on the government, it almost appears as though the recommendations of this report have gathered dust in a way similar to the Matthews Commission report. All of which remains reminiscent of a culture of secrecy and aversion to transparency that has been impeding the transformation of intelligence governance in South Africa.

With the Covid-19 pandemic testing South Africa's resilience to the limit, in July 2021 the country experienced unprecedented levels of violent civil unrest. In response, the Expert Panel was constituted to examine its roots and it reported its findings in November 2021. It found that a combination of complex, multi-dimensional and obscure factors had formed the background which had led to the outbreak of violence never before seen in our post-apartheid democracy, and this led to contestations over how to characterise it. According to the panel, the violence has left behind a sense of uncertainty and vulnerability because of the ineffective response of the security sector and an appetite for lawlessness on the part of those who might feel emboldened by the apparent lack of state capacity (Expert Panel, 2021). The key recommendations of the Expert Panel with regard to the law, political non-partisanship and constitutionalism are these:

- South Africa needs a better intelligence profession. The president must target and put in place the HLRP's immediate recommendations by stabilising the SSA through appropriate appointments, holding to account the criminally accused with the law through speeding up internal disciplinary measures; and he must decide whether to divide the agency into two and initiate the accompanying legislative process, if necessary (Expert Panel, 2021: 131–132).
- Crime Intelligence leadership must be stabilised. The government must ensure that all National Intelligence Estimates in future shape planning throughout government departments and that these departments are held to account by the law for the part they play in mitigating threats to national security. Normalising regular intelligence briefings to provincial premiers is necessary (Expert Panel, 2021: 132).
- Regulations must be passed to force the intelligence services to provide intelligence to the NICOC (Expert Panel, 2021: 132).
- An early-warning ability must be developed nationally to ascertain whether quality intelligence is given to the government consistently. The many intelligence structures must be accounted for and the HLRP recommendations must be reconciled with what happened before, during and after the riots (Expert Panel, 2021: 131).

Planned engagement with community-based organisations, think tanks, the private security industry, the business sector and state-owned companies will help the intelligence services (Expert Panel, 2021: 132–133).

The Expert Panel report is salient because it came about in response to a national crisis in South Africa. The report was critical of the government and has gathered dust in a way similar to the Matthews Commission report. This highlights a deterioration of the culture of secrecy and transparency and acts as a further barrier to the transformation of intelligence governance in the country.

3.7 Zondo Commission

Among the Matthews Commission, HLRP, JSCI and Expert Panel and the Zondo Commission, the last of them undoubtedly received the most political, public and academic attention. While this attention received the government's co-operation and was framed under the guise of the governing party 'renewal' project, that 'renewal' does not appear to have been applied to the implementation of the recommendations of the Zondo report. As a result, in many ways, the attention the commission received appears to have dissipated.

The report corroborates the findings of the HLRP and the Expert Panel and offers further insights into the state of disrepair afflicting our security sector and intelligence services in particular. And it also highlights the seeming inability of the government and state managers to give effect to the need for protecting the country and its people from harm, whether that be internally or externally driven.

On this point, the former Public Protector suggested that a spiders' 'web of capture' continued to operate deep within the intelligence services. The section below dives deeper into some of the recommendations of the Zondo Commission regarding the law, political non-partisanship and constitutionalism.

The commission recommended a reassessment of the essence, parameters and key issues of the Intelligence White Paper on the understanding that it also might need to undergo change (Zondo Commission, 2022: 323). Furthermore, the commission recommended that a minister should not interfere in intelligence operations. Similarly, the Zondo Commission's finding that President Zuma interfered in investigations triggers conversations about the SSA's reporting lines, his direction of their operations, and the necessary checks and balances that should be in place (2022: 326).

According to the report, internal investigations must be conducted to discipline members and also by law enforcement regarding possible crimes committed. This means that steps must be taken to combat the use of national intelligence agency resources and work to interfere with opposition parties and to help a governing party to be involved in party factionalism in order to influence governance findings – which threatens to undermine democracy (Zondo Commission, 2022: 329).

The commission also found that financial controls must be strengthened: thought must be given to the amounts of cash involved even in covert operations. And the paying back of money lost has to be a part of the consequence management. Furthermore, the PAN report investigations must be reassessed by the Hawks and follow their natural course. In this regard, former ambassador Thulani Dlomo, former Minister David Mahlobo and former Director-General Arthur Fraser and others who participated in the use of SSA money should also be investigated by law enforcement (Zondo Commission, 2022: 332).

The participation of former Ambassador Dlomo et al was a crime that violated the Firearms Control Act and the SSA prescripts overseeing the SSA armoury: this issue must be referred to law enforcement for investigation (Zondo Commission, 2022: 335). In addition, a law-enforcement investigation into Ambassador Dlomo et al's parallel vetting system is necessary and an internal investigation is required into suspicious security clearance certificates (Zondo Commission, 2022: 337).

The intelligence services' recruitment policy must be understood and clearly followed, without any executive interference, be it through familial or non-professional connections (Zondo Commission, 2022: 339).

Moreover, the intelligence services and the Executive must be aware of false intelligence reports and the requirement of having effective means in place to separate these from fact. Professionals appointed meritocratically should be leading the intelligence services (Zondo Commission, 2022: 342).

The previous recommendations regarding the abuse of secrecy, irregular recruitments and false reports apply in a similar way to the SSA (Zondo Commission, 2022: 343).

Law enforcement should continue the investigation that was stopped by former President Zuma because there is no evidence that doing so would risk national security; and once the NPA has seen if there is enough evidence, criminal charges should be laid, including against Arthur Fraser et al (Zondo Commission, 2022: 349).

The Zondo Commission recommended, furthermore, that law enforcement investigate whether people implicated in wrongdoing in the Zondo report committed a crime (Zondo Commission, 2022: 376). The commission welcomed the recommendations of the HLRP, including those relating to the Intelligence White Paper which the panel's report indicated that it was impressed with (Zondo Commission, 2022: 323).

A further recommendation was that greater access to the intelligence services must be given to the Inspector-General of Intelligence (IGI) as there is evidence of attempted interference in the investigations of the IGI (Zondo Commission, 2022: 333).

The Zondo Commission recommended that the IG and the Auditor-General (AG) be given access to necessary SSA records and secret accounts as is lawful and which will enable efficient work and investigation. It was also recommended that all investigations into corruption involving Crime Intelligence continue without interference and with the requisite support of the South African Police Service (SAPS). It was ultimately recommended that SAPS staff mandated to investigate corruption within Crime Intelligence be given access to all documents from the SAPS which may be necessary to show if someone committed an offence, including corruption, while simultaneously protecting the state's reasonable interest in preventing the wider sharing of such documents (Zondo Commission, 2022: 458–460).

The commission noted how hard it is to balance secrecy with transparency and accountability. Here the roles of the JSCI, the AG and the IGI must be developed. Because secrecy should not be used to hide crime, law enforcement must be able to investigate it and the NPA must prosecute criminals, otherwise secrecy could be used to justify crimes going unpunished (Zondo Commission, 2022: 334).

The Zondo Commission report is significant because it reinforced the findings of the HLRP and Expert Panel and damaged condition of the intelligence sector. It also exposes the government's inability to protect the country and its people from harm. It received the most political, public and academic attention out of the reports identified above.

3.8 Conclusion

It is possible for South Africa to transform the governance of its intelligence sector (both control and oversight) and achieve an appropriate balance of efficiency and transparency for the country. This chapter approached the transformation of intelligence governance in South Africa from the perspective of executive practice to improve intelligence governance in South Africa: 2008 to 2022. Ultimately, the reports should show how South Africa transformed the governance of its intelligence sector in practice. This should help South Africa to achieve the most appropriate balance of efficiency and transparency for the country. But these reports actually end up showing how difficult it is in practice to convert a culture of abuse into a positive one in which such a culture is absent.

The Matthews Commission report influenced the media cycle and public opinion and the commission received significant attention regarding what appeared to be the political intention of silencing the report. The HLRP received even more political, public and academic attention as the first commission report released on intelligence governance for almost a decade at the time and, arguably, framed within President Ramaphosa's purported focus on 'renewal'. The JSCI has been excessively secretive, not transparent and the outlook does not look good for the transformation of intelligence governance in South Africa. The attention received by the Expert Panel on the July 2021 civil unrest did not appear to be as heated as that of the other commissions, panels or committees and it appears as though the recommendations of this report were silenced in a similar way to the silencing of the release of the Matthews Commission. Among the Matthews Commission, HLRP, JSCI and Expert Panel and the Zondo Commission the last of them undoubtedly received the most attention, but the implementation of the recommendations of the Zondo report, as with the other commissions, panels and committees remains elusive.

4. Methodology

4.1 Introduction

This chapter focuses on the methodology of the study. It explains the philosophical approach to knowledge in this study, highlights the kinds of data that were collected, notes the data-collection methods that were used and describes how the data was analysed.

Regarding the philosophical approach to knowledge of the project, a PHILINT approach to knowledge is ultimately agreed with – in particular, a PHILINT culture approach to knowledge.

The kinds of data collected are mixed: a qualitative research methodology in which primary and secondary sources are used. This is applied to the literature review (theory and concepts), the executive practice to improve intelligence governance in South Africa: 2008 to 2022 chapter and the case study, while the interviews took the form of semi-structured interviews conducted online.

With regard to the data-collection methods, the purposive sampling method was used, the design being one through a case study; the methodology was approached through applied research and the data was collected thematically. The interviews were conducted using a questionnaire. Ethical protocol was observed throughout the data-collection process.

The data were analysed in such a way that ensured anonymity to the extent possible, confidentiality and consent; and the positionality in relation to the study is unbiased. Audio recordings of the Zoom interviews have been saved and applied to the findings chapter.

4.2 Paradigm of enquiry

A post-positivism approach to knowledge has been adopted and applied in this study. Features of epistemology and ontology, the journey towards an absolute truth, reflexivity, discourse, complexity, ethics, learning and setting problems are discussed here.

The four primary paradigms that have been used in social enquiry are positivism, post-positivism, critical theory and constructivism. When looking at the ontology, epistemology and methodology behind post-positivism, there is a reality which cannot be entirely comprehended or made sense of and there are many chain reactions. Impartiality is a goal but it needs an analytical group and it is disapproving of testing and emphasises qualitative research (Parsons, 1995: 71). In the context of the present study, the transformation of intelligence governance in South Africa is a reality but is not wholly understandable and there are many causes and effects, and objectivity towards the project is an ideal but demands a critical community and focuses on qualitative perspectives, theory and findings.

Post-positivism talks about a perspective on knowledge and assesses the state of reality. It is therefore an ontological and an epistemological paradigm. It can be understood as the paradigm that chronologically followed positivism and a challenge to positivist ontology and epistemology where positivist arguments about reality and the potential for science to intervene are refuted (Fox, 2008: 3). To this end, the project takes a PHILINT culture approach to knowledge and assesses the state of reality of the transformation of intelligence governance in South Africa. It is therefore an epistemological and an ontological approach.

Post-positivism can be understood as a pursuit instead of an objective truth that can be found. Understanding can be prioritised over explaining and can be limited through context and uncertainty, while the positionality of the researcher and the pertinence of self-reflection in research are valued (Fox, 2008: 4). The very title of this study, 'Towards the transformation of intelligence governance in South Africa', should be understood as being more of an aspiration than an absolute truth where phenomena such as transformation, intelligence governance, intelligence culture, intelligence decision-making during a crisis, control, oversight, efficiency and transparency have been prioritised to be understood rather than explained and are constrained through uncertainty and context.

The paradigm does not seek an objective truth because there is an acknowledgement of the intricacies of experience and life. This is why there is a tendency towards reflexivity (Ryan, 2006: 19). The study looks descriptively at the transformation of intelligence governance in South Africa and also shows how South Africa can transform the governance of its intelligence sector (both control and oversight) in order to achieve the most appropriate balance between efficiency and transparency for the country.

This paradigm concedes that those studying are continuously creating a lived reality, which means that this pursuit must form part of the social science discipline while acknowledging the context of knowledge. It accepts that the capacity of human beings as purveyors of the globe constitute what is used to research in social science; that human beings are biased and objective only to the extent of the positionality of their subjects. And it acknowledges the need for personal reflection in one's work where neutrality is pursued, but the fact that this cannot happen is accepted (Fox, 2008: 7). By application, this study forms part of the creation of the world around us regarding the transformation of intelligence governance; it is context-specific in that it is focused on South Africa; it accepts that this author's positionality is biased based on norms and values but objective with regard to his neutrality from the participants, and it acknowledges the impossibility of objective reflection in the work.

In post-positivism, the researcher explores their approach to knowledge to learn how people shape and continue views of their reality and they interrogate daily assumptions. This paradigm embraces politics and values in study, requires things to be seen through a bird's-eye view and demands emotion and exchange (Ryan, 2006: 18). The project does not shy away from this approach to knowledge.

Post-positivism has also viewed the belief in the dichotomous ways of seeing things as an end. Here the paradigm focuses on nuance and range over objectivity and subjectivity while valuing interpretation (Ryan, 2006: 16). This research is aligned to this way of thinking because different arguments are subjective and objective. Also, the project is complicated and interpretation is valued through a focus on meaning, as seen in the definitions that shape the chapters. Moreover, understanding people as evident in the interviews, experience as attached to the author's positionality and PHILINT culture approach to knowledge.

The paradigm has an emphasis on ethics and the reasons for research, knowledge and practice where there is a focus on a sound foundation suited to researching human subjects. These ethics extend to methods, techniques and procedures (Ryan, 2006: 17). This study has received ethical clearance.

This paradigm favours lessons over tests and advocates that lessons be drawn through people rather than tests about them. Often the ideology of the research influences the research and there is a development of a narrative with the participants (Ryan, 2006: 18–19). This study seeks to learn and does not deny the influence of the ideology of the author on the work nor the building of a narrative with the participants.

Another relevant point about post-positivism is that it emphasises the importance of framing problems over fixing them. Here there is a focus on the correct questions which can become the subject of further research (Ryan, 2006: 19). In this regard, the present project has prioritised the asking of the right interview questions to participants.

The study took on and applied a post-positivism approach to knowledge, epistemology and ontology; the pursuit of absolute truth, reflexivity, discourse, complexity, ethics, learning and framing problems were all elements that were engaged with.

4.3 Philosophical approach to knowledge

Gaspard and Pili merge intelligence theory and philosophy, which is a combination that has not been part of previous attempts to frame intelligence studies through theory. Such a merger is important because philosophy cannot be ignored due to its enquiry into first-order knowledge; without it intelligence theory is of less value. The authors aim to elevate intelligence studies as a theory to enhance intelligence empirically and conceptually as a discipline (Gaspard & Pili, 2022: 763).

By merging intelligence theory in philosophy and shaping a sub-section of philosophy related to intelligence, the field is enriched. Because it is a new field, intelligence studies has not yet built an area of philosophy as more traditional disciplines have done. This means that the field is positioned on many truths that have not been challenged. The merger of intelligence theory in philosophy will raise the quest for knowledge about intelligence and add value to discussions on the study of intelligence (Gaspard & Pili, 2022: 763).

The authors had three aims with their article:

1. The first was to develop a group research area in intelligence studies for a section of applied philosophy.
2. The second was to show the value of philosophy in intelligence practice and theory.
3. And the third was to argue against the critics of theory and to make the case for the way intelligence and philosophy are aligned. Philosophy complements rather than runs contrary to empirical and historical analysis (Gaspard & Pili, 2022: 763–764).

Their key findings are presented and the argument is made for why philosophy, and which kind, is key to the study of intelligence. Its relevance is also explained with respect to the research project.

This dissertation argues that philosophy is key to the study of intelligence. In particular, it finds that, building on Gaspard and Pili's philosophy of intelligence, what emerges in this research project is what can be termed a 'philosophy of intelligence culture', where philosophy can be applied to the study of intelligence culture. This gets to the heart of the research project, where it is argued that in order to transform intelligence governance in South Africa, ultimately

intelligence culture must be transformed. And, by extension, the philosophy of intelligence culture must be transformed.

When applying this argument to the key findings of the authors, the alignment is striking. With regard to applied philosophy being integrated into the field of intelligence studies, the findings and recommendations of this dissertation would agree. This is because philosophy is shown to be part of intelligence culture in South Africa. Regarding the benefit of philosophy to intelligence theory and practice, the research into intelligence culture makes it clear that there is value in applying philosophy to the study of intelligence culture in South Africa. And, ultimately, when considering the alignment of philosophy and intelligence, the development of a ‘philosophy of intelligence culture’ argued for in the research confirms this alignment.

Philosophy is valuable for intelligence studies. Gaspard and Pili structure a general profile of philosophy for anyone seeking knowledge which they call ‘refinement through rigour’ (Gaspard & Pili, 2022: 767). This refinement through rigour can be seen in this study’s theoretical, practical, case study and interview foundations (Gaspard & Pili, 2022: 767–769).

The special issue that their article introduced works with important ideas such as the intelligence definitions conversation similar to that discussed in the theory and concepts chapter of this study in addition to ‘collection, analysis, produce–consumer relations, intelligence ethics, covert action, regime type and the emerging critical intelligence studies’ (Gaspard & Pili, 2022: 769–770).

Philosophy is the basis of knowledge and is important to developing a theory of intelligence. They believe their philosophy of intelligence argument liberates the way intelligence theory can be developed descriptively and normatively. Another positive result of their combination would be the mixing of voices in intelligence studies. While the crux of this dissertation is descriptive, its application could be normative and highlight different authorities in the intelligence studies space (Gaspard & Pili, 2022: 772).

The authors’ recognition of the Treverton, Jones, Boraz and Lipsy workshop report and the volumes edited by Gill, Marrin and Phythian as grounding intelligence theory as an important sub-field of intelligence studies appears to have merit. This dissertation gives intelligence theory equally important treatment in the intelligence studies field (Gaspard & Pili, 2022: 772).

Treverton, Jones, Boraz and Lipsy’s workshop report (2006: 1–35) and Gill, Marrin and Phythian’s edited volumes (2009: 1–235) (Gill, Marrin & Phythian, 2019: 1–136) placed the field on a better theoretical foundation. Their work arguably pushes the boundaries of PHILINT while continuing to advance intelligence theory, as this study similarly seeks to achieve.

4.4 Types of data collected

A mixture of types of data were gathered. The research methodology is qualitative, where primary and secondary sources are relied on. The literature review (theory and concepts), executive practice to improve intelligence governance in South Africa: 2008 to 2022 chapter and the case study are consistent with this methodology and the interviews took the form of online semi-structured interviews.

The qualitative research methodology guided the collection and analysis of the sources. Primary sources such as cases, international and domestic statutes, secondary sources such as

journal articles, books, documentaries, reports, speeches and websites, document analysis, case study and interviews were collected and analysed to design instruments that would generate data and information and answer the research question (van Nieuwkerk, 2022).

The literature review (theory and concepts) considered primary sources such as South African statutes and secondary sources such as articles, books, dissertations, reports, speeches and websites. The executive practice to improve intelligence governance in South Africa: 2008 to 2022 chapter consulted secondary sources such as articles, reports and websites.

The interviews were conducted, where 20 people were identified and invited and five responded and ultimately participated in the interviews. The interviews took the form of semi-structured, online interviews. This activity involved interviews with open-ended questions and took around 60 minutes each. With the permission of the interviewees, an audio recording of the interviews was used for the purposes of transcription and analysis. The interviews took place on Zoom between January and June in the first semester of 2023.

The five interviewees were each asked the following five questions:

1. How can South Africa transform the governance of its intelligence sector (both control and oversight) in order to achieve the most appropriate balance of efficiency and transparency for the country?
2. Regarding control, oversight, efficiency and transparency, what were the biggest lessons that you learned from the recommendations of the Matthews Commission Report, Report of the HLRP of the State Security Agency, the 2020 JSCI Annual Report, the Report of Expert Panel into the July 2021 Civil Unrest and the Report on the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State?
3. Do you think that South Africa can transform the governance of its intelligence sector (both control and oversight) and achieve the most appropriate balance of efficiency and transparency for the country by changing the internal strategic culture of the intelligence services through an intelligence culture that adheres to the law, political non-partisanship and constitutionalism? If yes/no, what are your thoughts on the extent to which institutional culture contributes towards the transformation of intelligence governance in South Africa?
4. What is the problem with the intelligence culture of decision making around national crisis in South Africa and how can this be transformed?
5. Do you agree that the 2021 July insurrection and the key oversight function of the Joint Standing Committee on Intelligence represent key turning points in the transformation of the intelligence culture of decision making around national crisis in South Africa and what lessons about intelligence governance do you think the country has learned from them?

The questions asked pertain to the gaps in the literature. These were identified in the literature review (theory and concepts) and executive practice to improve intelligence governance in South Africa: 2008 to 2022 chapters. This led to the thematic focus on balancing intelligence governance transformation, lessons from commissions and panels, transforming intelligence culture, transforming intelligence culture of crisis decision-making and 2021 July insurrection an intelligence culture turning point in the questions.

The questions asked similarly justify the choice of participants used in the study. The executive practice to improve intelligence governance in South Africa: 2008 to 2022 chapter focussed on the key intelligence governance commissions and panels in post-apartheid South Africa. This

is why participants were chosen from the Matthews Commission, HLRP, JSCI, Expert Panel and the Zondo Commission.

Intelligence governance can be found in legislation where the text is particular and not available to all. The reality of the intelligence apparatus changes how we understand it but making sense of this apparatus limits what is possible. This contributed to why fewer people were interviewed than one would have hoped in a space where intelligence experts in academia are few and far between, particularly in Sub Saharan Africa.

4.5 Data-collection methods

The purposive sampling method of data-gathering was used; a case study constituted the design, applied research was a component of the methodology and themes were used to gather the data. Consenting interviewees were interviewed through a questionnaire and protocols with respect to ethics were observed throughout the data-gathering.

The purposive sampling method was used because this enabled a decision on what parts to include in the sample based on a set of criteria and to ensure that each element served the research by fitting into the population. The population and levels of analysis through which it was hoped would generalise the findings totalled a manageable population size. (Bezuidenhout, Davis & Du Plooy-Cilliers, 2014: 289).

The design is a case study. This entails the identification, description and critical assessment of how to transform intelligence governance in South Africa so as to comprehend the essence of the case and a distribution and collection of the questionnaire in the population. This design is appropriate to this particular study because it assists in solving the research problem and answering the research question (Bezuidenhout, Davis & Du Plooy-Cilliers, 2014: 289).

The methodology was approached through applied research. This was so that real-life issues could be explored in the hope of arriving at answers that can be implemented in practice. The applied research identified ways to transform intelligence governance in South Africa (Bezuidenhout, Davis & Du Plooy-Cilliers, 2014: 289).

The questionnaire referred to the recommendations of the panel that are in the public domain so that the interviewees were permitted to speak about the issues.

For the purposes of methods of data analysis, the qualitative data were collected thematically. This equipped the study to perform deductive qualitative content analysis by probing and targeting patterns and themes in the sources (Bezuidenhout, Davis & Du Plooy-Cilliers, 2014: 234).

Data-gathering was conducted with the help of the purposive sampling method. The design took the form of a case study and the methodology was enabled through applied research and the data were gathered thematically. Interviewees gave their consent to be interviewed.

A challenge encountered in the process of data collection was the accessibility of the interviewees. A combination of approximately 20 interviewees were emailed a request to interview with a participant information sheet attached. Of the approximately 20 interviewees who were contacted, only five replied and ultimately participated in the interviews.

Many variables could have had an impact on why this was the case. They ranged from secrecy and an unwillingness to participate to simply not receiving the invitation. But whereas the quantity of the interviews was lower than might have been expected, the quality of the interviews was rich and stemmed from interviews conducted with a diverse range of interviewees.

The data were analysed by guaranteeing anonymity as much as possible, confidentiality and consent; moreover, the positionality of the study is unbiased. Audio recordings of the Zoom interviews were saved and applied to the findings chapter of the study.

The research involved human subjects as respondents where their participation and interests were secured, managed and protected. This was achieved by ensuring anonymity where possible and also confidentiality. Informed consent was obtained and participation in the research was never under duress, always being voluntary. These measures were undertaken in accordance with the University of the Witwatersrand School of Governance's ethics guidelines (Bezuidenhout, Davis & Du Plooy-Cilliers, 2014: 234).

The author's positionality in relation to the study is unbiased, but it is worth acknowledging that the author has a relative who previously worked for the apartheid and post-apartheid democratic intelligence services, has previously worked for an opposition political party in South Africa and wrote his MPhil Public International Law minor dissertation on the international regulation of foreign intelligence liaison as explained in the reflexivity section of chapter 8.

Audio recordings of the Zoom interviews have been saved, the data have been transcribed and then applied to the findings chapter of the study. The transcriptions were performed manually by the author from the aural recordings to ensure better quality control of the data. The method of interview citation has followed the page numbering of the transcriptions.

4.6 Data-analysis methods

The data was systematized to extract themes. The themes that helped structure the findings and discussion chapters stemmed from the focus of the interview questions. The angle of the questions was a result of the gaps identified in the literature review (theory and concepts), executive practice to improve intelligence governance in South Africa: 2008 to 2022 and case study chapters.

The method used was to apply these gaps found in the literature review and case study chapters to the themes that helped structure the findings and discussion chapters. This allowed for content analysis, expansion and probing of the essence of the messages from the interview transcriptions in the findings and discussions chapters. Which ultimately led to the findings and recommendations offered in the conclusion chapter.

The data was validated in the discussion chapter by reconciling the findings of the interviewees with the literature review, executive practice to improve intelligence governance in South Africa: 2008 to 2022 chapter, methodology and intelligence culture: the July 2021 civil unrest case study.

4.7 Conclusion

This chapter described the methodology of the study. By explaining the philosophical approach to knowledge of the study, looking at the kinds of data that were collected, pointing out the data-collection methods that were used and revealing how the data were analysed, it is clear the project adopted a PHILINT culture approach to knowledge while the intelligence theory that came before this position remains an equally valuable a contribution to PHILINT.

Key findings were presented and the argument was made for why philosophy, and which kind, is key to the study of intelligence. Its relevance was also explained with regard to the research project. It argued that, building on Gaspard and Pili's philosophy of intelligence, what emerges in this research project is what can be termed a 'philosophy of intelligence culture'. This goes to the heart of the research project, where it is argued that to transform intelligence governance in South Africa, ultimately the intelligence culture must be transformed. This also means, by extension, that the philosophy of intelligence culture must be transformed.

A mixture of data was gathered: qualitative methodology, primary and secondary sources were applied. This applied to the literature review (theory, concepts and practice) and the case study. Five interviewees were the subjects of my semi-structured online interviews.

Primary sources such as South African statutes and interviews and secondary sources such as articles, books, dissertations, reports, speeches and websites were consulted. The data were analysed ethically and without bias through a case study and interviews.

The data-collection methods included the purposive sampling method; a case study informed the design; applied research was informed by the methodology, and the data were gathered thematically. The interviews were with consenting, diverse, skilled and experienced interviewees by means of a questionnaire as ethical protocol was observed during the course of the data collection.

5. Intelligence culture: the July 2021 civil unrest

5.1 Introduction

This chapter explores the dynamics of the July 2021 civil unrest in South Africa in order to highlight the type of intelligence culture that is evident during decision-making while a national crisis is developing in the country. Given that the research objectives are to find out how South Africa can transform the governance of its intelligence sector (control and oversight) to achieve the most appropriate balance between efficiency and transparency for the country, the role of an intelligence culture as explored in this chapter is crucial. For, ultimately, to transform intelligence governance in South Africa it is argued that the intelligence culture must be transformed.

The chapter seeks to apply the insights shared in the previous chapters to this case specific study. Theories of intelligence culture and intelligence decision-making during a national crisis are applied in practice to a case study which is an examination of crisis decision-making and the apparent failures of national security or intelligence to play its role in responding to the crisis.

This intelligence culture was identified during the Expert Panel. Its report observed the inability for co-ordinated decisions to be made during a national crisis. Even though the president approved the HLRP recommendation to recreate the National Security Council (NSC), which is meant to make decisions during a time of crisis, the Expert Panel revealed that the NSC did not meet during that time of crisis – a revelation that was confirmed by ministers during interviews that followed the civil unrest. In short, then, while South Africa was experiencing an insurrection, the body that should have been at the heart of the decision-making in response to it was missing in action (van Nieuwkerk, 2022).

The JSCI in parliament should have a key oversight function, but the HLRP found that it did not honour that duty. Rather, it was found to be partisan, motivated by party politics and not not displaying signs of oversight during times of crisis. Its absence under former Director-General of the State Security Agency, Arthur Fraser, former President Jacob Zuma and former Minister of State Security, David Mahlobo provided evidence of a culture that stems from the philosophy of the governing party. Any counter-arguments that the JSCI did not have the necessary technical experience or information available are not persuasive because parliament had previously committed to sourcing specialists and content advisors in this regard (van Nieuwkerk, 2022).

These examples lead to many questions, including where decision-makers such as the president, cabinet, NSC, Inspector-General of Intelligence and JSCI were; why the president was not in control of his cabinet and why the Police Minister could not find the National Police Commissioner and never received a full report from the Intelligence Minister when 350 people died during the July 2021 civil unrest. This is a case study that illustrates the intelligence culture behind and informing decisions made during a national crisis – in this case, the July 2021 civil unrest. This same culture is central to the transformation of intelligence governance in South Africa (van Nieuwkerk, 2022)

5.2 The Expert Panel

In his PhD dissertation, van Nieuwkerk structured his case study on crisis decision-making in Nigeria around the scenarios labelled ‘background to the crisis’, ‘the crisis unfolds’, ‘international response’ and ‘the aftermath’ (2016: 119–125). This section of the case study takes on a similar structure, except, instead of having a section on the international response, it looks at the domestic response by the intelligence services.

The background to the civil unrest which began on 8 July 2021 was when former President Jacob Zuma began his prison sentence. He was sentenced for 15 months for contempt of court (*Secretary of the Zondo Commission v Zuma & Others*, 2021). As the crisis unfolded, supporters of former President Zuma blocked the N2 and N3 highways in KwaZulu-Natal and burned trucks. This violent action spread to shopping malls and retail centres in KwaZulu-Natal and Gauteng and lasted for one week, until 25 000 army personnel were deployed (*Africa News*, 2021).

The aftermath revealed that 215 people were killed and more than 2 500 were arrested during the unrest (*Africa News*, 2021). Regarding the damage done, it was reported as follows:

Extensive damage was done to 161 malls and shopping centers, 11 warehouses, eight factories and 161 liquor stores and distributors ... An estimated 10 billion rand ... was lost in stolen goods, burned trucks and destroyed property ... (*Africa News*, 2021).

With regard to co-ordinated decision-making at the South African Police Service (SAPS), no intelligence reports, such as an initial threat and risk assessment or an early-warning report, seem to have been sent straight to the Minister of Police before the instability began. The minister said he had not received any intelligence from the SAPS National Commissioner or the Crime Intelligence Divisional Commissioner since December 2020. Similarly, the Premier of KwaZulu-Natal said that he had not been sent intelligence about the risk of the unrest. And apparently the office of the Intelligence Co-ordinator was given a document on 8 July 2021 that suggested a low risk of unrest, which was in conflict with other intelligence reports (Expert Panel, 2021: 57–59).

It is submitted that van Nieuwkerk and Ngcobo’s application of the Boin et al five-task leadership model to the Ebola crisis in West Africa in the section above can equally be applied to the July 2021 crisis in South Africa. Here, leaders could not comprehend the risk; and even though they had an idea why it was taking place, given the imprisonment of former President Jacob Zuma, they did not know what had to happen and how the issue would burgeon. The leaders in charge were equally unclear, ultimately resources were deployed in the form of the military, but the responses were unco-ordinated. Even to this day, it is unclear whether leaders understand exactly what happened. Stakeholders who assisted with this were the Expert Panel on the July 2021 riots, but information was not really shared with the public and other stakeholders until that stage. Leaders changed their mode from ‘crisis’ to ‘ops normal’ seemingly with ease, and even following the recommendations of the Expert Panel no-one ultimately took political responsibility for the crisis and how it unfolded. Moreover, leaders do not appear to have learned from this crisis; nor do institutions such as the intelligence services appear to have learned, and so the ultimate result seems to indicate that no lessons were learned (van Nieuwkerk & Ngcobo, 2016: 14–20).

The domestic response by the intelligence services to the July civil unrest in South Africa cannot simply be comprehensively explained by the rational actor model, the organisational behaviour model or the governmental politics model alone or even in combination with each

other (Allison, 1971). But van Nieuwkerk's recommendation for future analysis of those variables influencing crisis decision-making in South Africa are more helpful when applied to this study:

- the historical experiences of decision makers (for example, the impact of liberation struggle and exile on cultures of decision making),
- the power of personality (in many cases a president exercises a commanding influence, if not iron grip, on the levers of political power),
- the absence of stable institutional settings (that tends to weaken the establishment and operation of an action channel),
- weak parliamentary participation and oversight in crisis decision making (van Nieuwkerk, 2016: 212).

Here it is worth noting Duyvesteyn's observation that a mixture of politics, intelligence analysis and distribution can be dangerous. There can be an introspective culture and a tendency to set agendas, which Intelligence must respect. Political lobbying, intelligence manipulation and assessment analysis can arise from concerns about decisions and policy-makers that are not inclusive. In this respect, intelligence and culture can be mutually reinforcing where culture influences intelligence distribution and distribution determines culture (Duyvesteyn, 2011: 528–529). This mutual reinforcement between intelligence and culture appears have been apparent in the (lack of co-ordinated) decision-making during the July 2021 civil unrest.

An explanation for this inability to make co-ordinated decisions during a national crisis such as the July 2021 civil unrest has been offered by the Expert Panel. The panel noted importantly that there is a lack of clarity in the intelligence legislation on the intelligence process that must be adhered to for information to arrive with decision-makers. This gap must be resolved by the law or the regulatory framework (Expert Panel, 2021: 109). To this end, Nykänen and Teirilä's work on intelligence culture and the importance of educating the intelligence services remains pertinent. However, simply teaching the intelligence services is not enough to guarantee ideal findings, as a greater insight into intelligence is necessary that extends beyond the intelligence services (2016: 291–292).

This theory and the need to educate the intelligence services can be applied to the Intelligence Academy in South Africa, which is tasked with training the intelligence services in the country. While the issue mentioned above ultimately must be fixed through the law or the regulatory framework, the lack of clarity in the intelligence laws about the intelligence procedure that must be complied with for information to be received by decision-makers can be reinforced by the Intelligence Academy (Expert Panel, 2021: 109).

This led to the Expert Panel's finding that

[d]ysfunctional relationships between ministers and their senior leadership teams in the departments in some cases, impeded synergy in the flow of intelligence which affected decision-making (2021: 131).

In addition to the breakdown in relations within the Executive, it was found that decision-making was further affected by a lack of co-ordination:

The executive authorities moreover failed to co-ordinate their own efforts in the period leading up to the violence, in order to give coherent guidance to the structures for which they were

responsible. At times, they appeared to be working in silos, as evidence by the mixed and contradictory public statements that emanated from them in response to the crisis (Expert Panel, 2021: 131).

The Expert Panel offered recommendations that broadly responded to these findings. These included the need to justify the many intelligence co-ordinating structures and ensure that after being approved by cabinet and the NSC, the National Intelligence Estimate (NIE) contributes to planning through all government departments. However, there is still a need for recommendations to be more specific to cope with the inability of co-ordinated decisions to be made during a national crisis (Expert Panel, 2021: 131–132).

More recently, on 29 January 2024, the South African Human Rights Commission (SAHRC) released their report into the July 2021 unrest, where intelligence features largely. The report found that the unrest and the lack of a response to it were due to

lapses in intelligence coordination and communication ... inadequate preparedness and response of the National Security Council ... insufficient security expertise and resource management ... failure of joint security intelligence and operations bodies (SAHRC, 2024: 18–19).

The report recommended that the government ‘develop a national security strategy ... improve delivery of security information and national security intelligence ... regulate the National Security Council’ (SAHRC, 2024: 21–24). Most of these findings and recommendations have been made by previous commissions and panels. However, the report maintains that there was no obvious link between the violence and the arrest of former President Zuma:

the commission finds that while the timing of the events of the July Unrest coincided with the incarceration of former President Jacob Zuma, it could not find evidence to link the two events (SAHRC, 2024: 12).

This does not seem to be a credible finding.

Metcalf’s policy co-ordination scale could be helpful in navigating future issues around co-ordination during intelligence decision-making in a time of national crisis. If the nine tiers of the policy co-ordination scale are put into practice next time, a similar co-ordination crisis could be avoided. That is, if decisions are made independently by ministries, information and feedback are shared with other ministries, differences between ministries are avoided, consensus and boundaries are sought between ministries and there government priorities and a strategy are in place, the Executive might stand a better chance of being co-ordinated in its decision-making in the future (Metcalf, 1994: 282–284).

The inability to make co-ordinated decisions during a national crisis similarly stems from the shortcomings of the JSCI. The HLRP found:

The JSCI over the past few years has been largely ineffective and impacted by the factionalism of the ANC ... The Committee is divided and unable to articulate a coherent collective response on the state of intelligence in the country ... The absence of changes to the Chair of the Committee coupled with a lack of institutional memory has contributed to the dysfunctionality of the JSCI (2018: 97).

On this point Yelamos, Goodman and Stout’s argument that intelligence culture develops from a nation’s culture and often reflects similar ‘inputs’ and ‘outputs’ from the way groups of

people build their culture is persuasive. These inputs or influences create cultural outputs, an example of which is the factionalism of the African National Congress (ANC) in South Africa. This process is the same as with national cultures. And this culture of factionalism is constantly evolving, affecting the ability of those responsible for making co-ordinated decisions to make them during a national crisis (Yelamos, Goodman & Stout, 2022: 475–476).

Similarly, Duyvesteyn's assertion that some cultures are susceptible to certain weaknesses help makes sense of the problems inherent in ANC factionalism. Here what the author described as 'integrative cultures' are simply affected by the thinking of the group or by application, the group-think of the ANC. This ANC group-think leads to the factionalism of the ANC that has divided the JSCI and caused the absence in rotating the committee chair which has led to a lack of institutional memory (Duyvesteyn, 2011: 528). Party factionalism and committee division, leadership and institutional memory issues are a tragic example of the degeneration of intelligence culture referred to in previous chapters and why intelligence governance needs to be urgently transformed in South Africa. Some of the recommendations that the HLRP made to help achieve this include:

Propose a review of the functioning of the JSCI ... Given the demands of intelligence oversight, the idea of a dedicated capacity for the JSCI needs to be explored further ... (2018: 97).

As Herek et al argued, decision-making during times of crises can be improved by using problem-solving in the process of policy-making. This could lead to the better management of crises and reduce conflict while at the same time prioritising the national interests of policy-makers (1987: 223). However, Fägersten highlights the point that trust takes time to develop and is important to intelligence co-operation, which often precedes these kinds of formality and institutionalisation (2015: 11). Therefore, focusing on the culture of trust-building may be a more effective recommendation.

The implementation of these recommendations would go a long way towards enabling co-ordinated decisions to be made during a national crisis.

5.3 Conclusion

This chapter sought to apply the findings of the previous chapters to a case study on the intelligence culture of decision-making during a specific national crisis in South Africa. After an exploration of the literature on intelligence culture and intelligence decision-making during a national crisis, these theories were then applied in practice to a case study on the July 2021 civil unrest. It appears that Intelligence in South Africa involves a specific kind of culture that has protected decision-makers who are unco-ordinated, factionalised and mistrusting.

van Nieuwkerk's recommendations for the future analysis of the variables influencing crisis decision-making in South Africa were helpful when applied to this study. A poignant example of these variables was 'the historical experiences of decision-makers (for example, the impact of [the] liberation struggle and exile on cultures of decision- making)' (van Nieuwkerk, 2016: 212). Equally useful was an application of Boin et al's five-task leadership model to understanding and analysing the 2021 July civil unrest (2016: 14–20).

Regarding intelligence and culture, Duyvesteyn observed that a mixture of politics, intelligence analysis and distribution can be dangerous. There can be an introspective culture and a tendency for agenda-setting, which Intelligence must respect. Political lobbying, intelligence

manipulation and assessment analysis can arise from concerns about decision- and policy-makers that are not inclusive, as such intelligence and culture can be mutually reinforcing, where culture influences intelligence distribution and distribution affects culture (Duyvesteyn, 2011: 528–529). This mutual reinforcement between intelligence and culture appears to have been apparent in the decision-making during the July 2021 civil unrest.

In the case of education, Nykänen and Teirilä's work on intelligence culture and the importance of educating the intelligence services was instructive. Simply teaching the intelligence services is not enough to guarantee ideal findings where a wider insight into intelligence is necessary, one that extends beyond the intelligence services (2016: 291–292). This theory and the need for educating the intelligence services can be applied to the Intelligence Academy in South Africa. Its task should be to reinforce the fact that, despite the lack of clarity in the intelligence laws about the intelligence procedure that must be complied with for information to be received by decision-makers the intelligence services must nevertheless follow the procedures correctly (Expert Panel, 2021: 109).

Regarding co-ordination, Metcalfe's policy co-ordination scale was shown to be helpful in navigating future problems with co-ordination during intelligence decision-making in times of national crisis. If the nine tiers of the policy co-ordination scale are put into practice next time, a similar crisis of co-ordination could be avoided (Metcalf, 1994: 282–284). Both of these theories of education and co-ordination were applied to the intelligence culture identified in the Expert Panel and its findings on the inability of the intelligence services to make co-ordinated decisions during a national crisis.

Regarding factionalism, Yelamos, Goodman and Stout's argument that intelligence culture develops from a nation's culture and often reflects similar 'inputs' and 'outputs' from the way groups of people build their culture showed that inputs or influences create cultural outputs (2022: 475–476), such as the factionalism of the ANC in South Africa. Similarly, Duyvesteyn's assertion that some cultures are susceptible to certain weaknesses (2011: 528), helped to make sense of the problems inherent in ANC factionalism, and what the author described as 'integrative cultures' as simply affected by the thinking of the group (2011: 528), or by application the group-think of the ANC.

This ANC group-think led to the factionalism of the ANC that has divided the JSCI and caused the failure to rotate the committee chair, while a lack of institutional memory has also arisen. Therefore, while the JSCI should have a key oversight function, the HLRP found that it did not honour that duty, was found to be partisan and motivated by party politics, and did not display the required oversight during times of crisis. This factional paralysis provides further reasons for the intelligence culture being behind the inability of the intelligence services to make co-ordinated decisions during a national crisis.

Finally, as Herek et al argued, the decision-making during times of crises can be improved by using problem-solving in the process of policy-making. This could lead to the better management of crises and reduce conflict while at the same time prioritising the national interests of policy-makers (1987: 223). However, Fägersten, reminds us that trust takes time to develop and is important for intelligence co-operation, which often precedes these kinds of formality and institutionalisation (2015: 11). Therefore, focusing on the culture of trust-building may be more effective recommendation in reviewing, for example, the functioning and creation of a dedicated capacity for the JSCI.

6. Findings

6.1 Introduction

Has South Africa transformed the governance of its intelligence sector (both control and oversight) to achieve the most appropriate balance between efficiency and transparency for the country?

This chapter is framed with the research question in mind. The literature, historical context and background, the recommendations of all the panels and commissions (what was done and not done) as well as the opinions and views of the interviewees are integrated in chapter 7. It is a holistic assessment where the interviewees views are an element but not the whole.

Chapter 6 or the findings chapter stems from semi-structured interviewees that were conducted between 31 January and 19 May 2023 with five interviewees. They were sent a participation information sheet, a consent form and the same five interview questions in advance of the interviews. They each answered the following five interview questions:

1. How can South Africa transform the governance of its intelligence sector (both control and oversight) in order to achieve the most appropriate balance of efficiency and transparency for the country?
2. With regard to control, oversight, efficiency and transparency, what were the biggest lessons that you learned from the recommendations of the Matthews Commission Report, Report of the HLRP of the State Security Agency, the 2020 JSCI Annual Report, the Report of Expert Panel into the July 2021 Civil Unrest and the Report on the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State?
3. Do you think that South Africa can transform the governance of its intelligence sector (both control and oversight) and achieve the most appropriate balance of efficiency and transparency for the country by changing the internal strategic culture of the intelligence services through an intelligence culture that adheres to the law, political non-partisanship and constitutionalism? If yes/no, what are your thoughts on the extent to which institutional culture contributes to the transformation of intelligence governance in South Africa?
4. What is the problem with the intelligence culture of decision-making around national crises in South Africa and how can this be transformed?
5. Do you agree that the 2021 July insurrection and the key oversight function of the JSCI represent key turning points in the transformation of the intelligence culture of decision-making during a national crisis in South Africa and what lessons about intelligence governance do you think the country has learned from them?

What follows is a collection of the key data that emerged from the interviews.

6.2 Balancing intelligence governance transformation

6.2.1 Interviewee 1

It is not easy to reconcile efficiency and transparency; however, in post-1994 South Africa tools were put in place in an attempt to achieve this, with representatives of all parties and the Opposition, the Inspector-General of Intelligence and the JSCI trying to strike this balance. But

the context in which this plays out is steeped in secrecy. During his term of office, however, President Jacob Zuma managed to undo any progress that had been made post-apartheid and attempted to mould the intelligence services for his personal ends in order to control events and to act with impunity (Interviewee 1, 2023a: 2).

In this regard, many of the commissions have had very similar outcomes. They found that combining the foreign and domestic services was both incorrect and unlawful as it was done by order and not lawfully where legislation was updated only after the changes had been made. This was not rational and meant that the intelligence services were rendered vulnerable to being controlled by the president (Interviewee 1, 2023a: 2–3).

By this time, the philosophy of national security had been transformed into one of state security. This was deeply problematic as we should have been referring to the security of the people and not the state. Therefore, even though the mechanisms that stand are arguably sufficient to transform the governance of the intelligence sector through control and oversight to achieve the most appropriate balance of efficiency and transparency for the country, we need to return to the previous separation of foreign and domestic intelligence (Interviewee 1, 2023a: 3).

Although the SSA experienced structural and financial impunity for some time, we have the structures that can get us back on track. The Auditor-General may always give the agency a qualified report. But the lacuna created by the SSA cannot be filled by the Inspector-General of Intelligence or the JSCI, where there is a certificate for the oversight of the SSA, the police crime intelligence, defence intelligence, the interception office and financial intelligence. Only the Inspector-General of Intelligence may issue reports on operational issues such as those of safe houses and agents, as this is beyond the purview of the JSCI (Interviewee 1, 2023a: 3).

Arguably, the most valuable commission recommendations arose from the HLRP report, because it highlights the issue, suggests how this can be fixed and provides recommendations. Some of these recommendations pertain to intelligence officer training through the Intelligence Academy. Learning about patriotism forms part of the recommendations that the Intelligence Academy's syllabus must transform to show that it is a national intelligence agency rather than a state security agency. This will require a change in mindset (Interviewee 1, 2023a: 3–4).

6.2.2 Interviewee 2

Interviewee 2 argued that the research question pertained to the future and was not feasible. He described it as a 'normative policy hypothetical' (2023b: 1). A workable research question must analyse and describe something in the present or the past. The correct research question would be to ask whether there has been transformation and whether explicit measures have been put in place. Therefore, if transformation has not taken place, indicate the reasons and the implications of this not happening. It is not possible to respond to the question as framed by saying anything other than that intelligence governance has not transformed. This transformation must take place against a set of measures, therefore asking about future transformation assumes an analysis and description of the transformation or the fact that there has been no transformation up to the present (Interviewee 2, 2023b: 1–2).

It is necessary to understand what is meant by transformation. Interviewee 2 questioned looking at the distinction between transparency and effectiveness. Whereas transparency can be explored with regard to whether it is either available or not, he questioned how effectiveness

can be measured and recognised. If this cannot be determined, then there is simply ‘an abstract hypothetical that is not subject to research’ (Interviewee 2, 2023b: 3).

Interviewee 2 states that ‘so what is meant in the literature by effectiveness is [being] able to fulfil its mission, which is to identify threats and to be able to analyse those threats and make prescient warnings to the Executive’ (2023b: 4). Interviewee 2 therefore argues as follows:

Now if you’re not able to cover that ground because of secrecy, well then you have to rethink the use of effectiveness or efficiency. I think effectiveness is the term used in the literature not efficiency. Efficiency is impossible for an outsider to gauge in relation to an intelligence service no matter how transparent or not transparent. So in terms of effectiveness, it’s effective in relation to something. And from the perspective of the literature, it’s effective in relation to its mission. So if the intelligence services consistently miss the big threat or consistently get the big threat right, well then you start to have an answer to your question. But you’re not going to get that information ... (2023b: 4).

Intelligence services will not declare or reveal all the threats they have observed. Even if what they did not identify can be seen, they may well say that they identified what was thought to have not been seen. So Interviewee 2 did not see how the research would ‘operationalise effectiveness’ (Interviewee 2, 2023b: 4). Interviewee 2 also noted that transparency and human rights are not identical. This means that the dependent variable must be accurate: it must be clear whether the research is explaining transparency, human rights or the rule of law (2023b: 4).

6.2.3 Interviewee 3

The type of post-1994 transformation becomes important, as does the success of the alignment of the non-statutory intelligence services with the apartheid intelligence services. Interviewee 3 (2023c: 4–5) argued that the intelligence services’ integration process had had a better outcome than that of the South African Defence Force (SADF), and that there was a sense of possibility of and dedication to re-imagining a democratic and transparent intelligence service. And there was also the possibility of allegiance to the Constitution and working for the state in the realm of ‘human security’. And that in the post-Cold War context of the 1990s, human security became popular as a concept when speaking about democratisation. There seemed to be a credible dedication to the transformation of the intelligence services in a democracy such as South Africa. It was accepted, though, that there is an anticipated secrecy in which the intelligence services do their work. But then democracy and secrecy were not seen to be mutually exclusive. However, from 2009 onwards, this principle got lost by returning to the concept of state security and the abuse of the intelligence services for individual and factional reasons. In other African countries, when the governing party becomes unstable, they also turn to their security services (Interviewee 3, 2023c: 4–5).

Interviewee 3 believes that this forms part of a larger debate concerning transforming the colonial state and claims that we do not have proof of a ‘democratic transformation of the post-colonial African state’. In the absence of this, Interviewee 3 argued that reconciling transparency and efficiency is not possible with the intelligence services. There are purportedly multiple cases of this across Africa, which renders South Africa arguably less exceptional. While it was hoped that South Africa might be a beacon of hope about what can be achieved, Interviewee 3 states that South Africa is no different from what has been experienced throughout Africa (Interviewee 3, 2023c: 5).

6.2.4 Interviewee 4

There are social, political and psychological complexities which are difficult to legislate or manage. There was a structured debate concerning ‘bending the rules’ in the pursuit of one’s intelligence aims. The debate highlighted the issue of there being a balance between oversight and restricting the area in which the intelligence services operate (Interviewee 4, 2023d: 2–3).

One of the most respected structures of oversight mechanisms was set up for the intelligence services in South Africa at the turn of the democratic era. Lessons were learned from different countries, which meant that there was no problem with what was created legally and institutionally. The Inspector-General had appropriate access to information and the services, the JSCI had robust parliamentary oversight, as did other general oversight institutions of government such as Section Nine structures and the Auditor-General. This begs the question: ‘What went wrong?’ The fault lay not in the design but in how the institutions functioned. The JSCI became too politicised, which could be predicted with a committee made up of politicians while the Inspector-General has been a troubled institution, given the changes in access that they should legislatively be entitled to but were not always granted (Interviewee 4, 2023d: 3).

For Intelligence to have an impact, interviewee 4 states, it is granted powers that are intrusive at the level of privacy. This means that for the services to be operationally effective in mitigating threats to safety and security, ‘they need to have a certain amount of operational licence’ (Interviewee 4, 2023d: 4) an area where the more controls one establishes, the more challenging it becomes to operate effectively (2023d: 4–5).

Operational policies and prescripts were created that managed their operations. It was an effort to redevelop operational controls. This included intrusive operations such as telephone tapping, surveillance and many of the intelligence operations at the NIA then. To Interviewee 4’s recollection, the policies or changes during the time of the HLRP on Intelligence remained in effect; however, whether they were complied with is a different issue altogether. Therefore, Interviewee 4 argued that consequence management in the intelligence services is more of a problem than the policies, controls and oversight (2023d: 5).

6.2.5 Interviewee 5

Interviewee 5 observed the need to recognise the context. The meaning of transformation in 1994–1995 as the post-apartheid intelligence institutions were created is likely to be both different and also similar. And there has been quite some time between then and now. Although the institutions and governance structures have developed since then, Interviewee 5 is not certain whether South Africa can permit the slow development that has shaped these changes. We must comprehend the reality in which we exist (Interviewee 5, 2023e: 2).

Some of the roots that were planted at the birth of democracy in South Africa are still relevant, though. They have either not come to fruition, or advances were made towards realising those changes in governance or there has been some degeneration. So Interviewee 5 frames the evolution of problems externally: what is needed with regard to the country’s national and international interests. Pertaining to governance, these are the structures and foundational values of accountability, responsiveness and inclusiveness. A country needs its intelligence services to risk violating these societal values and then refocusing itself in context. This can bolster what is required in the face of ineffectiveness and leave it open to different directions of attaining what the intelligence services aim for (Interviewee 5, 2023e: 2).

6.3 Lessons from commissions and panels

6.3.1 Interviewee 1

The commissions have noted that parts of the intelligence services became rogue and were acting with impunity, which can be overcome by returning to previous structures that militate against the repetition of such problems. Whether through annual heists or parallel structures, control had been lost; but this can change (Interviewee 1, 2023a: 4).

The press was apparently impressed by recent reports from the JSCI. Intelligence has been abused by and within the governing party to put in place what it wanted and to manipulate internal factions rather than for the purposes of national intelligence. Many reports have pointed to an erosion of the intelligence services, which makes oversight complicated. The intelligence services must work according to policies and legislation, but when an issue arose with the foreign and domestic branches, the heads of these branches and the director-general resigned as a symbolic act (Interviewee 1, 2023a: 4–5).

6.3.2 Interviewee 2

There has not been sufficient transformation of the intelligence services. Constitutionalism is an expectation of all the organs of state. State bodies must respect both the Constitution and the law. With that as the litmus test, we have not transformed the intelligence services enough – which brings about the result that the intelligence services will not transform going forward (Interviewee 2, 2023b: 5).

First, this is because they are too secret and we cannot monitor them. Second, the JSCI has not realised its mandate as it is afraid of the intelligence services and will not have a brave oversight function because of politics within the governing party, the overlapping of this politics between the Executive and parliament and because Members of Parliament are frightened of the intelligence services. Third, there is a view among some of the old and the new factions of the ANC that it is permissible to breach the Constitution and the law – which is a damning aspect of the culture of the intelligence services and renders them the issue and not the correction (Interviewee 2, 2023b: 5–6).

Particularly since Zuma, the presidents ‘prized loyalty to the Prince above loyalty to the Constitution’, where the Prince is to some extent the president, to some extent the party and to an extent the stronger faction in the party. This observation can also be seen in the selection of senior officials. These issues have been made worse by the intelligence services’ getting caught up in ANC factionalism; and as the ANC has become more corrupt in the past few years or so, corruption has become worse in the intelligence services. While transformation was a part of the 1994 Intelligence White Paper, it does not seem to have been a priority over the past decade to decade-and-a-half, where these foundational issues have shown little dedication to transformation (Interviewee 2, 2023b: 6).

6.3.3 Interviewee 3

In their report, the HLRP aligned with much of the Matthews Commission report. The HLRP discovered a widespread withering of the many players that are required to guarantee control and oversight. The instability regarding the appointment of the directors-general and ministers

was one such example, where between 2009 and 2018 there were approximately five ministers. This instability was caused by diminishing the serious roles played by the Inspector-General of Intelligence, parliament and NICOC. When parliament is unaware of its mandate and the types of question it is expected to request, then it will be unable to perform its function. There was little transparency with regard to the budget of the SSA, a rise in Overt Operations and operations that did not require reporting. This is in part why the SSA came to be known as a ‘cash cow’. The role of finance and human resources was similarly diminished as they approved expenses with no proof of their usage. The report also referred to the SSA’s creation of ‘parallel structures’ with ‘rogue elements’ that did not report to parliament, the Inspector-General or the director-general, which further weakened these institutions (Interviewee 3, 2023c: 6–7).

This issue of institutional decay was further compounded by insufficient transparency in the SSA: the HLRP’s report was not implemented and the full-time director-general was instated only in 2022. This issue of transparency, control and oversight was worsened by placing the SSA in the Presidency, which served only to develop a ‘super presidency’. Here Interviewee 3 rather argued for the need for a Minister of State Security who must be accountable outside the Presidency. This development has not enhanced efficiency and heightens concerns about the next regime that will have access to too much power in the Presidency (Interviewee 3, 2023c: 7).

It was crucial that the chair of the HLRP delivered the unredacted report before the State Capture Commission. One of the key parts Interviewee 3 believes the chair spoke to, which appeared less in the report, was with regard to the people at the SSA who talked about the culture, which gets to the core of the problem of the transformation of the state security culture. In the words of Interviewee 3, there was an ‘absolute erosion of the democratic principle’ (2023c: 7). This happened in a culture where there exist institutions but where agents do not believe that they or their leaders are accountable, all while their lives are at risk. Therefore, the delivery of the HLRP’s report to the State Capture Commission in the form that it was was a victory for transparency in a democracy. This is notwithstanding the fact that the recommendations of the HLRP and State Capture reports have yet to be implemented, as the panel had hoped for (Interviewee 3, 2023c: 7).

6.3.4 Interviewee 4

Interviewee 4 criticised the Matthews Commission by arguing it leaned too much in the realm of transparency: intelligence services are permitted not to be transparent to enable them to do their job. He captures this poignantly when he explains that (Interviewee 4, 2023d: 7):

the intelligence services are not hiding or evading transparency from the public, they’re avoiding transparency against the targets of their work. In other words, the terrorists, the gangs, the criminal syndicates and whatever their targets might be. The more transparent they are, the easier it is for their adversaries to counter their efforts to deal with the security and other threats that their adversaries pose. That is the difficulty of the balancing act.

There are times when the intelligence services can show greater transparency when it does not have an impact on their operations. This matter has been dealt with in various ways by different intelligence services around the world. The Canadian service had a website where they publicised things; the United States publishes an annual strategic intelligence review, and the United Kingdom is not as transparent. However, transparency can be used by the intelligence services as a means of shifting focus. For example, in South Africa, NICOC previously

published an annual national intelligence assessment which is not public, but there are sections of it that could be public. ‘It’s a very high-level strategic review of the intelligence security situation in the country over the past year’ (2023d: 7–8).

Another example of transparency was the issue with the new laws on official secrets. The media interpreted the Protection of Official Information Act as a deprivation of their right to information. Interviewee 4 reiterated the argument ‘that the intention was to protect state information from adversaries, not from the public’ (Interviewee 4, 2023: 9). In so doing, the public will always be affected but ‘where do you draw the line?’ (Interviewee 4, 2023d: 9). There are aspects where the services can show greater transparency and there remains a debate within the services to this end (Interviewee 4, 2023d: 9).

Regarding the HLRP, transparency didn’t make up too much a part of their frame of reference. They were more concerned with assessing ‘what went wrong in the SSA’ than with oversight in particular. They raised the issue and the illegality of amalgamating the NIA and the SASS. There was political interference with factions serving the interests of the president over those of the country. Their main analysis focused on the violations of legislation, regulations and rules (Interviewee 4, 2023d: 9–10).

6.3.5 Interviewee 5

Interviewee 5 located herself with regard to the different commissions and panels to understand her positionality pertaining to the processes and what influenced her opinions about the recommendations. The recommendations of the Matthews Commission report teach us that when there is not an understanding between the Executive (Minister for Intelligence) and the JSCI, then that report becomes moot. The Matthews Commission report was not favourably received by the JSCI then and the JSCI did not use the report to hold the intelligence services accountable. But the report was shared with the public. It was received more favourably internationally and regionally as having been brave in exposing recommendations or procedures in Africa governing intelligence. It was even received more positively overseas than domestically by legislative authorities specifically (Interviewee 5, 2023e: 2-3). Interviewee 5 therefore observes that

the lesson is that ideally there must be better communication about these processes so that when the fruits of all the such work come to light there’s some synergy in the responses that are made to the report. But as I said fortunately publicly there was at least an airing and the report has been quite widely cited and used as some kind of benchmark for what introspection about intelligence failures, intelligence misdemeanours can look like (2023e: 3).

The reporting of the JSCI has been inconsistent and became concerningly so following the Matthews Commission. For some time, reporting was too slow and simply a continuous presentation of various reports. The JSCI did not account for its own expectations of itself and was bad in overseeing the intelligence services. In this climate, abuses came to be aired through the Zondo Commission. If the JSCI had been more available and accessible, they could have mitigated some of the abuses (Interviewee 5, 2023e: 3).

The report of the HLRP was viewed as promising to resolve issues that had surfaced previously. It was found that many recommendations of previous reports had not been implemented. Therefore Interviewee 5 noted:

So the lesson there was that yes reports or commissions may be established and even under conditions where there may well be alignment between the executive authority and parliament. Perhaps that's not the only ingredient required because you'd have thought that there'd have been more urgency in implementation of some of those recommendations (2023e: 3).

The issue was thought to be state capacity. Between 2004 and now (2023), the state's ability to collect and analyse intelligence and fulfil its function has shrunk. This is important because the Ramaphosa Presidency and the JSCI may have wanted transformation, but the bodies that would have implemented this change were too ineffective and weak. This applied not only to the intelligence services but to the legislative and executive authorities too (Interviewee 5, 2023e: 4).

The development of the political landscape also played a role. The Executive was not aligned with the security space. This has been used as a reason for why the July 2021 unrest was not mitigated: even the ministers in the security space were not on the same page. Parliament, institutions and the Executive were not working, impeded by 'performative politics' and with no 'sense of purpose' (Interviewee 5, 2023e: 4).

By 2021, the JSCI did not appear to be effective. Previously, as far back as 1995 and in the years that followed, the JSCI had worked well together, partisanship mattered less and Interviewee 5 reflected on the status quo as follows:

You would go there knowing that you were going to meet with a very unified committee whose sense of what they had to do that they told us don't even begin to think that if you know us from this or that you know political space we are going to be kinder to you. We're here in the interest of the country. When we go into that chamber as members of the JSCI, we literally take off our political party hats and we engage you as a committee whose role it is to support national interests. I don't know that we were there or are there. Which is where I feel we should be (2023e: 4).

By 2018 there was arguably a change in the political landscape intended to return South Africa to that space. But the security services' inability to react sufficiently in 2021 exposed the reality of the time. Then the Zondo Commission report was published, but it remains to be seen how that information will be used. Hopefully, it will form a foundation (Interviewee 5, 2023e: 4).

Interviewee 5's analysis is this:

The lesson is that you know these commissions can actually put a lot of information out in the public domain but unless we have good capacity, and now it is the NPA that is being tested, it really just becomes in a sense academic because we always need to translate what we know into what we are able to do about it (2023e: 4).

While it might be too soon to know, there have not been repercussions of the findings on fraud, corruption and state capture. There has been no accountability through court cases, the development of state structures, redress, the return of moneys, and societal harm. Because the state's reaction has been so invisible, there remains little public confidence in transformation. Interviewee 5 therefore questioned whether, because of the way things had happened, the result was so big that the country did not begin to know how to respond to it (2023e: 4).

6.4 Transforming intelligence culture

The five interviewees were also asked to respond to the question about transforming the intelligence culture. Their responses follow.

6.4.1 Interviewee 1

It is not easy for those who are in the system to change their mindsets, although a curriculum, re-education and courses can help. However, of primary importance is that the youth get involved to avoid being corrupted. The Intelligence Academy has created a draft which engages with the way the system and mindsets can change. Changing the ‘culture of impunity’ is a challenge. But there remains some hope in that there are ongoing investigations and some arrests. The JSCI went on oversight to the United Kingdom and Canada in 2022. The independence of some of their structures is interesting. Here, whereas the Inspector-General of Intelligence comes from the SSA, his duty is to perform oversight of the agency. So more autonomy must be given regarding budgets (Interviewee 1, 2023a: 5–6).

6.4.2 Interviewee 2

Former Intelligence Minister Ronnie Kasrils attempted to transform the political culture with a civic education initiative and letting persons such as Billy Masetlha go. Ultimately, the ‘boss’ did not will that. It does not matter if the boss was former President Thabo Mbeki or Jacob Zuma, they did not will it and therefore it would not occur (Interviewee 2, 2023b: 7). Or in the words of Interviewee 2:

There is a bottom line lesson on research from security sector reform from throughout the world. Namely, if the Minister and President, meaning the highest decision-makers in that sphere, want it to happen it may not but it may happen. Because there is going to be resistance. If they don’t want it to happen, it will not happen. It can’t happen from the bottom up. It’s not going to be led by the leaders of the intelligence community because they’re appointed by the boss. Who expects loyalty (2023b: 7).

6.4.3 Interviewee 3

Interviewee 3 affirmed that ‘the institutional culture is really at the heart of it’ (2023c: 8). The full report of the HLRP talks openly about the decreased motivation of the agents where before they used to be proud. During the Mbeki administration, Interviewee 3 claims that people were proud to be civil servants. Once you change the mindset of a civil servant to one of factionalism within the ANC, you change the culture. This is why one of the recommendations of the HLRP was to resuscitate the Intelligence Academy because of the lack of a new wave coming into Intelligence such as youths from universities across all spheres of the country. There was a feeling that the staff were not going anywhere, had been ‘placed’, many were on sabbatical while being remunerated, being transferred without notice and so many were in ‘acting’ positions, which created instability at the rank of ministers, directors-general and throughout all spheres of the intelligence services. There were even reports about mental health issues within the services (Interviewee 3, 2023c: 8–9).

As a result, Interviewee 3 contends that

you need a commitment to a democratic institutional culture, an enabling institutional culture that allows the members of the service ... to bring in fresh ideas. I think that died, that had disappeared in the intelligence in the SSA (2023c: 9).

Further to this, it is the opinion of Interviewee 3 that ‘the more South Africa is in crisis, the more impossible or implausible it is that you can have genuine democratic change’ (2023c: 9). This makes it unlikely that there will be change in the coming decade. But whereas it appears more probable that things may get worse, we need a dedication to ‘structural institutional change’. Many reports preceding the HLRP reports confirm the reform and withering of a ‘toxic institutional culture’. From the functioning of the service – Marikana, fake unions’ roles in Fees Must Fall, its involvement in NASREC and transfers to the Department of International Relations and Cooperation (DIRCO) as ambassadors who were being shielded from legal accountability – the HLRP report noted that there has been an erosion of the mandate of the service (Interviewee 3, 2023c: 9–10).

‘When you ... personalise a whole department, then there is no institutional culture to really speak of’ (Interviewee 3, 2023c: 10). It is often not possible to follow the money and until these issues have been dealt with, any regime will continue to receive money from the state through state security agents (Interviewee 3, 2023c: 10). This raises baseline questions about how we want institutions to be; but because they seem mostly to shield people in power, unless there is a baseline transformation, identical questions will continue to be posed (Interviewee 3, 2023c: 11).

6.4.4 Interviewee 4

Culture is a convergence of many things that come together over time to form what is known as a culture. Here Interviewee 4 makes the following point:

One of the things that creates a better culture in intelligence or anywhere for that matter are the very controls and oversight that we’ve been talking about. And most importantly as I’ve already mentioned is consequence management of breaches of those prescripts and controls. So if you have good policies, operational procedures, legislation in place, and nothing happens when they are breached, then you are creating ... if you like I’m using the term wrong you’re creating a counterculture or at least a culture counter to the one that you are referring to. I hope there are no concerns but this goes throughout the public service (2023d: 10–11).

This means that culture is developed by there being repercussions for a violation of practice, laws and controls. Interviewee 4 argued that one can’t create a culture through continuous talks. It must be grown through being strict and compliant. Interviewee 4 here reiterated the point he made that the operational policies of the NIA and the SSA were sufficient but not complied with. ‘And if there is no consequence for lack of adherence, then the policies are meaningless’ (Interviewee 4, 2023d: 11). Therefore, strictness and consequence management must work through the services and up to the overarching oversight mechanisms, the minister and the president. The Inspector-General, JSCI, Auditor-General, intelligence services’ management, the director-general and their deputies must all be dedicated to the policies and controls (Interviewee 4, 2023d: 11).

Equally importantly, the controls must enable the intelligence services to do their job. For example, one cannot blame the intelligence services for not forecasting and stopping the July unrest but, conversely, tell them to be more transparent: ‘You’ve got to allow them to do what intelligence services do, which is spy’ (Interviewee 4, 2023d: 12). But the services must then spy in such a way that respects the controls. This requires a reconciliation ‘between those responsible for those overseeing the services and the services themselves for asserting the controls that are in place’ (Interviewee 4, 2023d: 12). But this does not require a fundamental

transformation of the oversight and control mechanisms so much as a ‘tightening up’ (Interviewee 4, 2023d: 12).

Political interference has been another cause for concern. ‘Our duty is to serve the government of the day’ (Interviewee 4, 2023d: 13). The ANC was elected as the ruling party and the job of the intelligence services was therefore to work for not the party but rather that government. And that is the same with all intelligence services. Interviewee 4 once asked the UK intelligence services how they manage a change of governments, to which they replied that they prepare two strategic plans based on the manifestos of the two biggest parties, which they then give to the winning party. While that experience has not been seen in South Africa, Interviewee 4 notes that

the government’s intelligence interests and security interests might change depending on which party is in power theoretically. What is the line between that obligation to serve the government of the day and political interference. It’s also a difficult line to define (2023d: 13).

Another example of this is the NICOC’s delivery of the annual national intelligence estimate to the cabinet, which includes suggested intelligence focus areas for the coming year. The cabinet is then required to approve this, at times subject to changes. Interviewee 4 captured this balancing act well when he describes it as follows (2023d: 13):

That is the political if you like or policy marching order to the intelligence services at the highest level. But in between that, from the President to the responsible Minister, or just from circumstances that arise, new priorities will emerge. Now your Minister has the right and the responsibility to determine policy or to take policy from the political level to the operational level. How do you distinguish when that is legitimate and when that is overstepping the mark?

In the HLRP, political interference was understood not only as an illegal instruction given by a minister but also ministerial involvement in operations where contacts were sourced and managed. This was compounded by former President Jacob Zuma’s loyalists behaving as his personal intelligence branch rather than the government’s. Interviewee 4 therefore differentiates between a line that is not easy to simply define:

between legitimate political or policy imposition if you like on intelligence services, which really is to say what the government’s intelligence and security priorities are as government, and then the breach of that right and responsibility (2023d: 13).

6.4.5 Interviewee 5

Interviewee 5 noted that that she has less knowledge of the existing culture in the intelligence services. One is reliant on the news, parts of the minister’s budget vote speeches and what is known about existing institutions and services. ‘But I think that, in theory, any institution can change its internal strategic culture’, stated Interviewee 5 (2023c: 5). But one must understand what the internal strategic culture is, which one can know only through strategic documents that cannot be accessed. However, Interviewee 5 thinks that these strategic documents reflect what is released through the minister’s yearly budget vote speech. These statements appear to show that

the intelligence services are a part of a Constitutional democracy or always see themselves as accountable and that there is no need to change the overarching architecture which is for a service or services which are governed by laws, which are overseen by multi-party institutions

which respond to national priorities and which are therefore accountable as national assets (Interviewee 5, 2023e: 5).

Whether what happens on the inside complies with that is a different story. Different spheres of leadership become pertinent to making sure that those in the services comply with the values, including the executive leadership, heads of services and the intelligence community. Another way of responding to this compliance is through capacity. While internal capacity is said to be developed, not much is known about the engagement ‘with knowledge producers in society’ (Interviewee 5, 2023e: 5). Interviewee 5 hopes that even though it is important, there will be less need for HUMINT and the country should be able to use information if it has the tools and positioning to rely on scientific councils, industry and universities, for example (2023e: 5–6).

6.5 Transforming intelligence culture of crisis decision-making

6.5.1 Interviewee 1

‘Working in silos’ has been a problem, particularly with the joint intelligence structures. Information is simply collected and passed on to the correct people, who designate the information. Little can be done if there is no throughput from the appropriate structure. Referring the information is one of the few things that can be done, such as the issue between the Minister of Police and the Minister of Intelligence (Interviewee 1, 2023a: 6).

6.5.2 Interviewee 2

There are two major issues that hindered the capacity of the intelligence services to create good work and to forecast. First, the services are too caught up in party politics, which means that they are distracted and not concentrated on their goal and mandate. Second, they were unable to perform strategic analysis (2023b: 8–9).

Interviewee 2’s analysis of the mandate of the intelligence services about strategic analysis is this:

Ideally, and what I’m saying is consistent with the White Paper of ’94, the intelligence services ought to be doing strategic level analysis. Identifying long range threats and their structural and political causes and patterns and trends etcetera. I’d just put in brackets, it’s a little different with external criminal activity. Because we don’t have an external police focus. So that does complicate my argument a little bit but the argument nonetheless is that the intelligence services ought to be doing strategic level analysis (2023b: 10).

6.5.3 Interviewee 3

Interviewee 3 was critical of the way in which a crisis is framed and how it can be securitised. The instinct of the state can be to resolve a crisis by using security, but the crisis will ultimately only reform when people transform their attitudes. With the July riots and the national lockdown during Covid-19 there was a belief that the intelligence services would lead the response. However, the report on the July instability highlights the fact that all spheres of the police and the intelligence services failed and there was no co-ordinated response to the crisis. This reflects wider issues regarding the crisis within the ANC, such as factionalisation and a conflation of the state and the governing party, which has an impact on what all leaders and departments can achieve. Interviewee 3 fears that the July unrest has set a precedent that makes

it too simple to securitise a crisis, as was evident with the national shutdown, where the police, defence and intelligence were too effective in securitising basic protests (Interviewee 3, 2023c: 12).

This brings us back to the formation of a super presidency which puts the state at too high a risk of being looted. This provides yet further proof of the issues at play in transforming institutional cultures in government departments. The changing of political leaders will probably worsen the crisis. South Africa lives in a very dangerous society in which intelligence and other security actors cannot deliver on their mandates. The increased use of the intelligence services rather shows the worsening of the crisis. The Marikana disaster and the Covid-19 pandemic both show that the state can react, but there are times when it is utterly incapable of doing so. The upshot is that evidence generally points to it being implausible for South Africans to depend on the state for security (Interviewee 3, 2023c: 12–14).

6.5.4 Interviewee 4

Many issues are not somewhat cultural but to an extent endemic to the intelligence services and the government. There have been problems with attempting to co-ordinate the respective services. This was due to their competition for the ear of the government or the president. This practice can lead to problems when the leadership does not listen to warnings from the intelligence services. An example was when Jeff Masetuka, Gibson Njenje and Mo Shaik flagged issues they had brought up about the Guptas during the Zondo Commission, which led to their being fired (Interviewee 4, 2023d: 14).

It is not clear whether that is a cultural issue. The government can at times not heed the advice of Intelligence when the intelligence is not sufficient, because certain information can be shared that is not sufficiently backed up. There are many factors to consider. Interviewee 4 did not seem certain whether he would have performed the work better. The violence and damage were unprecedented for the intelligence services and Interviewee 4 argues that he was not sure if one could identify the intelligence services as having been responsible (2023d: 15).

Security matters can be challenging to forecast. ‘False intelligence’ has also been shared with the services before, for example, the Eskom intelligence report that was shared by ‘information peddlers’ illustrates the challenge of receiving problematic and controversial intelligence that is in fact rubbish. If the intelligence services then share this information with government, the government could either identify the issue or the intelligence services could be found wanting when in due course the information is shown to be unreliable (Interviewee 4, 2023d: 15).

Intelligence services around the world experience similar such issues, as indicated by the commissions that the Americans, British and Australians had after 9/11 and different serious intelligence problems. Interviewee 4 understands this as a ‘lack of co-ordination, misinterpretation, lack of capacity to gather the intelligence’ (2023d: 15). With regard to an intelligence culture, these issues can be more practical than cultural:

Co-ordination is a very practical issue. And it’s very difficult around the world to set up co-ordinating mechanisms within intelligence that are fully effective. Because natural competition between services, reluctance to share, just for security reasons because you lose control. You don’t know whether your intelligence will get leaked once it’s out of your hands. There’s a whole range of factors which affect co-ordination. But it’s probably the biggest challenge that intelligence services failed in their major intelligence failures (Interviewee 4, 2023d: 15).

One can argue that that is an element of culture, where one must develop a culture of co-ordination exchange. And there must be repercussions for not co-ordinating or exchanging. For example, there must be consequences for the failures of the July unrest (Interviewee 4, 2023d: 15).

6.5.5 Interviewee 5

Today is a different reality both politically and externally with regard to the ‘existential threats’ that are experienced (Interviewee 5, 2023e: 6). The July 2021 civil unrest happened during a pandemic, which was yet another crisis that was being experienced. At that time, different security institutions noted that they were working well in the context of Covid-19 issues but Interviewee 5 was unable to account for this in the context of the intelligence services. Whether it had to do with the safety of hospital rooms or with people’s frustrations in public, the intelligence services collected that information, but did so in the context of a disaster (2023e: 6).

More recently, when the Economic Freedom Fighters (EFF) called for a national shutdown, the security services responded effectively. They were present, people were free and they even helped people demonstrate; however, the possibility remains that the services could also fail to respond effectively. Therefore, Interviewee 3 observed that ‘the problem is that the culture of decision-making might be that it’s not sustained’ (2023c: 6). There should be a section of the state that is always on call. On the contrary, the security structures are not created to be ‘self-sustaining and perpetuating’ (Interviewee 5, 2024e: 7). This must be resolved because of the diversity of the crises that are experienced from time to time. The state must be resourced sufficiently, personnel properly trained and the structures must be resilient. Interviewee 5 highlighted that part of the problem is that ‘the culture of decision-making is made for another time that we aren’t living in’ (2023e: 7).

6.6 2021 July insurrection an intelligence culture turning point

6.6.1 Interviewee 1

There has been push-back from the intelligence services about this. The media allegedly commented on a recent JSCI report as being genuine and honest. The committee has purportedly been transforming since before the July unrest, which is arguably why there has been some resistance to it. While the meetings are still closed and the agenda remains top secret, the committee has become more open, which has changed its relationship with the intelligence services. The JSCI has arguably changed the way it operates and also past perceptions. Even though the committee plays an oversight and not an intelligence function, because most of what happens in the committee is top secret, it is difficult for people to know what is happening on the inside. The committee reports do, however, provide evidence of the difference in what the committee reports on compared to the reporting of previous committees (Interviewee 1, 2023a: 7–9).

6.6.2 Interviewee 2

The series of events that followed the Inspector-General catching Billy Masetlha spying unlawfully on Members of Parliament and others, Minister Kasrils’ reaction to let go of Masetlha and to create the Matthews Commission enabled a turning point to be possible.

Kasrils was committed to taking action before it became worse and to transforming the culture (Interviewee 2, 2023b: 10).

Kasrils' public sharing of the Inspector-General's report was greeted with a backlash from the bosses, who felt unprotected. But Kasrils stood resolute that he would never protect the leadership if they breached the law and instructed them to respect the law unconditionally. And when questioned what would be done if they needed to breach the law in order to apprehend those who have done wrong, he agreed with the Matthews Commission that they would not be any better than those who had done wrong (Interviewee 2, 2023b: 11).

Interviewee 2 noted:

I am not, to go back to my thesis regarding security reform globally, I cannot guarantee that those efforts would have led to transformation. But they could have. And so it was a potential turning point (2023b: 11).

As Interviewee 2 summarises, this is all to show that 'if the Executive does not want this to be a turning point, it's not a turning point. It doesn't matter what the Commission says' (2023b: 11). This example of the Matthews Commission can be compared to the Zondo Commission and raises the question whether Zondo can be considered a turning point. But this remains in the hands of President Ramaphosa and will not be determined by Zondo. Ultimately what matters is the extent to which the president will act on the recommendations (Interviewee 2, 2023b: 11).

6.6.3 Interviewee 3

Issues with the JSCI included the politicisation of the committee and an absence of information from the SSA where the department was not as open as it could have been. The turning points can be understood as an increase in crisis in the intelligence services since 2009. So, it is less surprising that the report and the State Capture Commission showed the JSCI that the reaction of the intelligence services to the July riots was not proactive. Rather than thinking about it in terms of turning points, Interviewee 3 prefers to frame it as 'a deepening of crisis'. Intelligence Minister Dlodlo and the previous acting director-general represented the severity with which things would not transform (Interviewee 3, 2023c: 15–17).

Interviewee 3 captures it poignantly when she notes:

I wouldn't call it a turning point but it was a marker of the extent to which even when you change the political head, things there's something about the body itself the institution that now is so embroiled in crisis that it didn't matter how many ministers were there. It was not likely to change (2023c: 17).

This is another reason why the SSA presentation to the State Capture Commission was quite notable, having occurred before the unrest in July 2021. Therefore, at the time the unrest happened, the outcome was less surprising (Interviewee 3, 2023c: 17).

6.6.4 Interviewee 4

The primary turning point was the transition from apartheid to democracy: the merger of the liberation movement, the apartheid services and the procedures that accompanied it. This

included legislative and constitutional changes or adaptations and also the development of an oversight structure (Interviewee 4, 2023d: 16).

Minister Nhlanhla created a Pikoli Commission led by Vusi Pikoli, which investigated and eventually published the Pikoli Commission report. The Moerane Commission report assessed defence or military intelligence as pertinent to the rest of the security space. The Desai Commission was created as the then NIA was being run by Arthur Fraser and found spying equipment in the provincial administration offices then run by the Democratic Alliance (DA). Nial Barnard, who was the provincial deputy director-general, had hired previous NIS employees to develop a personal intelligence unit. The commission investigated the conflation of the then provincial administration into the intelligence space. Rather than identifying turning points, therefore, the interviewee maintains, one should question what followed those turning points (Interviewee 4, 2023d: 16–17).

Interviewee 4 noted that clear recommendations were made by the HLRP which he has not seen implemented. The breaking up of the services into two separate services is one such example. The split had been recommended because the previous merger of the NIA and the SASS into the SSA was a major disruption for the intelligence services. ‘But the business of everyday business just got in the way’ (Interviewee 4, 2023d: 18). The issue of not implementing recommendations applies to other commissions too. Interviewee 4 therefore observes that

all these commissions or major disruptions they kind of interrupt the flow of development or progress if you like in oversight, control, accountability etcetera. Even though many of them are there to investigate those things (2023d: 18).

Many highly specific recommendations were made in the HLRP, for example. It is tragic that they were not implemented quickly and accurately. And the same applies to some of the different commissions’ recommendations. To enhance control and accountability, one example of this was the drafting of a national security strategy with the NICOC which could have improved co-ordination; but that draft strategy never made it into the government. However, the high-level panel believed it was a sound strategy, and one of the recommendations of the panel was to revisit the strategy. Interviewee 4 diagnosed this train of events as follows:

So this is the frustrating thing. We have these commissions, we have these what you’re calling turning points, and nothing happened not nothing happened. There’s not the energy and the drive to carry things through to their final implementation. You have changes in leadership at the political or administrative level. You have resistance to some of the proposed changes or steps that are in these commission recommendations. So maybe that’s your culture (2023d: 19).

This could be understood as ‘the culture of rigorous implementation’ (Interviewee 4, 2023d: 19).

6.6.5 Interviewee 5

Opinions on whether the July unrest was an insurrection differ based on people’s political views, and this applied similarly to the intelligence services. There was a contradiction between the president’s acknowledgement of the insurrection and the intelligence services’ questioning whether it was an insurrection. If we speak about the moment as opposed to the nature of the moment, it might have been a turning point and have had an impact on transformation. (Interviewee 5, 2023e: 7).

However, it is important to focus on the moment and the time rather than on the July insurrection itself, as there were smaller insurrections that followed the July one. This could mean that politics is becoming more violent, which is not unique to South Africa. This can be understood through Trump's exploiting of issues and abusing violence to make political statements (Interviewee 5, 2023e: 7–8).

This begs the question what the intelligence services should do with these moments. Interviewee 5 believes that this necessitates a reflection on its applicability to the reaction and the ethics of the intelligence services. This also applies to the United States in pragmatic ways regarding capacity, being more disciplined with their vetting procedure and managing people on the right. Interviewee 5 was not sure how this might apply in South Africa. But she did pose the problem of what would happen when politics gets more violent and the state continues to be weakened. Recently, it has been said that, for example, there are high-profile people subverting Eskom (Interviewee 5, 2023e: 8).

This is the difficult space in which the intelligence services need to work, which leads Interviewee 5 to further analysis:

So what's the solution? To become more closed? ... Or to have more openness, more accountability, more transparency, give the JSCI greater powers to demand answers to subpoena people to tell them you will speak? I veer in that direction where some would say well we need to be more secretive to catch out the culprits (2023e: 8).

Therefore, Interviewee 5 argued that if the national interest is prioritised, then the moments of the July unrest and the additional moments where the country was at a breaking point might not be violent as the vulnerable and marginalised are abused in shaping the violence. But for as long as plans are not shared, misinformation and sabotage can occur. Interviewee 5 concluded that additional systems are required while oversight, control, transparency and accountability can be improved and applied more robustly and effectively in South Africa (Interviewee 5, 2023e: 8).

6.7 Conclusion

Has South Africa transformed the governance of its intelligence sector (both control and oversight) to achieve the most appropriate balance between efficiency and transparency for the country?

This chapter was framed with the research question in mind. The literature, historical context and background, the recommendations of all the panels and commissions (what was done and not done) as well as the opinions and views of the interviewees are integrated in chapter 7. It was a holistic assessment where the interviewees views were an element but not the whole.

The data collected from these interviews have been saved in Zoom audio recordings and transcribed using Microsoft Word. This is consistent with what was agreed to in the participant information sheet and consent form.

This chapter ultimately contained the key data that emerged from the answers to the five questions posed to the five interviewees. And it is these data that ultimately inform the

discussion in the next chapter, serving as further evidence in defence of this study and dissertation.

7. Discussion

7.1 Introduction

This chapter discusses the outcomes of the semi-structured interviews conducted between 31 January and 19 May 2023 with five interviewees. This discussion chapter is similarly a consolidation of the research referred to in the literature review (theory and concepts), executive practice to improve intelligence governance in South Africa: 2008 to 2022 and the methodology and case study chapters. The analysis seeks to reconcile these chapters with the data collected in the findings chapter.

The study does not have a wealth of knowledge to build on throughout history. There was an abyss in the literature which has not been clarified in South African intelligence. This means that the limited literature that does exist and was highlighted in the literature review (theory and concepts) and executive practice to improve intelligence governance in South Africa: 2008 to 2022 chapters largely do not have outcomes that this study can be compared with in a discussion chapter. Which is why a conceptual framework was created to help guide the PhD.

Has South Africa transformed the governance of its intelligence sector (both control and oversight) to achieve the most appropriate balance of efficiency and transparency for the country? This is ultimately the research question that this chapter seeks to answer.

In answering the research question, the answers are structured around the interviewees on culture, the theory and concepts on culture, the practice on culture, the methodology on culture and the case study on culture. This PhD finds that it is possible for South Africa to transform the governance of its intelligence sector (control and oversight) in order to achieve the appropriate balance of efficiency by transforming the culture of its intelligence sector.

7.2 Research question

How can South Africa transform the governance of its intelligence sector (control and oversight) to achieve the most appropriate balance of efficiency and transparency for the country?

Interviewee 2 claimed that the research question was future-focused and therefore not viable. He framed it as a ‘normative policy, hypothetical’ (Interviewee 2, 2023b: 1). But an answerable research question must be concerned with a phenomenon in the past or the present. The appropriate research question would be to question whether there was transformation, to have clear indicators of transformation in place; and if transformation has not taken place, to explain why and what its implications are. The only plausible answer to the research question as structured is by concluding that the governance of the intelligence sector in South Africa has not transformed. This transformation must to be looked at through the lens of indicators. Questioning future transformation presumes that whether there was transformation or none to date has been investigated (Interviewee 2, 2023b: 1–2).

Therefore, the research question was revised to read:

Has South Africa transformed the governance of its intelligence sector (control and oversight) to achieve the most appropriate balance of efficiency and transparency for the country?

7.3 Answers to research question

The short and direct answer to the research question is ‘no’. South Africa has not transformed the governance of its intelligence sector (control and oversight) to achieve the most appropriate balance of efficiency and transparency for the country.

However, if the research reverts to its previous normative structure, this study argues that South Africa is able to transform the governance of its intelligence sector (control and oversight) to achieve the most appropriate balance of efficiency and transparency for the country by transforming the culture of its intelligence sector.

7.4 Interviewees on culture

The discussion below is framed by the key findings and recommendations originating from the five interview questions that were posed to the interviewees. The thread that aligns all of these answers is that to move towards the transformation of intelligence governance in South Africa, ultimately the intelligence culture must be transformed in the country. This will be shown to be the case through the themes of the interview questions, which were the lessons from commissions and panels, transforming intelligence culture, and transforming the intelligence culture of crisis decision-making, and considering the July 2021 insurrection as an intelligence culture turning point.

Intelligence culture is conceptually rich but also abstract and difficult to operationalise. While the study showed that a change in mindset leads to a change in culture; measuring, tracking and institutionalising this can be challenging.

There could have been a gap between the cultural framework and the practical, empirical evidence needed to operationalize and implement it. This chapter seeks to fill that gap.

7.4.1 Lessons from commissions and panels

Factions of the ANC seem to think that it is acceptable to break the law and contravene the Constitution. This is a tragic part of the culture of the intelligence services and makes them the problem and not the solution (Interviewee 2, 2023b: 5–6). The revelations shared by the intelligence services during the Zondo Commission represent a shameful example of this culture.

Interviewee 3 made the point that the Chair of the HLRP mentioned the people at the SSA who spoke of the culture which gets to the heart of the issue of the transformation of the state security culture, even though this matter did not appear much during the report. While the institutions are in place, this occurred in a culture where agents did not believe that they or the leadership are accountable, even though human lives were at risk (Interviewee 3, 2023c: 7). This culture of unaccountability must be transformed into a culture of accountability if the governance of the intelligence sector is to stand any chance of being transformed.

This question and these lessons of legal and constitutional exemption and unaccountability contribute to the PHILINT culture in the country. And only if South Africa learns from these lessons will the country be able to transform its intelligence governance.

7.4.2 Transforming intelligence culture

Transforming the ‘culture of impunity’ is difficult. But some ongoing investigations and arrests give cause for hope (Interviewee 1, 2023a: 5–6). These include cases against former Crime Intelligence Head, Richard Mdluli, and former Head of the SSA, Arthur Fraser, among others.

The former Minister of Intelligence, Ronnie Kasrils, tried to transform the political culture by firing Billy Masetlha, for example, and a civic education programme (Interviewee 2, 2023b: 7). But as noble as Kasrils’ efforts may have been, the Executive did not have the political will to implement this.

Similarly, Interviewee 3 reiterated that ‘the institutional culture is really at the heart of it’ (2023c: 8). When you transform the thinking of a civil servant to one of ANC factionalism, you transform the culture. (Interviewee 3, 2023c: 8–9). This transformation of independent mindsets to dangerous group think remains and impediment to transform intelligence governance in South Africa. Therefore, Interviewee 3 argued that:

... you need a commitment to a democratic institutional culture, an enabling institutional culture that allows the members of the service... to bring in fresh ideas. I think that died certainly by the time we were doing our review, that had disappeared in the intelligence in the SSA (2023c: 9).

But although it seems likely that things will go from worse to worse, a commitment to ‘structural institutional change’ is important. Reports that came before the HLRP report identify a ‘toxic institutional culture’ (Interviewee 3, 2023c: 9–10). This was certainly the case with the Matthews Commission report.

Culture has also been argued to be an alignment of what merges over time to build what becomes a culture. Here Interviewee 4 makes the point that:

One of the things that creates a better culture in intelligence or anywhere for that matter are the very controls and oversight that we’ve been talking about. And most importantly as I’ve already mentioned is consequence management of breaches of those prescripts and controls. So if you have good policies, operational procedures, legislation in place, and nothing happens when they are breached, then you are creating ... if you like I’m using the term wrong you’re creating a counterculture or at least a culture counter to the one that you are referring to. I hope there are no concerns but this goes throughout the public service (2023d: 10–11).

Therefore culture is formed through consequences for a breach of controls, laws and practice. Interviewee 4 noted a culture cannot be made through ongoing talks. ‘And if there is no consequence for lack of adherence, then the policies are meaningless’ (2023d: 11).

Interviewee 5 also pointed out that she is less informed of the current culture: ‘But I think that in theory, any institution can change its internal strategic culture’ (2023e: 5). However, it needs to be known that the internal strategic culture is one which can be known only through strategic documents which are not accessible (Interviewee 5, 2023e: 5). The research seems to disagree with Interviewee 5 in this regard as there are other ways to analyse what that the internal strategic culture of the intelligence is through interviews, theory, concepts, practice, methodology and a case study.

From the culture of impunity to transforming the political culture, culture as the factionalisation of thinking to democratic institutional culture, toxic institutional culture to the absence of institutional culture through the personalisation of a department, culture of consequence management to the ability for any institution to change its internal strategic culture, the answers to this question ultimately engage with the transformation of intelligence culture. Implementing even just some of these answers to the question would contribute to the transformation of intelligence governance in South Africa.

7.4.3 Transforming intelligence culture of crisis decision-making

There is a problem about transforming institutional cultures in departments (Interviewee 3, 2023c: 12–14). This issue is not unique to the intelligence services but it is certainly a problem for the intelligence sector and the movement of the intelligence ministry into the Presidency, in particular. These problems about the intelligence culture can be practical rather than cultural (Interviewee 4, 2023d: 15). The issue of co-ordination is one such example and is arguably one of the greatest issues facing intelligence services globally and a part of the culture. As it is necessary to build a culture of co-ordination exchange (Interviewee 4, 2023d: 15). While the previous removal of the National Security Council (NSC) created a vacuum for the culture of co-ordination exchange in South Africa, hopefully the recommendations of the HLRP regarding re-establishing this structure will be implemented.

Therefore, Interviewee 5 noted that ‘the problem is that the culture of decision-making might be that it’s not sustained’ (2023c: 6). Interviewee 5 pointed out that part of the problem is that ‘the culture of decision-making is made for another time that we aren’t living in’ (2023c: 7). Transforming the culture of decision-making to one that is sustainable might mean transforming the leadership of the intelligence services to one that is fit for purpose, not factionalised and respects the Constitution and rule of law.

The theme of transforming the intelligence culture of crisis decision-making was the theme that emerged from this question. And the answers were instructive. Transforming departmental institutional culture, seeing intelligence culture as practical or an issue of co-ordination as opposed to culture, the necessity to build a culture of co-ordination exchange and sustaining the culture of decision-making are all highly useful insights in pursuit of transforming the intelligence culture of crisis decision-making. And therefore vital in moving towards the transformation of intelligence governance in South Africa.

7.4.4 2021 July insurrection an intelligence culture turning point

Kasrils was dedicated to act and transform the culture. The culture of compliance is central to transforming intelligence governance in South Africa. So much so that Interviewee 4 framed this as:

So this is the frustrating thing. We have these commissions, we have these what you’re calling turning points, and nothing happened not nothing happened. There’s not the energy and the drive to carry things through to their final implementation. You have changes in leadership at the political or administrative level. You have resistance to some of the proposed changes or steps that are in these commission recommendations. So maybe that’s your culture (2023d: 19).

This can be seen as ‘the culture of rigorous implementation’ (Interviewee 4, 2023d: 19). Transforming intelligence governance in South Africa through institutionalising a culture of rigorous implementation is as important as developing a culture of co-ordination exchange.

A desperate need for a culture of compliance and a culture of rigorous implementation were remarks consistently raised by the interviewees when answering this question. Where the 2021 July insurrection continues to serve as a turning point with regard to intelligence culture. And therefore a watershed moment in moving towards the transformation of intelligence governance in South Africa.

7.5 Theory and concepts, practice, methodology and case study on culture

Whereas this chapter is equally a discussion of the interview data, the findings and recommendations stemming from this data are reinforced by the remainder of the dissertation. That is, the literature review (theory and concepts), executive practice to improve intelligence governance in South Africa: 2008 to 2022, methodology and case study chapters further enhance the discussion. That is the value of this section in this chapter.

Values overseeing intelligence are best defended through political culture, among other things (Leigh, 2003: 115, 125–126). Political culture is an extremely important principle that can help to transform intelligence governance in South Africa.

‘Strategic culture’ means that people work from a certain worldview, category or opinions moulded by influential elites (Snyder, 1977: v). Snyder’s idea of ‘strategic culture’ is important in engaging with the transformation of intelligence governance in South Africa. In this regard, his seminal paper has been influential for some time:

It is useful to look at the Soviet approach to strategic thinking as a unique ‘strategic culture’. Individuals are socialised into a distinctively Soviet mode of strategic thinking. As a result of this socialisation process, a set of general beliefs, attitudes and behavioural patterns with regard to nuclear strategy has achieved a state of semipermanence that places them on the level of ‘culture’ rather than mere ‘policy’ (Snyder, 1977: v).

Lantis builds on Snyder’s theory:

Other important elements of strategic culture, according to Snyder, include the context associated with perceived security threats and technological development; strong cognitive content associated with attitudes and beliefs; historical legacies; and beliefs about the role of the military and concerned institutions in the policy-making process (2002: 94).

Gray further contends that:

American strategic culture provides the milieu within which strategic ideas and defense policy decisions are debated and decided (1981: 22).

van Nieuwkerk brings strategic culture closer to South Africa in the context of security and foreign-policy decisions in the Southern African Development Community (SADC). He concludes that:

the strategic culture of the region's decision makers – the set of values and norms that shape their understandings of the world and determines their menu of choices – is not unified but fractured (van Nieuwkerk, 2014: 65).

Constructivists focus on the impact of these norms, identities and strategic culture in international security. Here norms are ideas that are given life through their societal use (Karacasulu & Uzgören, 2007: 36).

Dannreuther (2013) asks:

What sort of role can the academic security analyst play? Is the subject a science or an art? Can one hope for objectivity or are the limitations of time, place and culture such as to make all judgement inevitable subjective and culturally limited? Should the security analyst be at the service of those who wield power or is it their proper role to be a tireless critic of the powerful and a defender of the marginalised and the powerless?

At the heart of transformation is the pertinence of transforming culture of the security actors where national and regional context must influence transformation (Bryden & Olonisakin, 2010: 7). As such the transformation of intelligence governance in South Africa depends on transforming the culture of the intelligence services in South Africa and southern Africa.

Chapter 3 answered the research question through an executive practice to improve intelligence governance in South Africa: 2008 to 2022 chapter which argued that South Africa can transform the governance of its intelligence sector (both control and oversight) by transforming the internal strategic culture of the intelligence services through an intelligence culture that complies with the Constitution, political non-partisanship and law. This argument was confirmed by the interviewees who similarly argued that the culture of the intelligence services must comply with the law, political non-partisanship and constitutionalism.

Examples of these intelligence issues at the time of the Matthews Commission was an unconstitutional and party political intelligence culture with inadequate legal abilities and issues around secrecy and transparency (Matthews Report, 2008: 3–6). Interviewee 2 confirmed these problems with the culture of the intelligence services (2023b).

The Executive and government's silence in this regard further reveals a culture of tolerance of wrongfulness and secrecy (Memdutt, 2013). The sheer difficulty in confirming interviews through this research reinforces this culture of secrecy.

Reports must be delivered to the minister twice a year while the leadership of the intelligence services must build monitoring systems to gauge institutional culture and the impact of the civic education programme (Matthews Commission, 2008: 257–259). It appears that none of these recommendations of the Matthews Commission have been implemented.

Ultimately, the reports highlight that transforming the internal strategic culture of the intelligence services through an intelligence culture that complies with the Constitution, political non-partisanship and the law can aid South Africa in transforming the governance of its intelligence sector in practice. But the reports in fact reveal how challenging it is in practice to transform a culture of abuse into a positive culture. This revelation is tragically clear in how few of the recommendations of the relevant intelligence commissions and panels have ever been implemented.

The theoretical frameworks operationalise the theory of strategic culture. Where Snyder, Lantis and Gray's theories, among others, on strategic culture were considered.

The methodology explored the research question and answer. The normative answer to this research question has already been shown to be positive.

Chapter 5 (case study) applied the research question to a case study on the culture of the intelligence services with regard to decision-making during a national crisis in South Africa. Intelligence in South Africa seem to reveal a particular culture that has shielded decision-makers who are captured, loyal, mistrusting and unco-ordinated. This culture of decision-making does not challenge senior politicians or power because it has long-term aims of holding power, overlooks oversight and can be unaccountable. This intelligence culture is such a risk to national security that over the past ten years of state capture, the SSA can be seen to have become a weapon for regime change (van Nieuwkerk, 2022). The findings and recommendations of the Zondo Commission warrant prosecuting former and current members of the intelligence services but whether President Ramaphosa will implement these recommendations and in so doing contribute towards the transformation of intelligence governance in South Africa is yet to be seen. If his and the Executive's track record is the evidence to go by, this appears like a highly unlikely outcome.

This intelligence culture can similarly be found in the Report of the Expert Panel into the July 2021 Civil Unrest (van Nieuwkerk, 2022). The root of the problem of the culture of the intelligence services in this report can be understood by Interviewee 4's recommendation for a culture of co-ordinated exchange. Where the issue of co-ordination or the lack thereof lay at the heart of the failure of the intelligence services during the July 2021 civil unrest.

The vacuum with the JSCI under Jacob Zuma, Arthur Fraser and David Mahlobo shows a culture that ultimately derives from the philosophy of the ANC (van Nieuwkerk, 2022). It is a complex culture that places state security over human security, protects the 'Prince' over the people and is institutionalised through cadre deployment rather than good governance.

Intelligence culture is 'a set of explicit and implicit attitudes and behaviours related to intelligence which influence social perceptions' (Chiru, 2016: 503). This requires a novel way of building an intelligence culture. The social responsibility theory might be useful in helping to shape a sound intelligence culture (Chiru, 2016: 504). The South African intelligence services desperately require an intelligence culture made up of such intelligence mindsets that shape societal views. The novel way to achieve this starts with a culture of compliance and co-ordinated exchange.

A positive reputation must be encouraged as part of a good intelligence culture. The power of reputation pertaining to intelligence culture is evident in countries that experienced totalitarianism where intelligence services were a weapon of state repression and police. Whereas a sound intelligence culture should rather enhance public awareness of the intelligence services, with people feeling included in the intelligence sector (Chiru, 2016: 509).

The use of crowd-sourcing to help intelligence culture has been suggested. Working with NGOs and other intelligence stakeholders could help with this. Such knowledge-sharing could support the crowd-sourcing. But the culture and secrecy of the intelligence services would make it difficult to realise such a project (Chiru, 2016: 509–511). And based on the interview

with Interviewee 4 (2023d), this theory perhaps takes transparency too far and would make it challenging for the intelligence services to do their job.

There exists a limited connection between strategic culture and intelligence studies (Duyvesteyn, 2011: 522). Inadequate attention has been paid to the function of individuals and states in gathering intelligence where insufficient cultural views have been experienced (Duyvesteyn, 2011: 522). These limitations can be seen in the preparation for war through the relationship between culture and intelligence (Duyvesteyn, 2011: 523). This limited connection between strategic culture and intelligence studies has been evident when researching the transformation of intelligence governance in South Africa.

The methodology of the intelligence process must be compared by culture where the process is made up of the relationship between cultural preconceptions and intelligence. Insufficient research has looked into this assertion although there are indications that culture plays a part. Intelligence culture contributes to intelligence failures (Duyvesteyn, 2011: 524). Therefore, with regard to the role that culture played in the failure of the intelligence services to prevent the July 2021 civil unrest in South Africa, the methodology of the intelligence process must be compared by culture. This might shine a light on why the culture of co-ordinated exchange was absent during this time of national crisis in the country.

Intelligence organisational priorities is structured by culture through showing ‘who they are and what is possible, and thereby suggesting what they should do’ (Duyvesteyn, 2011: 525). These priorities can be seen to come from culture (Duyvesteyn, 2011: 526). Here Interviewee 5’s (2023e) point about the importance of interpreting culture through the relevant strategic documents of the intelligence services and the capacity of the intelligence services is instructive but also highlights the limitation for research over access in this regard.

Some cultures are prone to weaknesses. For example, ‘integrative cultures’ are vulnerable to group think while ‘disintegrative cultures’ can be sparked by differences in positionality and influence (Duyvesteyn, 2011: 527). Cultural positionality in intelligence services are a factor here (Duyvesteyn, 2011: 528). A cultural weakness of the intelligence services in South Africa is that because of its group-think that stems from the philosophy of the ANC, the intelligence services are beset by an integrative culture where the cultural positionality functions as an extension of the governing party’s policy of cadre deployment.

An inward-looking culture and tendency to set the agenda exists, which intelligence services must step around carefully. Therefore culture and intelligence can support each other. In such a way that culture shapes the sharing of intelligence and sharing shapes culture (Duyvesteyn, 2011: 528–529). This culture of agenda-setting can be seen, for example, by Interviewee 2’s observation of the disconnect between decision-making between the president, the Executive, the intelligence services and the commission in the case of the Matthews Commission.

The intelligence services must be viewed historically to help build culture. Tragic events in a country can have shaped an intelligence culture (Rietjens, 2019: 204). The transition from a totalitarian apartheid intelligence sector to a democratic post-apartheid intelligence sector saw an initial transformation from a culture of control, efficiency and secrecy to a culture of oversight and transparency in the intelligence services in South Africa. However, tragically, the more the culture of the intelligence services has reverted from one of human security to one of state security, the more the culture of the post-apartheid intelligence sector seems to degenerate into a culture reminiscent of that of the apartheid intelligence sector. This is the

antithesis of the transformation of intelligence governance in South Africa and an intelligence culture of constitutionalism, the rule of law and non-partisanship.

The theme of trust makes it difficult to remove culture from politics. This demands that we move from researching culture without bias to understanding culture socio-politically. Here the impact of secrecy in determining whether national security is more important than liberal democracy can be considered. Working with cultural mistrust requires less irrelevant secrecy and a ‘cultural turn’ to achieve this (Willmetts, 2019: 807–808). The research argues that Willmetts may have created a false dichotomy by comparing the secrecy behind national security with liberal democracy. For an intelligence culture moulded by constitutionalism, the rule of law and non-partisanship as should normatively be the case with the intelligence services in South Africa requires both of these values.

The connection between intelligence and culture has not been adequately studied. This linkage can be understood with regards to the ‘culture of intelligence’, ‘intelligence and culture’ and ‘intelligence in culture’ (Yelamos, Goodman & Stout, 2022: 475). The role of culture in the transformation of intelligence governance with the intelligence services in South Africa can be engaged with through a combination of these terms where the research more generally refers to this relationship between intelligence and culture as intelligence culture.

Intelligence culture resembles a country’s culture and reflects ‘inputs’ and ‘outputs’ of how people build culture. These inputs shape cultural outputs through a process that is similar to national cultures. This culture is always developing and can be derived from the top or bottom (Yelamos, Goodman & Stout, 2022: 475–476). While the research agrees that the intelligence culture in South Africa resembles the country’s culture, it disagrees with Yelamos, Goodman and Stout that this culture can come from the top or bottom. With regard to the transformation of intelligence governance in South Africa, Interviewee 2 (2023b) made it clear that if the President wants something to happen, that it could happen, but that if he does not want something to happen, it will not happen. Therefore, the transformation of culture in the intelligence sector is likely to happen only from the top down.

Intelligence services experience external cultures. As such, it is important to understand the culture of targets. As a certain country’s culture might not go down well. Intelligence can mould external cultures (Yelamos, Goodman & Stout, 2022: 476–477). This is another reason why Interviewee 4’s (2023 d) reference to the importance of a culture of co-ordinated exchange remains so important in transforming the intelligence service’s relationship with external cultures in South Africa.

Intelligence can be shared in social culture (Yelamos, Goodman & Stout, 2022: 478). Many of the interviewees have contributions on intelligence that have been shared in social culture. And their literature contributes to the development of an intelligence culture in the country.

It is important to coordinate covert action, particularly given the country’s political culture (Cormac et al, 2016: 19). This is yet another reminder of the importance of having a culture of co-ordination exchange with the intelligence sector in South Africa.

Nykänen and Teirilä’s research on intelligence culture and imperative of educating the intelligence services remains instructive (2016: 291–292). To this end, many of the interviewees, commissions and panels advocated for transformation of the culture of the intelligence academy in the intelligence sector in South Africa.

7.6 Value of conceptual and theoretical model

The recommendation of a culture grounded in PHILINT would contribute to improving the sector.

It is critically important to reflect on whether the conceptual and theoretical model constructed was valuable and if so, how, and if not, why. South Africa must move towards the transformation of intelligence governance. The governance of the intelligence sector must be transformed through control and oversight to achieve the most appropriate balance between efficiency and transparency for the country.

This dissertation argued that the answer to the research question posed was to transform the intelligence culture of the intelligence sector. This concept of an intelligence culture is familiar in the literature and there are many other factors that contribute to the transformation of intelligence governance in South Africa, as is made clear in the findings set out in this discussion chapter.

The recommendations on intelligence culture add value to the conceptual and theoretical model. Because changing the culture of impunity, changing the internal strategic culture of the intelligence services, changing mindsets, growing a culture through strictness and compliance, developing a culture of co-ordination exchange, sustaining a culture of decision-making and needing a culture of rigorous implementation are innovative contributions to knowledge as derived from primary source interviews, they clarify the value of intelligence culture towards the transformation of intelligence governance in South Africa and provide a blueprint for what PHILINT culture could look like in the country.

This blueprint is hugely important. For while this PhD dissertation showed that South Africa has not transformed the governance of its intelligence sector (control and oversight) to achieve the most appropriate balance of efficiency and transparency for the country, it showed that the country could do so by transforming the intelligence culture of its intelligence sector. Transforming the intelligence culture of the intelligence sector means transforming the PHILINT culture in South Africa.

This is not to say that a PHILINT culture does not already exist in the intelligence sector in South Africa. But it is to say that if it does exist, that it has not led to the transformation of the governance of the intelligence sector (control and oversight) and in turn has not achieved the most appropriate balance of efficiency and transparency for the country. The seven recommendations on intelligence culture proposed in this research paper seeks to remedy this problem and in so doing, contribute knowledge towards the transformation of intelligence governance in South Africa

It is argued that the transformation of intelligence culture could contribute to moving the country towards the transformation of intelligence governance. And that this conceptual model is grounded in a PHILINT culture as a theoretical model. For while the role of an intelligence culture in transforming intelligence governance may not be as prominent in other intelligence services around the world, in the context of Africa, and particularly the transformation of the intelligence services in post-apartheid South Africa, its prominence cannot be overstated.

Shaffer recently edited two books where this PhD's conceptual and theoretical model hopes to add value to in particular. The first is called 'African Intelligence Services: Early Postcolonial and Contemporary Challenges' (Shaffer, 2021: 1-350) and the title of the second is 'The Handbook of African Intelligence Cultures' (Shaffer, 2023: 1-832). The latter book on African intelligence cultures provides an unprecedented review of intelligence cultures in all countries in Africa (Shaffer, 2023: 1-832).

This research project finds inspiration in Shaffer's work and is aligned with and builds on their arguments in this thesis while locating them in a PHILINT culture conceptual and theoretical model. It is the hope of this dissertation that this, and the recommendations on intelligence culture in particular, will contribute towards new knowledge about the role of intelligence culture in transforming intelligence governance in South Africa.

While Gaspard & Pili spoke of a PHILINT, this PhD dissertation expanded on this conceptual and theoretical model by focussing on a PHILINT culture. This conceptual and theoretical model is new knowledge and an opportunity for further research to build on the alignment of PHILINT and culture as proposed in this research project. The recommendations on intelligence culture are an example of what this could look like if implemented in practice.

7.7 Conclusion

Chapter 7 discussed the findings from the interviews. The discussion chapter was similarly a consolidation of the research in the literature review (theory and concepts), executive practice to improve intelligence governance in South Africa: 2008 to 2022, methodology and case study chapters. The analysis sought to reconcile these chapters with the data collected in the findings chapter.

Has South Africa transformed the governance of its intelligence sector (both control and oversight) to achieve the most appropriate balance of efficiency and transparency for the country? The short and direct answer to the research question is 'no'. South Africa has not transformed the governance of its intelligence sector (control and oversight) to achieve the most appropriate balance of efficiency and transparency for the country.

In answering the research question, the answers were structured around the interviewees on culture, theory and concepts on culture, practice on culture, methodology on culture, case study on culture and the value of the conceptual and theoretical model. However, if the research reverts to its previous normative structure, this PhD found that South Africa can transform the governance of its intelligence sector (control and oversight) to achieve the most appropriate balance of efficiency by transforming the culture of its intelligence sector.

The next and final chapter will present key findings and recommendations stemming from the research. If implemented effectively, these findings and recommendations can contribute towards the transformation of intelligence governance in South Africa.

8. Conclusion

8.1 Introduction

This chapter functions as a means of understanding and a statement of lessons learned from the problem identified in this dissertation. In order to understand and learn from the problem of transforming intelligence governance in South Africa, the research question was asked: Has South Africa transformed the governance of its intelligence sector (control and oversight) to achieve the most appropriate balance of efficiency and transparency for the country?

Intelligence governance has not been transformed in South Africa. To bring about this transformation, the intelligence culture of the intelligence services must ultimately be transformed.

This problem and question were tested through the five semi-structured interviews. Read with the literature review (theory), executive practice to improve intelligence governance in South Africa: 2008 to 2022 chapter, methodology and case study, they have ultimately shaped the recommendations contained in this chapter. The essence of these findings per question are captured.

The conclusion is the outcome of the findings and discussion from the interviews. It seeks to reconcile the rest of the chapters with the data collected in the findings and discussion chapters and arrive at a set of useful recommendations.

These recommendations are about culture, intelligence governance, transformation, transparency and crises. Together they contribute to our understanding of the transformation of intelligence governance in South Africa.

8.2 Findings

This section was framed with the research question and sub-questions in mind. The literature, historical context and background, the recommendations of all the panels and commissions (what was done and not done) as well as the opinions and views of the interviewees were integrated in chapter 7. It was a holistic assessment where the interviewees views were an element but not the whole.

The findings here are grouped or divided into sub-sections on balancing intelligence governance transformation, lessons from commissions and panels, transforming intelligence culture, transforming intelligence culture of crisis decision-making and the 2021 July insurrection as an intelligence culture turning point.

8.2.1 Balancing intelligence governance transformation

Most of the commissions have had very similar findings (Interviewee 1, 2023a: 2–3). By then, the national security philosophy had transformed into state security (Interviewee 1, 2023a: 3). Here, the most helpful commission recommendations stem from the HLRP report (Interviewee 1, 2023a: 3–4).

The appropriate research question was argued to be to question whether there has been transformation, whether it has been characterised by clear measures and, if the intelligence

service has not been transformed, why is this so and what is the impact of this (Interviewee 2, 2023b: 1–2). Effectiveness means to complete the mandate which is to find threats, analyse them and issue useful warnings for the Executive (Interviewee 2, 2023b: 4). But the intelligence service will never share all the threats they identified (Interviewee 2, 2023b: 4).

Post-1994, there appeared to be a loyalty to the Constitution and serving the state in the field of ‘human security’. There was similarly a legitimate commitment to the transformation of the intelligence services in the democratic South Africa. But from 2009 onwards, this ideal was replaced with the idea of state security and the harming of the intelligence services along individual and factional lines (Interviewee 3, 2023c: 4–5).

Reputable oversight bodies were created for the South African intelligence services in South Africa post-apartheid, where lessons were applied from other states. The operations of the services must be effective in averting risks to safety and security; but the more controls one puts in place, the more difficult it is to operate effectively (Interviewee 4, 2023d: 4–5). The operational policies and prescripts that were first put in place by the NIA appear not to have changed, but if they were adhered to is another issue, which is why consequence management remains more of a cause for concern than the oversight, controls and policies (Interviewee 4, 2023d: 5).

It is important to be aware of the context, but South Africa cannot afford the snail’s pace of growth that has influenced the transformation of governance and institutions since 1994. Although the basis of what was created post-apartheid in South Africa is still valid, the country’s national and international interests require inclusivity, responsiveness and accountability in its root values and governance structures (Interviewee 5, 2023e: 2).

8.2.2. Lessons from commissions and panels

The following lessons can be drawn from the findings of commissions and panels, according to the interviewees.

Intelligence has been damaged by the ANC’s lust for power and its need to influence factions instead of prioritising national intelligence. This led to a degradation of the intelligence services, which makes oversight difficult (Interviewee 1, 2023a: 4–5).

With the Constitution and the law as the benchmark, South Africa has not transformed the intelligence services adequately and arguably will not transform them in the future (Interviewee 2, 2023b: 5). This is largely because they are too secretive and the JSCI does not do what it’s meant to do while fearing the intelligence services and not having the courage to exercise oversight because of party politics. Mostly since Zuma, the presidents have ‘prized loyalty to the Prince above loyalty to the Constitution’, which has caused the intelligence services to degenerate through their involvement in ANC factionalism and corruption, a situation that has worsened in the agency (Interviewee 2, 2023b: 5).

The HLRP agreed with a great deal of the Matthews Commission report and found an extensive erosion of the actors needed to perform oversight and control (Interviewee 3, 2023c: 6–7). Oversight, control and transparency were undermined by moving the SSA into the Presidency, which created a ‘super presidency’ (Interviewee 3, 2023c: 7). An important section of the unredacted report the HLRP Chair spoke about before the Zondo Commission pertained to the

people at the SSA who spoke of the matter of the transformation of the culture of state security (Interviewee 3, 2023c: 7).

The Matthews Commission went too far in the realm of transparency because the intelligence services should be allowed not to be transparent as that would permit them to perform their function (Interviewee 4, 2023d: 7). The services could be more transparent if they do not affect the operations which have been approached differently by various intelligence services. Transparency was not too prominent of an issue for the HLRP as they were investigating ‘what went wrong in the SSA’ more than oversight. This included the amalgamation of the NIA and SASS, factional political interference in the interests of the President over South Africa’s and the violations of rules, regulations and laws (Interviewee 4, 2023d: 9–10).

The Matthews Commission report shows that when there is no alignment between the Executive and the JSCI, then that report becomes purely academic (Interviewee 5, 2023e: 2–3). The JSCI has not lived up to its mandate and failed in overseeing the intelligence services, a point which arose up during the Zondo Commission (Interviewee 5, 2023e: 3). The HLRP report similarly identified that many recommendations of previous reports had not been implemented (Interviewee 5, 2023e: 3). During the past 20 years, the state’s capacity to gather and analyse intelligence and honour its mandate weakened, so that even if President Ramaphosa and the JSCI had wanted transformation, the bodies needed to implement this transformation were unable to do so (Interviewee 5, 2023e: 4). The lack of alignment between the Executive and the security ministers also helps to explain why the July 2021 unrest was not mitigated (Interviewee 5, 2023e: 4). The state’s invisible response to the Zondo report has left the country with not much public confidence in transformation; and the result is so enormous that the country does not seem to know where to start to react to it (Interviewee 5, 2023e: 4).

8.2.3 Transforming intelligence culture

The comments of the interviewees on the matter of transforming the intelligence culture are set out below.

It is difficult for those on the inside to change their mindsets. The intelligence academy has developed a draft which looks at how the system and mindsets can change. Changing the ‘culture of impunity’ is not easy (Interviewee 1, 2023a: 5–6).

Former Intelligence Minister, Ronnie Kasrils, tried to change the political culture with a civic education initiative and by firing Billy Masetlha (Interviewee 2, 2023b: 7). But ‘if the Minister and President, meaning the highest decision-makers in that sphere, want it to happen it may not but it may happen ... If they don’t want it to happen, it will not happen’ (Interviewee 2, 2023b: 7).

When you transform the mindset of a civil servant into a factionalised one in the governing party, you transform the culture (Interviewee 3, 2023c: 8–9), which is why ‘... you need a commitment to a democratic institutional culture, an enabling institutional culture that allows the members of the service ... to bring in fresh ideas’ (2023c: 9). Most reports before the HLRP show the change in and the degradation of a ‘toxic institutional culture’ in and a weakening of the role of the service (Interviewee 3, 2023c: 9–10).

This means that a culture is built by there being compliance and strictness and consequences for a breach of controls, laws and practice; it cannot be developed simply through ongoing

talks. This notion must run through the services and up to the oversight mechanisms, minister and President (Interviewee 4, 2023: 11). These controls must allow the intelligence services to perform their work, but the services must then spy while respecting controls (Interviewee 4, 2023d: 12). The ANC is the governing party and the role of the intelligence services is to work for the government and not the party (Interviewee 4, 2023d: 13).

‘In theory, any institution can change its internal strategic culture’ (Interviewee 5, 2023e: 5). Whether this can be complied with in practice is another matter. The intelligence community, service heads and the Executive are important in ensuring that the services are compliant with these values (Interviewee 5, 2023e: 5).

8.2.4 Transforming intelligence culture of crisis decision-making

The views of the interviewees on this matter are shared in the paragraphs that follow.

‘Working in silos’ is an issue, specifically in the case of the combined intelligence apparatus. An example of this was the problem with the ministers of Intelligence and Police (Interviewee 1, 2023a: 6).

The services are too embroiled in party politics and they were incapable of conducting strategic analyses (Interviewee 2, 2023b: 8–9). The NIA said the police could not perform tactical intelligence, that they were not trained in strategic analysis and that that is not expected of them (Interviewee 2, 2023b: 9–10).

It is important to be aware of how a crisis can be presented and securitised. While the state can want to solve a problem such as this through security, the crisis will change only when people’s attitudes change. The growing use of the intelligence services indicates the deepening of the crisis (Interviewee 3, 2023c: 12–14).

Many problems are not only cultural but widespread in the intelligence services and government. These include the problem of a lack of co-ordination within the services because of their competition for the attention of the President or the government. Most intelligence services experience similar problems to do with co-ordination, interpretation and capacity. This can be more practical than cultural, where co-ordination is arguably the greatest issue that intelligence services experience. But it can still be argued to be a part of a culture, where a culture of co-ordination exchange must be fostered, with there being appropriate consequences for not doing so (Interviewee 4, 2023d: 15).

‘The problem is that the culture of decision-making might be such that it’s not sustained’ (Interviewee 5, 2023c: p. 6) and the structures are not designed to be ‘self-sustaining and perpetuating’ (Interviewee 5, 2023c: 7). This must be solved because of the range of crises that occur (Interviewee 5, 2023c: 7).

8.2.5 2021 July insurrection an intelligence culture turning point

The interviewees shared their insights into the July insurrection and its influence on the intelligence culture.

Although the meetings remain closed and the agenda is top secret, the JSCI has apparently become more open. This has purportedly changed the committee's relationship with the intelligence services (Interviewee 1, 2023a: 7–9).

The chain of events after the Inspector-General caught Billy Masetlha spying unlawfully on Members of Parliament and others and Kasrils' response to fire Masetlha and create the Matthews Commission created the potential for a turning point (Interviewee 2, 2023b: 10). This can be likened to the Zondo Commission as a potential turning point. And it ultimately comes down to President Ramaphosa and the extent to which he will implement the recommendations (Interviewee 2, 2023b: 11).

In contrast, as opposed to thinking in terms of turning points, it can be understood as 'a deepening of crisis' (Interviewee 3, 2023c: 15–17). To which assertion this interviewee added: 'It was a marker of the extent to which even when you change the political head, there's something about the ... body ... that now is so embroiled in crisis that it didn't matter how many ministers were there. It was not likely to change' (Interviewee 3, 2023c: 17).

According to another interviewee, the main turning point was the move from apartheid to democracy (Interviewee 4, 2023: 16). But rather than identifying turning points, this interviewee asserts, one should ask what became of those turning points (Interviewee 4, 2023d: 16–17). The HLRP had recommendations made but they were not implemented, which outcome can be seen with the other commissions too. This can be interpreted as 'the culture of rigorous implementation' (Interviewee 4, 2023d: 19).

If we talk about the moment of the July unrest as opposed to the nature of the moment, it could have been a turning point and affected transformation (Interviewee 5, 2023e: 7). It is important to know what the intelligence services must do in response to these moments, which have been argued to require reflection on the response and morals of the intelligence services. If the national interest comes first, then the July unrest and moments where the country was at breaking point might not have been as violent. Putting more systems in place is necessary and as a result control, oversight, transparency and accountability can improve and be applied more effectively in the country (Interviewee 5, 2023e: 8).

8.3 Recommendations

Based on the findings of this study and the related conclusions, I am able to offer the following comprehensive set of recommendations about a number of aspects of the culture of the intelligence services, intelligence governance, transformation, transparency and the ways in which crises must be responded to.

It should be noted that the recommendations are principled but aspirational. They require strong political will and leadership to be cultivated or sustained in South Africa's volatile political environment. This potentially suggests a challenge that President Ramaphosa has had in failing to implement the recommendations.

8.3.1 Recommendations about culture

Wrongfulness cannot continue unpunished and, for this reason, the culture of impunity in the country must change. This will be no small feat as the rot is deep-rooted. The heart of the transformation of intelligence governance hinges on changing the internal strategic culture of

the services, which is not only possible, but is also ultimately necessary to achieve this transformation. A change in mindset can lead to a change in culture. This change will need both to come from the top down and in the form of the content taught by the intelligence academy itself. But the culture must be grown through being strict and compliant. Rules must be obeyed and there must be consequences for breaking the law. The development of a culture of co-ordination exchange is imperative. The services simply cannot continue to work in silos and be expected to transform their governance. A decision-making culture must be sustained and, again, this ultimately must come from the top. While South Africa needs a culture of rigorous implementation, comprehensive commissions add little value if their recommendations are not implemented by the Executive and the intelligence services.

8.3.1.1 The culture of impunity must change in South Africa

It is important to transform the culture of the security actors, where national and regional history and positionality must bring about change (Bryden & Olonisakin, 2010: 7). Some of these intelligence issues have included a politicised and unconstitutional intelligence culture with inadequate legal skills and where there are problems with secrecy and transparency (Matthews Report, 2008: 3–6). These problems led to the recommendation that the intelligence services leadership should develop monitoring systems to gauge the impact of the institutional culture, including having twice-yearly reports sent to the minister (Matthews Commission, 2008: 257–259).

Intelligence in South Africa operates within a culture that has shielded leaders. This culture has future aspirations of having power, does not contribute oversight and considers the service to be above the rules. Furthermore, this intelligence culture enabled the SSA to become a yardstick for regime change. The culture under Jacob Zuma, Arthur Fraser and David Mahlobo derives from the philosophy of the governing party (van Nieuwkerk, 2022) where factions of the ANC seem to think that it is not a problem to violate the Constitution and the law. This is considered to be a tragic part of the culture of the intelligence services (Interviewee 2, 2023b: 5–6). The people at the SSA spoke of ‘culture’ where there are institutions but there is seen to be no accountability when people are at risk (Interviewee 3, 2023c: 7).

Intelligence issues raised during the Matthews Commission included an unconstitutional and politicised intelligence culture, insufficient legal competencies, and secrecy and transparency concerns (Matthews Report, 2008: 3–6). Interviewee 2 stressed these issues in connection with the intelligence services culture. In fact, the challenges experienced in securing interviews drove home this culture of secrecy.

The transition from the apartheid to democratic intelligence services saw a change from a culture of secrecy, efficiency and control to one of transparency and oversight. But the more the intelligence services culture has regressed from human security to state security, the more the democratic intelligence sector culture appears to have regressed.

Transforming the ‘culture of impunity’ is no small feat (Interviewee 1, 2023a: 5–6). Former Minister of Intelligence, Ronnie Kasrils, tried to change the political culture through a civic education plan and by firing Billy Masetlha (Interviewee 2, 2023b: 7); however, when you factionalise the thinking of an ANC employee, you transform the culture (Interviewee 3, 2023c: 8–9). Therefore, Interviewee 3 said:

... you need a commitment to a democratic institutional culture, an enabling institutional culture that allows the members of the service ... to bring in fresh ideas (2023c: 9).

8.3.1.2 Any institution can change its internal strategic culture

Recalling ‘strategic culture’ shows that officials work from a particular reference point, standards or opinions moulded by powerful elites (Snyder, 1977: v). In this regard, Snyder’s paper continues to be instructive:

A set of general beliefs, attitudes and behavioural patterns with regard to nuclear strategy has achieved a state of semipermanence that places them on the level of ‘culture’ rather than mere ‘policy’ (1977: v).

Lantis elaborates on Snyder’s work as follows:

Other important elements of strategic culture ... include the context associated with perceived security threats and technological development; strong cognitive content associated with attitudes and beliefs; historical legacies; and beliefs about the role of the military and concerned institutions in the policy-making process (2002: 94).

And Gray takes the position that

American strategic culture provides the milieu within which strategic ideas and defense policy decisions are debated and decided (1981: 22).

Strategic culture has only begun to be linked to intelligence studies. Duyvesteyn asserts that the methodology of the intelligence process can be understood through culture (2011: 522–524). Moreover, the priorities of intelligence organisations are shaped by culture through their identifying ‘who they are and what is possible, and thereby suggesting what they should do’ (Duyvesteyn, 2011: 525).

But there remains a gap in the research between intelligence and culture. One view is that an intelligence culture originates from a nation’s culture and reflects ‘inputs’ and ‘outputs’ from how people develop their culture (Yelamos, Goodman & Stout, 2022: 475–477).

Another view is that culture is built through consequences of breaking the rules (Interviewee 4, 2023d: 11) and ‘in theory, any institution can change its internal strategic culture’ (Interviewee 5, 2023e: 5). But while the intelligence academy developed information which explores the ways in which mindsets can be transformed, actually changing the ‘culture of impunity’ is difficult (Interviewee 1, 2023a: 5–6).

8.3.1.3 A change in mindset leads to a change in culture

Intelligence culture was framed as ‘a set of explicit and implicit attitudes and behaviours related to intelligence which influence social perceptions’ (Chiru, 2016: 503). These behaviours are derived from a good reputation but are evident in states where the intelligence services were used for repression and in state police. However, a sound intelligence culture can and should ensure more public awareness of the intelligence services (Chiru, 2016: 509).

Nevertheless, cultures can be prone to weaknesses. For one thing, ‘integrative cultures’ are affected by group-think and ‘disintegrative cultures’ can be sparked by different views about

spheres of influence (Duyvesteyn, 2011: 527). Here, distinguishing culture from politics is unhelpful and demands that we change from unbiased research on culture to considering culture as being part of socio-politics (Willmetts, 2019: 807–808).

Duyvesteyn's argument that cultures can be at risk of some weaknesses makes sense of some of the issues that are central to ANC factionalism. What Duyvesteyn refers to as 'integrative cultures' are affected by group-think or, when applied, by the thinking of the ANC as a group (2011: 528).

What this effectively means is that transforming the mindset of a civil servant to one of ANC factionalism transforms the culture. It is for this reason that the HLRP recommended reviving the Intelligence Academy because of insufficient new intelligence recruits, such as young graduates from the universities across South Africa (Interviewee 3, 2023c: 8–9).

8.3.1.4 Culture must be grown through being strict and compliant

A considerable number of reports prior to the HLRP reports emphasised the existence of a 'toxic institutional culture' (Interviewee 3, 2023c: 9–10); where culture is an alignment of factors that converge in due course to create a culture. In this regard, interviewee 4 notes:

One of the things that creates a better culture in intelligence or anywhere for that matter are the very controls and oversight that we've been talking about. So if you have good policies, operational procedures, legislation in place, and nothing happens when they are breached, then you are creating ... a counterculture or at least a culture counter to the one that you are referring to (2023d: 10–11).

While it seems likely that matters may worsen in the short term, we must inculcate dedication to 'structural institutional change' (Interviewee 3, 2023c: 9–10) and a culture that must be developed through strictness and compliance (Interviewee 4, 2023d: 11).

8.3.1.5 Intelligence services must develop a culture of co-ordination exchange

Fägersten notes that trust is built over time and is key to intelligence co-operation; moreover, this often precedes more formal processes (2015: 11). The reports considered in this study show how difficult it is in reality to transform an abusive culture into a positive one. An abusive culture is a complicated one that prioritises state security over human security, cares for the 'Prince' over the people and is set in stone through cadre deployment as opposed to good governance. This is another reason why the intelligence services in South Africa must embrace an intelligence culture which comprises mindsets that influence the opinions of society. Developing a culture of compliance and co-ordinated exchange is where this could start.

Culture arguably contributed to the failure of the intelligence services to put a stop to the July 2021 civil unrest in the country. The culture of co-ordinated exchange was not present during this time of national crisis in South Africa. The importance of interpreting culture through strategic information and capacity from the intelligence services is interesting but reveals the constraints on research about access. Intelligence culture issues can be more pragmatic than cultural (Interviewee 4, 2023d: 15), which could be considered as part of culture, as a culture of co-ordination exchange must be shaped (Interviewee 4, 2023d: 15). For this reason, culture is built through consequences for a breach of controls, laws and practices (Interviewee 4, 2023d: 11). And a culture of co-ordination exchange must be developed with similar

consequences for not co-ordinating or exchanging (Interviewee 4, 2023d: 15). And as explained by interviewee 4, co-ordination issues can be more practical than cultural:

Co-ordination is a very practical issue. And it's very difficult around the world to set up co-ordinating mechanisms within intelligence that are fully effective. Because natural competition between services, reluctance to share, just for security reasons because you lose control. You don't know whether your intelligence will get leaked once it's out of your hands. There's a whole range of factors which affect co-ordination. But it's probably the biggest challenge that intelligence services failed in their major intelligence failures (Interviewee 4, 2023d: 15).

8.3.1.6 Culture of decision-making must be sustained

My research disagrees with Yelamos, Goodman and Stout that an intelligence culture can come from either the bottom or the top. If the president wants something to happen, it might, but if they do not want it to happen, it will not. The transformation of culture in the intelligence services will therefore happen only from the top down.

Moreover, the culture of unaccountability must change to one of accountability. This requires that the HLRP recommendations to re-create this structure be implemented. In effect, this means that a sustainable culture of decision-making requires the leadership of the intelligence services to be capable, neutral and respectful of the Constitution and the rule of law.

Because of the group-think within the ANC, the intelligence services are plagued with an integrative culture that is influenced by the ANC's policy of cadre deployment. And a culture of agenda-setting revealed an inconsistency in decision-making between all the actors involved in the Matthews Commission. 'The problem is that the culture of decision-making might be that it's not sustained' (Interviewee 5, 2023e: 6), so there should be a part of the government that is always available and these structures must be 'self-sustaining and perpetuating' (Interviewee 5, 2023e: p. 7).

8.3.1.7 South Africa needs a culture of rigorous implementation

Interviewee 4 (2023d: 18) explains the need for 'the culture of rigorous implementation' as follows:

There's not the energy and the drive to carry things through to their final implementation. You have changes in leadership at the political or administrative level ... resistance to some of the proposed changes or steps that are in these commission recommendations (2023d: 19).

8.3.2 Recommendations about intelligence governance

Effective intelligence services are critical, and an agency that successfully mitigates threats to national security is vital. These intelligence services must also have a certain amount of operational licence: their job is to spy, so they must be allowed to do that. They must also respect the Constitution and the rule of law. No-one is above the law, not even the intelligence services. The Minister of State Security in South Africa simply must be accountable outside of the Presidency, otherwise oversight of the intelligence services will remain an ideal. And sufficient capacity is needed by commissions to ensure the implementation of their recommendations. They are worth investing in. What the minister and president want to happen may happen. This is why transformation ultimately must originate from the top down. Moreover, it is important for the intelligence services to be conducting strategic-level analyses,

but this will require enhanced training and a change in culture of the services. In addition, the president must act on recommendations: it would be the greatest failure to the people of South Africa if the recommendations of the Matthews Commission, the HLRP on Intelligence and the Expert Panel on the 2021 July unrest were not to be implemented.

8.3.2.1 Intelligence services must be effective

So what is meant in the literature by effectiveness is [being] able to fulfil its mission, which is to identify threats and to be able to analyse those threats and make prescient warnings for the executive (Interviewee 2, 2023b: 4).

It is therefore contested that ‘from the perspective of the literature, it’s effective in relation to its mission ...’ (Interviewee 2, 2023b: 4).

8.3.2.2 Intelligence services must have a certain amount of operational licence

It has been theorised further that ministers must not over-participate in the daily management, as their doing so impedes their control and oversight (Born & Leigh, 2007: 199). For this reason, for the intelligence services to be operationally effective in neutralising threats, ‘they need to have a certain amount of operational licence’ (Interviewee 4, 2023d: 4), because more controls means an increase in the difficulty of operating effectively (Interviewee 4, 2023d: 4–5). By the same token, by 2021 it was argued that the JSCI similarly was not effective (Interviewee 5, 2023e: 4). However, it has been argued that the intelligence services have been more than effective in responding to simple protests (Interviewee 3, 2023c: 12).

Operational policies and prescripts have previously been developed to co-ordinate operations. This, it is averred, was an attempt to re-establish operational controls (Interviewee 4, 2023d: 5); however, ‘it’s very difficult around the world to set up co-ordinating mechanisms within intelligence that are fully effective’ (Interviewee 4, 2023d: 15). And while the NIA’s and the SSA’s operational policies were arguably sufficient, they were not complied with (Interviewee 4, 2023d: 11).

8.3.2.3 Intelligence services must respect the Constitution and the law

Constitutions attempt to encompass the spirit of a country, which has to be defended by national security. They similarly embody national aims from a key time historically, such as the transition to a democratic South Africa. In this way, important rights are protected, notably those against the state, and a constitutional court has the power of review when protected rights are infringed (Leigh, 2003: 116). This effectively means that the legislature’s approval of the powers, role and development of the intelligence services should ensure that the rule of law, in line with the constitution, is adhered to (Leigh, 2003: 118–119).

Judicial control is important because the job of the intelligence services needs to be overseen by the law so as to guarantee implementation, protection and transparency. Judicial control therefore must resist excessive government secrecy by applying the law to oversee the intelligence services (DCAF Intelligence Working Group, 2003: 53). In this regard, the ideal is that:

the intelligence services are a part of a Constitutional democracy or always see themselves as accountable and that there is no need to change the overarching architecture which is for a service or services which are governed by laws, which are overseen by multi-party institutions

which respond to national priorities and which are therefore accountable as national assets (Interviewee 5, 2023e: 5).

The problem here is that successive presidents, especially since Zuma, ‘prized loyalty to the Prince above loyalty to the Constitution’; here the prince is to some extent the president, in part the party and to a degree the dominant faction in the governing party (Interviewee 2, 2023b: 6).

8.3.2.4 South Africa needs of Minister of State Security who must be accountable outside of the Presidency

Policy co-ordination has been measured according to a scale comprising nine levels. Two of these levels include the ‘interministerial search for agreement (seeking consensus) ... (and) arbitration of interministerial differences’ (Metcalf, 1994: 282–284). This is another reason why a non-partisan and politically neutral ‘open-door policy’ can allow the head of the intelligence services access to the president to express political issues (Born & Leigh, 2007: 201–202).

The HLRP viewed political interference not merely as an illegal instruction given by a minister but the participation of ministers in operations where connections were found and run (Interviewee 4, 2023d: 13). It was further clarified that ‘a Minister has the right and the responsibility to determine policy or to take policy from the political level to the operational level’ (Interviewee 4, 2023d: 13).

Compliance and strictness need to be a part of the culture of the intelligence services, oversight bodies, the responsible minister and the president (Interviewee 4, 2023d: 11), an assertion elaborated upon below:

But in between that, from the President to the responsible Minister, or just from circumstances that arise, new priorities will emerge. Now your Minister has the right and the responsibility to determine policy or to take policy from the political level to the operational level (Interviewee 4, 2023d: 13).

Measuring an intelligence culture depends on several factors: the news, the minister’s budget vote speeches and facts about the intelligence services and institutions. However, strategic documents should indicate what is delivered through the minister’s annual budget vote speech (Interviewee 5, 2023e: 5).

8.3.2.5 Commissions require good capacity for implementation

The Matthews report revealed that a serious lack of respect for constitutionalism exists in the intelligence services (Memdutt, 2013). Breaches cited included ministerial control over the sending of intelligence to the minister and the president (Matthews Commission, 2008: 103–259). This flies in the face of the fact that the intelligence services’ operational policies must be aligned with the Constitution and legislation; for this reason, it is important for operational directives and ministerial regulations to enhance the controls over intrusive operations (Matthews Commission, 2008: 217–218).

This renders it crucial that intelligence officer training ought to include the inculcation of insights into the appropriate legislation and the Constitution (HLRP, 2018: 8–9). One reason for this is that intelligence decision-makers must improve their levels of legal compliance and

advice. Another is that the intelligence legislation must render political partisanship in the work of the intelligence services illegal (Matthews Commission, 2008: 103–259). These reasons contribute to why

[t]he Panel recommends that the President instructs the appropriate law enforcement bodies, oversight institutions and internal disciplinary bodies to investigate all manifest breaches of the law, regulations and other prescripts in the SSA as highlighted by this report with a view to instituting, where appropriate, criminal and/or disciplinary prosecutions (HLRP, 2018: 3–4).

The Zondo Commission stated that ministers must not get in the way of intelligence operations (2022: 326). The commission also noted that law enforcement should look into whether those found to have done wrong in the Zondo report were in fact guilty of a crime (Zondo Commission, 2022: 376).

One way of facilitating this particular Zondo recommendation would be for the Intelligence Academy itself to enhance the intelligence procedures (Expert Panel, 2021: 109). In this regard, the Expert Panel found that

Dysfunctional relationships between ministers and their senior leadership teams in the departments in some cases impeded synergy in the flow of intelligence which affected decision-making (2021: 131).

On this particular point, one interviewee stated: ‘You’d have thought that there’d have been more urgency in implementation of some of those recommendations’ (Interviewee 5, 2023e: 3). This was echoed by the belief that ‘there’s not the energy and the drive to carry things through to their final implementation.’ (Interviewee 4, 2023d: 19). A lesson to be taken from this state of affairs is that

... commissions can actually put a lot of information out in the public domain but unless we have good capacity, and now it is the NPA that is being tested, it really just becomes in a sense academic because we always need to translate what we know into what we are able to do about it (Interviewee 5, 2023e: 4).

8.3.2.6 What the minister and president want to happen may happen

In the case of the July insurrection, there was an inconsistency between the president’s identification of the insurrection and the intelligence services consideration of whether it was an insurrection (Interviewee 5, 2023e: 7). This begs the questions: Where were the senior decision-makers? Why did the President not have a handle over the cabinet? Why could the Police Minister not find the National Police Commissioner? And why was a report not received from the Intelligence Minister? (van Nieuwkerk, 2022).

In his State of the Nation Address on 7 February 2019, President Cyril Ramaphosa spoke in favour of transformation by committing to

the re-establishment of the National Security Council chaired by the President in order to ensure better coordination of the intelligence and security related functions of the State as well as the re-establishment of two arms of our intelligence service one focusing on domestic and the other on foreign intelligence (Ramaphosa, 2019).

This underscores the importance of a Minister of State Security accounting externally to the Presidency (Interviewee 3, 2023c: 2). And as in the case of the Matthews report, if there is no alignment between the Executive (the Intelligence Minister) and the Legislature (the Joint Standing Committee on Intelligence), the report will simply not go anywhere (Interviewee 5, 2023e: 2–3).

Merging the foreign and domestic services weakened the intelligence services by subjecting them to management by the president (Interviewee 1, 2023a: 2–3), a kind of factional political involvement that enabled the president to place his interests above those of the country (Interviewee 4, 2023d: 9–10). Whether the president was Thabo Mbeki or Jacob Zuma, if they did not want something to happen, it would not, a sentiment echoed by one interviewee:

There is a bottom line lesson on research from security sector reform from throughout the world. Namely, if the Minister and President, meaning the highest decisionmakers in that sphere, want it to happen it may not but it may happen (Interviewee 2, 2023b: 7).

8.3.2.7 Intelligence services ought to be conducting strategic-level analyses

The National Intelligence Estimate is ‘a very high-level strategic review of the intelligence security situation in the country over the past year’ (Interviewee 4, 2023d: 7–8). But to deliver this, the intelligence services must be able to conduct strategic analysis, which, arguably, they were unable to carry out (Interviewee 2, 2023b: 8–9). Such an analysis should involve mitigating factors such as long-term threats, their socio-political origins and trends (Interviewee 2, 2023b: 10). The analysis that follows from this is this:

Ideally, and what I’m saying is consistent with the White Paper of ’94, the intelligence services ought to be doing strategic level analysis. Because we don’t have an external police focus. So that does complicate my argument a little bit but the argument nonetheless is that the intelligence services ought to be doing strategic level analysis (Interviewee 2, 2023b: 10).

8.3.2.8 What matters is the extent to which the president will act on recommendations

President Ramaphosa must implement the HLRP’s recommendations by making appropriate SSA selections, expediting internal discipline processes, choosing whether to split the agency in two and initiating the legislative steps, if needed (Expert Panel, 2021: 131–132). Furthermore, all National Intelligence Estimates should direct government department plans and for their part departments must be held legally accountable for their role in neutralising threats to national security (Expert Panel, 2021: 132).

The counsel over the advice of the government or the president can be contradictory (Interviewee 4, 2023d: 14). The level to which the president will implement recommendations is ultimately instructive of their attitude towards enhancing national security: ‘If the Executive does not want this to be a turning point, it’s not a turning point. It doesn’t matter what the Commission says’ (Interviewee 2, 2023b: 11).

8.3.3 Recommendations about transformation

The context of transformation in South Africa must be recognised. What this transformation may comprise continues to be up for debate but it nevertheless must be acknowledged. A democratic transformation of the post-colonial state is argued to be necessary in South Africa. But without a functional democracy, the country’s intelligence governance cannot be

transformed. Yet the Intelligence Academy must be transformed, a necessary step that goes to the heart of the need to transform the intelligence culture of intelligence governance in South Africa.

8.3.3.1 Need to recognise the context of transformation in South Africa

An important role of intelligence in the transformation of the security sector is to develop a country's security vision (Hannah, O'Brien & Rathmell, 2005: 8–9): it is important to create a plan for transforming the old into the new. Public debate becomes important here so as to obtain the consensus required for transforming institutions (DCAF Intelligence Working Group, 2003: 62–63). But making changes to improve efficiency can lead to a further regression in efficiency because the intelligence services cannot manage the pace of transformation (Bruneau & Dombroski, 2006: 22). Bruneau and Dombroski (2006: 21–23) have therefore pointed to the essence of this problem:

A practical problem in reforming intelligence activities involves the organisational dynamics of transforming a bureaucracy.

There is no doubt, though, that 'security sector reform' (SSR) and 'transformation of the security sector' (TSS) are central to the concept of transformation. Chirwa (2015: 4) asserts that these two concepts are interchangeable:

It must be noted, however, that the terms Security Sector Reform and Transformation of the Security Sector are interchangeably used in this study.

However, Wulf (2004: 3) explains security sector reform as being:

the transformation of the security system which includes all the actors, their roles, responsibilities and actions, so that it is managed and operated in a manner that is more consistent with democratic norms and sound principles of good governance, and thus contributes to a well-functioning security framework.

There is a focus on security sector transformation as using a different conceptual positionality. Many African actors prioritise transformation over reform with regard to changing governance in Africa and in the security space. They frame transformation regionally and nationally, including those institutions and actors key to realising transformation (Bryden & Olonisakin, 2010: 3–4). Bryden and Olonisakin have highlighted four types of transformation in the security space:

- organisational character
- cultural make-up
- human resource practices
- political relationships with elected authorities and the civil power (2010: 6).

In contrast, SST has been viewed as being the opposite of SSR. Bryden and Olonisakin (2010: 7) explain SST as follows:

Countries with serious governance deficits may require a fundamental transformation of relations between the civil authorities and civil society on the one hand and the security organisations on the other hand. Such transformations should occur within a framework of democratic oversight and control.

Moments of transformation of security spaces such as the dismantling of colonialism and the end of the Cold War have not always seen a sincere commitment to actual change (Bryden & Olonisakin, 2010: 12–13). National SST domestically relies on the context in which actors engage in transformation. A participatory legislature with a key body of transformational public representatives is a good indication of transformation. Gender mainstreaming in the security space is also a key indicator of transformation. And the transforming power dynamics in transitional spaces also highlight transformation (Bryden & Olonisakin, 2010: 15–18).

In the light of the above, the transformation of the intelligence services in South Africa has been inadequate, to the point of suggesting that the intelligence services will not transform in the future (Interviewee 2, 2023b: 5). This would appear to be because, although transformation was part of the 1994 Intelligence White Paper, it does not appear to have been important enough over the past 15 years where these core concerns are not committed to transformation (Interviewee 2, 2023b: 6).

The Ramaphosa Presidency and the JSCI may have hoped for transformation but the institutions that would have put this transformation into practice were not up to the task (Interviewee 5, 2023e: 4). And with any evidence of the state's response being so difficult to see, public confidence in transformation is lacking (Interviewee 5, 2023e: 4).

Indeed, questions are raised about how we want institutions to act as they often protect the powerful (Interviewee 3, 2023c: 11). What is required is not so much a baseline transformation of the oversight and control institutions but rather a 'tightening up' (Interviewee 4, 2023d: 12). The JSCI had, for example, allegedly been transforming since before the July unrest (Interviewee 1, 2023a: 7–9). On this point, another interviewee noted:

I am not, to go back to my thesis regarding security reform globally, I cannot guarantee that those efforts would have led to transformation. But they could have. And so it was a potential turning point (Interviewee 2, 2023b: 11).

Another interviewee added that framing the time rather than the kind of time might have been a turning point and effected transformation (Interviewee 5, 2023e: 7). However, the transformation of independent thinking to group-think is regarded as a barrier to transforming intelligence governance in South Africa; therefore, reconciling transparency and efficiency through the intelligence services is arguably impossible (Interviewee 3, 2023c: 5).

But some argue that recognition of the context is important: the meaning of transformation in 1994–1995 as the democratic intelligence institutions were created was probably different but in some ways similar to that under consideration 30 years later, because considerable time has elapsed between then and now (Interviewee 5, 2023e: 2).

8.3.3.2 South Africa needs a democratic transformation of the post-colonial state

The kind of post-1994 transformation and amalgamation of the democratic and apartheid intelligence services is pertinent because there was a legitimate commitment to the transformation of the intelligence services in the country then (Interviewee 3, 2023c: 4–5). This has been claimed to constitute a component of the transformation of the colonial state, yet there is no evidence of a 'democratic transformation of the post-colonial African state' (Interviewee 3, 2023c: 5).

8.3.3.3 Intelligence Academy syllabus must transform

The syllabus of the Intelligence Academy must transform through providing education in patriotism in order to make it clear that it is a national intelligence agency and not a state security agency. This recommendation pertaining to the intelligence officer training of the Intelligence Academy will also require a transformation of mindsets (Interviewee 1, 2023a: 3–4).

8.3.4 Recommendations about transparency

Greater transparency is needed in the intelligence services. While the balancing act between transparency and secrecy will always be complex, the status quo is too secretive and must transform. Therefore greater openness, accountability and transparency are needed on the part of the intelligence services in South Africa, combined with respect for the Constitution, the rule of law and political non-partisanship, which will help to achieve this balance.

8.3.4.1 Intelligence services can show greater transparency

Transparency is important because ‘intelligence services work in secret which is not aligned with the transparency and openness central to democratic oversight’ (Born and Leigh, 2005: 16–17). According to Leigh, transparency and accountability have been shared as some of the main foundations governing intelligence (Leigh, 2003: 115, 125–126); while Matei and Halladay have noted that although transparency and accountability are a cornerstone of democracy, secrecy is central to intelligence services (2019: 1).

Parliaments can be involved in transparency and oversight (DCAF Intelligence Working Group, 2003: 46–47); however, a difficulty in sustaining this oversight is finding the balance between transparency and secrecy (Born & Leigh, 2007: 196–198). But transparency remains an important element of intelligence governance where the public ultimately give meaning to transparency (Nykänen & Teirilä, 2016: 278–279).

The inadequate transparency in the SSA worsened the decay of institutions. The problem with transparency is that it degenerated when the SSA was moved into the Presidency, which ultimately created a ‘super presidency’ (Interviewee 3, 2023c: 7). Therefore, the submission of the HLRP’s report to the State Capture Commission in that format was a positive step for democratic transparency (Interviewee 3, 2023c: 7).

It has been argued that the Matthews Commission was too transparent. This was claimed because

the intelligence services are not hiding or evading transparency from the public, they’re avoiding transparency against the targets of their work (Interviewee 4, 2023d: 7).

The intelligence services can be more transparent as long as this does not affect their operations. However, transparency can also be manipulated by the intelligence services as a distraction (Interviewee 4, 2023d: 7–8).

Moreover, the legislation dealing with official secrets created more issues with transparency. Some of the intelligence services can be more transparent and there are discussions within the services about this (Interviewee 4, 2023d: 9), although transparency was not central to the

reference points of the HLRP (Interviewee 4, 2023d: 9–10). Transparency involves a complicated space in which the intelligence services must do their job. While transparency could be better implemented in South Africa, transparency can be over-applied, which can make it difficult for the intelligence services to perform their mandate, which some say is to spy. On this point, the following thought-provoking questions have been raised and suggestions made:

So what's the solution? To become more closed? To have an intelligent within intelligence? Or to have more openness, more accountability, more transparency, give the JSCI greater powers to demand answers to subpoena people to tell them you will speak? I veer in that direction where some would say well we need to be more secretive to catch out the culprits (Interviewee 5, 2023e: 8).

8.3.4.2 South African intelligence services require more openness, accountability and transparency

Accountability is 'a relationship based on the obligation to demonstrate and be responsible for performance in light of agreed expectations' (DCAF Intelligence Working Group, 2003: 39); accordingly, it has been shown that

[v]ertical, horizontal and third/external dimensions of accountability reminds us of these interconnecting mechanisms of accountability and public oversight, which when taken together may help to mitigate their individual weaknesses (Caparini, 2007: 23).

Accountability is when the intelligence services are legally obligated to answer candidly to the authority that they report to. This includes accountability to the Executive, oversight by parliament and compliance with the law. Executive accountability is evidenced through ministers, who must control the intelligence services (Hannah, O'Brien & Rathmell, 2005: 12–13). Accountability also requires the intelligence services to explain their actions to another institution (Gill, 2003: 282–283). Moreover, accountability can be located either in the Executive or outside the government (DCAF Intelligence Working Group, 2003: 39–40). Here oversight is

a system of accountability in which those vested with the executive authority in an organisation have their actions reviewed, sometimes in advance, by an independent group that has the power to check those actions (DCAF Intelligence Working Group, 2003: 46).

Accountability must be applicable to parliaments (DCAF Intelligence Working Group, 2003: 46–47), while the intelligence services must ensure compliance accountability (HLRP, 2018: 7). The development of issues can be looked at externally as they pertain to what is considered to be in South Africa's national and international interests. Accountability underpins governance (Interviewee 5, 2023c: 2); it has therefore been highlighted that

all these commissions or major disruptions they kind of interrupt the flow of development or progress if you like in oversight, control, accountability etcetera. Even though many of them are there to investigate those things (Interviewee 4, 2023d: 18).

8.3.5 Recommendations about crises

People must transform their attitudes in order for crises to be reformed. This aligns with the need for the change in mindset mentioned above. An institution is unlikely to change during a

crisis simply by changing the political head: instead, better co-ordination is more likely to have a greater impact during such a period.

8.3.5.1 Crises will reform only when people transform their attitudes

A broader view on the matter of crises is expressed by one of the interviewees: ‘The more South Africa is in crisis, the more impossible or implausible it is that you can have genuine democratic change’ (Interviewee 3, 2023c: 9). There has been criticism of the definition of a crisis and how it can be securitised, but, that aside, it is held that a crisis will change only when people transform their mindsets. The Expert panel’s report on the July unrest highlights the fact that the intelligence services were unsuccessful and that there was no co-ordination in reacting to the crisis. In the result, the July unrest has been argued to have set a precedent that makes it too easy to securitise a crisis (Interviewee 3, 2023c: 12).

8.3.5.2 Changing the political head is not likely to change the institution during a crisis

A crisis occurs ‘when a system is required or expected to handle a situation for which existing resources, procedures, laws, structures, and/or mechanisms, and so forth, are inadequate’ (Bryson, 1981: 181). A crisis therefore requires predictability, administrative and civic opportunism, and stable implementation (Bryson, 1981: 192); in addition, co-ordination of policy is key to intelligence decision-making in a crisis (Metcalf, 1994: 278). What this all requires is that intelligence services should stay abreast of a structure of crisis governance, experts’ functions, issues with leadership, response systems of governance and international co-operation when managing a crisis (Baubion, 2013: 3).

Metcalf’s policy co-ordination scale could be a useful tool to help intelligence decision-makers co-ordinate the various problems that occur during a crisis (1994: 282–284). Moreover, in mitigating crises, intelligence services could be aided by using problem-solving techniques in the process of creating policy in the first instance. This could serve to develop more effective crisis management, reduce conflict and account for the national interests of decision-makers in the policy space (Herek et al, 1987: 223).

The Expert Panel report highlighted the intelligence services’ incapacity to make co-ordinated decisions during a crisis. Even though the president had authorised the recommendation to redevelop the NSC in the HLRP’s report, the Expert Panel showed that the fact that the NSC did not meet during this crisis was confirmed by ministers (van Nieuwkerk, 2022). To compound matters, the JSCI has proved itself to be partisan and unable to perform oversight during a crisis (van Nieuwkerk, 2022).

The incapacity to make co-ordinated decisions during a crisis such as the July 2021 civil unrest was arguably in part due to the lack of clarity in the intelligence legislation regarding the intelligence procedure that must be complied with for information to reach decision-makers (Expert Panel, 2021: 109). A poor relationship with the Executive and the lack of co-ordination also had an impact on decision-making:

At times, they appeared to be working in silos, as evidence by the mixed and contradictory public statements that emanated from them in response to the crisis (Expert Panel, 2021: 131).

It is still necessary for clear recommendations to be made regarding the incapacity to make co-ordinated decisions during a crisis (Expert Panel, 2021: 131–132).

Adjusting political leaders can make a crisis worse where the heightened use of the intelligence services confirms the degeneration of a crisis (Interviewee 3, 2023c: 12–14). Moreover, within the intelligence services since 2009 the level of internal crisis has been enhanced: instead of considering crises to be turning points, they have rather been explained as ‘a deepening of crisis’:

I wouldn’t call it a turning point but it was a marker of the extent to which even when you change the political head, there’s something about the body itself the institution that now is so embroiled in crisis that it didn’t matter how many ministers were there (Interviewee 3, 2023c: 17).

As a final comment on the question of the appropriate approach to dealing with crises, one interview expressed a solution succinctly: the array of crises encountered requires planning (Interviewee 5, 2023e: 7).

8.5 Reflexivity

I am a final year PhD candidate at the University of the Witwatersrand’s School of Governance and have previously studied a BSocSci International Relations and Political Studies and MPhil Public International Law at the University of Cape Town. I work as a Multilateral Engagement Officer on the Multilateral Engagement team at the Global Initiative Against Transnational Organized Crime (GI-TOC) in Vienna and have a combined nine years’ work experience in international government relations, strategic communications and public affairs.

There are experiences that informed my journey towards this project. The first was the role of a relative in the apartheid and post-apartheid democratic intelligence services, the second was an internship where I worked for a former Shadow Minister of Defence on a draft private member’s bill and the third was my MPhil Public International Law minor dissertation.

A relative previously worked for the apartheid and post-apartheid democratic intelligence services. Their story forms part of the history of the transformation of intelligence governance in South Africa. My exposure to this relative sparked my curiosity in my PhD topic.

I previously worked as an intern for a former Shadow Minister of Defence on a General Intelligence Laws Amendment Bill (GILAB) draft Private Member’s Bill. The draft Private Member’s Bill sought to regulate signals intelligence in South Africa. This work experience further stoked my interest in the research project.

Ultimately, my MPhil Public International Law minor dissertation was on the international regulation of foreign intelligence liaison. This academic experience in turn enhanced my passion for this field of study.

My general and philosophical frame of reference developed as the project developed. My thinking on the prominent role of intelligence culture in transforming intelligence governance in South Africa was clarified during my PhD. My philosophical approach was exposed to Shaffer with regards to intelligence culture and Gaspard & Pili concerning PHILINT amongst many others. My development of PHILINT into PHILINT culture was in many ways an alignment of Gaspard & Pili, Shaffer, many others and my own contributions.

At university I read widely in this space. This reading extends back almost a decade to when I was previously reading for my MPhil Public International Law. Through reading, I learned who to request to interview. But given the secretive nature of the subject matter amongst many other possible reasons, of the approximately twenty interviewees that I invited to interview, only five ultimately confirmed and interviewed.

I was grateful to interview these interviewees and was surprised by their honest answers and the diversity of their expertise. I was similarly shocked by quite how many requested interviewees were either unavailable or never responded. This allowed me to think about an area that is challenging to study. For people who keep working in this field, they often are unable to say what is on their mind, are limited or there could be something more sinister going on. This reinforces why a transformed PHILINT culture is so fundamentally important to transform intelligence governance in South Africa.

As I arrive at this stage of my PhD, it's worth looking back on where I started, my original opinions, the road to getting here and the lessons gained along the way. When I started this project, I don't think I had thought of whether there was a driving factor that could transform intelligence governance in South Africa. I think I assumed that this transformation would come down to a combination of factors. But the road to where I am now opened my eyes to the significant role of intelligence culture in transforming intelligence governance in South Africa. While this dissertation seeks to contribute to the research on the role of intelligence culture in transforming intelligence governance in South Africa through a PHILINT culture, there is still much to be learned about the part played by intelligence culture in transforming intelligence governance in South Africa and Africa.

8.6 Conclusion

This chapter has provided solutions to the problem identified in the thesis statement and investigated in the study undertaken. In order to solve the problem of transforming intelligence governance in South Africa, the research question was asked: Has South Africa transformed the governance of its intelligence sector (control and oversight) to achieve the most appropriate balance between efficiency and transparency for the country. Intelligence governance in South Africa has not been transformed and, to achieve this, the intelligence culture of the intelligence services was ultimately shown to be in need of transformation.

This problem and the related question were tested by means of conducting five semi-structured interviews. The outcomes of these interviews, literature review (theory), executive practice to improve intelligence governance in South Africa: 2008 to 2022 chapter, methodology and case study shaped the findings and recommendations in this chapter. The conclusions reached reconciled these interviews and the remainder of the chapters with the data collected in the findings and discussion chapters and arrived at a useful set of findings and recommendations.

The key general findings pertain to balancing intelligence governance transformation, lessons from commissions and panels, transforming the intelligence culture, transforming the intelligence culture of crisis decision-making and recognising that the 2021 July insurrection was an intelligence culture turning point. These findings, conclusions and messages included consequence management remaining more of a cause for concern than the oversight, controls and policies (Interviewee 4, 2023d: 5). Furthermore, the Matthews Commission report shows that for as long as there is no alignment between the Executive and JSCI, then that report will remain academic (Interviewee 5, 2023e: 2–3), because ‘if the Minister and President, meaning

the highest decision-makers in that sphere, want it to happen it may not but it may happen ... If they don't want it to happen, it will not happen' (Interviewee 2, 2023b: 7). And while the state may want to solve the problem through security, the crisis will change only when people's attitudes change (Interviewee 3, 2023c: 12) and it ultimately comes down to President Ramaphosa and the extent to which he will implement the recommendations (Interviewee 2, 2023b: 11).

Key findings on culture included changing the 'culture of impunity', which is not easy, but there is hope because investigations are continuing and certain arrests have taken place (Interviewee 1, 2023a: 5–6). Former Intelligence Minister Ronnie Kasrils tried to change the political culture with a civic education initiative and by firing Billy Masetlha (Interviewee 2, 2023b: 7). But when you transform the mindset of a civil servant into a factionalised one within the governing party, you transform the culture (Interviewee 3, 2023c: 8–9). Which is why '... you need a commitment to a democratic institutional culture, an enabling institutional culture that allows the members of the service ... to bring in fresh ideas' (Interviewee 3, 2023c: 9).

Another insight gained is that 'the more South Africa is in crisis, the more impossible or implausible it is that you can have genuine democratic change' (Interviewee 3, 2023c: 9); so there is a need for a commitment to 'structural institutional change'. Most reports before the HLRP refer to the change and degradation of 'toxic institutional culture' and a weakening of the role of service (Interviewee 3, 2023c: 9–10). In the words of Interviewee 3: 'When you ... personalise a whole department, then there is no institutional culture to really speak of' (2023c: 10).

Further key findings on culture show that it is built by there being consequences, compliance and strictness in dealing with a breach of controls, laws and practice: a culture cannot be developed simply through ongoing talks (Interviewee 4, 2023d: 11):

In theory, any institution can change its internal strategic culture ... the intelligence services are a part of a Constitutional democracy or always see themselves as accountable and ... there is no need to change the overarching architecture which is for a service or services which are governed by laws, which are overseen by multi-party institutions which respond to national priorities and which are therefore accountable as national assets (Interviewee 5, 2023e: 5).

The creation of a super presidency is indicative of the problems with transforming institutional cultures in departments where changing political leadership can worsen the crisis (Interviewee 3, 2023c: 12–14); however, it can still be argued to be a part of culture in which a culture of co-ordination exchange must be fostered, with there being consequences for not doing so (Interviewee 4, 2023d: 15). However, 'the problem is that the culture of decision-making might be that it's not sustained' (Interviewee 5, 2023c: 6) where 'the culture of decision-making is made for another time that we aren't living in' (Interviewee 5, 2023c: 7). Moreover, there can be an interpretation of 'the culture of rigorous implementation' (Interviewee 4, 2023d: 19).

These recommendations concerned culture, intelligence governance, transformation, transparency and crises. In order to transform intelligence governance in South Africa through a transformation of the intelligence culture, seven key recommendations on culture included:

- the culture of impunity must change;
- the intelligence services need to change their internal strategic culture;
- a change in mindset must occur;

- a culture must be grown through being strict and compliant;
- a culture of co-ordination exchange must be developed;
- the culture of decision-making must be sustained; and
- the country needs a culture of rigorous implementation.

Finally, intelligence governance has not been adequately transformed in South Africa. The philosophy of intelligence culture indicates that in order to move towards the transformation of intelligence governance in South Africa through control and oversight to achieve the most appropriate balance between efficiency and transparency for the country, the intelligence culture ultimately must be transformed in South Africa. While this concept appears sound upon reflection, the reality is that in almost 30 years of intelligence commissions and panels, the majority of the recommendations have not been implemented. Therefore, while this dissertation has the potential to make a valuable contribution to science through the theoretical and conceptual transformation of intelligence governance in South Africa, practically this transformation can be experienced only if the relevant decision-makers implement the recommendations of both past intelligence commissions and panels and this dissertation.

9. References

9.1 Primary sources

9.1.1 Interviews

Interviewee 1. (2023a). Interview with Interviewee 1. *Zoom*, 31 January 2023, 1–10.
Interviewee 2. (2023b). Interview with Interviewee 2. *Zoom*, 13 February 2023, 1–15.
Interviewee 3. (2023c). Interview with Interviewee 3. *Zoom*, 28 March 2023, 1–22.
Interviewee 4. (2023d). Interview with Interviewee 4. *Zoom*, 28 April 2023, 1–22.
Interviewee 5. (2023e). Interview with Interviewee 5. *Zoom*, 19 May 2023, 1–10.
van Nieuwkerk, A. (2022). PhD alignment meeting. *Zoom*.

9.1.2 Figures

Figure 2.1: Theory, Concepts and Practice

9.2 Secondary sources

9.2.1 Case

Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State v Zuma & Others [2021] ZACC 18

9.2.2 Statutes

General Intelligence Laws Amendment Act 37 of 2024 (GILAA 2024)
General Intelligence Laws Amendment Act 11 of 2013 (GILAA 2013)
General Intelligence Laws Amendment Bill 2019
General Intelligence Laws Amendment Bill 2023 (GILAB)
Intelligence Services Act 65 of 2002
Intelligence Services Oversight Act 40 of 1994
National Strategic Intelligence Act 39 of 1994
Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002 (RICA)
The Constitution of the Republic of South Africa, 1996

9.2.3 Articles

Baubion, C. (2013). OECD risk management: Strategic crisis management. *OECD Working Papers on Public Governance* 23. Paris: OECD, 1–24.
Bryden, A & Olonisakin, F. (2010). Conceptualising security sector transformation in Africa. In A Bryden & F Olonisakin (eds) *Security Sector Transformation in Africa*. Münster: Lit Verlag, 3–22.
Bryson, JM. (1981). A perspective on planning and crises in the public sector. *Strategic Management Journal* 2: 181–196.
Caparini, M. (2007). Controlling and overseeing intelligence services in democratic states. In *Democratic Control of Intelligence Services*. London: Routledge, 1–24.

- Chiru, I. (2016). Engaging public support and awareness in intelligence: The demands and challenges to developing an intelligence culture. *International Journal of Intelligence and CounterIntelligence* 29(3): 503–514.
- Cormac, R, Goodman, MS & Holman, T. (2016). A modern-day requirement for co-ordinated covert action: Lessons from the UK's intelligence history. *The RUSI Journal* 161(2): 14–21.
- Daniels, P. (2019). National security strategy development: South Africa case study. *Working Paper (Preliminary Draft)*. Washington, DC: Africa Centre for Strategic Studies, 1–16. Available at <https://africacenter.org/wp-content/uploads/2019/04/2019-04-NSSD-Case-Study-South-Africa-Defense-Policy-Review.pdf> (accessed 30 May 2021).
- Duyvesteyn, I. (2011). Intelligence and strategic culture: Some observations. *Intelligence and National Security* 26(4): 521–530.
- Gray, C. (1981). National style in strategy: The American example. *International Security* 6(2): 21–47.
- Fägersten, B. (2015). Intelligence and decision-making within the common foreign and security policy. *European Policy Analysis* 22: 1–12.
- Fox, NJ. (2008). Post-positivism. In LM Given (ed) *The SAGE Encyclopaedia of Qualitative Research Methods*. London: Sage, 1–11.
- Gaspard, JJS & Pili, Giangiuseppe. (2022). Integrating intelligence theory with philosophy: Introduction to the special issue. *Intelligence and National Security*, 763–776.
- Hendrickson, D. (1999). A review of security sector reform. In *The Conflict, Security & Development Group at the Centre for Defence Studies*. London: King's College, 1–44.
- Herek, GM, Janis, IL & Huth, P. (1987). Decision making during international crises: Is quality of process related to outcome? *Journal of Conflict Resolution* 31(2): 203–226.
- Karacasulu, N & Uzgören, E. (2007). Explaining social constructivist contributions to security studies. *Perceptions*, 27–48.
- Lantis, J. (2002). Strategic culture and national security policy. *International Studies Review* 4(3): 87–113.
- Lantis, J. (2005). Strategic culture: From Clausewitz to Constructivism. *Strategic Insights* 4(10): 1–16.
- Leslau, O. (2010). The effect of intelligence on the decision-making process. *International Journal of Intelligence and Counterintelligence* 23(3): 426–448.
- Lowenthal, M. (2000). *Intelligence: from Secrets to Policy*. Washington, DC: CQ Press.
- Metcalf, L. (1994). International policy co-ordination and public management reform. *International Review of Administrative Sciences* 60: 271–290.
- Miller, PD. (2010). Lessons for intelligence support to policymaking during crises. *Studies in Intelligence* 54(2): 1–8.
- Nykänen, HJ & Teirilä, OJ. (2016). The public dimension of intelligence culture: The search for support and legitimacy. *International Journal of Intelligence and CounterIntelligence* 29(2): 278–298.
- Rietjens, S. (2019). Explaining the cultures of intelligence. *International Journal of Intelligence and CounterIntelligence* 32(1): 202–207.
- Ryan, AB. (2006). Post-positivist approaches to research. In *Researching and Writing your Thesis: A Guide for Postgraduate Students*. Maynooth: MACE, 12–26.
- van Nieuwkerk, A & Ngcobo, B. (2016). Crisis management: the African experience. In D Everatt (ed) *Governance and the Postcolony: Views from Africa*. Johannesburg: Wits University Press, 1–340.
- van Nieuwkerk, A. (2014). The strategic culture of foreign and security policymaking: Examining the Southern African Development Community. *African Security* 7: 45–69.

- Willmetts, S. (2019). The cultural turn in intelligence studies. *Intelligence and National Security* 34(6): 800–817.
- Wulf, Herbert. (2004). Security sector reform in developing and transitional countries. *Berghof Research Centre for Constructive Conflict Management*, 1–20.
- Yelamos, C, Goodman, MS & Stout, M. (2022). Intelligence and culture: and introduction. *Intelligence and National Security* 37(4): 475–481.

9.2.4 Books

- Allison, G. (1971). *Essence of Decision: Explaining the Cuban Missile Crisis*. Boston: Little Brown.
- Allison, G & Zelikow, P. (1999). *Essence of Decision: Explaining the Cuban Missile Crisis* (2nd ed). New York: Longman.
- Ball, M & Fayemi, J (eds). (2004). Democratic governance and the security sector. In *Security Sector Governance in Africa: A Handbook*. Lagos: Centre for Democracy and Development, 30–47.
- Bezuidenhout, RM, Davis, C & Du Plooy-Cilliers, F. (2014). *Research Matters*. Cape Town: Juta,.
- Bezuidenhout, RM, Davis, C & Du Plooy-Cilliers, F. (2021). *Research Matters*. Cape Town: Juta.
- Born, H & Leigh, I. (2003). Democratic control of security and intelligence services: A legal framework. In M Caparini & H Born (ed) *Democratic Control of Intelligence Services: Containing Rogue Elephants*. London: Routledge, 113–127.
- Born, H & Leigh, I. (2005). *Making Intelligence Accountable: Legal Standards and Best Practice for Oversight of Intelligence Agencies*. Oslo: Publishing House of the Parliament of Norway, 3–133.
- Bruneau, TC & Dambroski, K. (2006) Reforming intelligence: The challenge of control in new democracies. In TC Bruneau & CD Tollefson (eds) *Who Guards the Guardians and How: Democratic Civil–Military Relations*. Austen: University of Texas Press, 1–27. Available at <https://warwick.ac.uk/fac/soc/pais/people/aldrich/vigilant/bruneau.pdf> (accessed 14 February 2021).
- Dannreuther, R. (2013). *International Security: The Contemporary Agenda* (2nd ed). Cambridge: Polity Press.
- Gill, P. (2003). Security and intelligence services in the United Kingdom. In J-P Brodeur (ed) *Democracy, Law and Security*. London: Routledge, 265–293.
- Gill, P. (2016). Intelligence and democracy. In *Intelligence Governance and Democratisation: A Comparative Analysis of the Limits of Reform*. London and New York: Routledge, 1–27.
- Gill, P, Marrin, S & Phythian, M (eds). (2009). *Intelligence Theory: Key Questions and Debates*. London: Routledge.
- Gill, P, Marrin, S & Phythian, M (eds). (2019). *Developing Intelligence Theory: New Challenges and Competing Perspectives*. London: Routledge.
- Herman, M. (1996). *Intelligence Power in Peace and War*. Cambridge: Cambridge University Press.
- Herman, M. (2001). Intelligence’s Essence. In *Intelligence Services in the Information Age*. London: Routledge, 3–28.
- Jackson, PT. (2011). Neopositivism. In *The Conduct of Inquiry in International Relations: Philosophy of Science and its Implications for the Study of World Politics*. London: Routledge, 41–71.
- Kent, S. (1966). *Strategic Intelligence for American World Policy*. New Jersey: Princeton University Press.

- Lustgarten, L. (2003). National security and political policing: Some thoughts on values, ends and law. In P Gill & J-P Brodeur (ed) *Democracy, Law and Security*. London: Routledge, 319–334.
- Matei, FC & Halladay, C (eds). (2019). *The Conduct of Intelligence in Democracies: Processes, Practices, Cultures*. Boulder, CO: Lynne Rienner Publishers.
- Parsons, DW. (1995). Part One: Meta analysis. In *Public Policy: An Introduction to the Theory and Practice of Policy Analysis*. Brookfield, VT: Edward Elgar Publishing, 1–83.
- Shaffer, R (ed). (2021). *African Intelligence Services: Early Postcolonial and Contemporary Challenges*. Rowman & Littlefield Publishers.
- Shaffer, R (ed). (2023). *The Handbook of African Intelligence Cultures*. Rowman & Littlefield Publishers.

9.2.5 Dissertations

- Chirwa, M. (2015). *Transformation of the Security Sector in Malawi – 1994 to 2014*. PhD dissertation, University of Witwatersrand Graduate School of Governance, Johannesburg.
- van Nieuwkerk, A. (2016). *South Africa's Post-apartheid Foreign Policy: Decision-making on African Crises*. PhD dissertation, University of the Witwatersrand Faculty of Commerce, Law and Management, Johannesburg.

9.2.6 Reports

- Central Intelligence Agency (CIA). (2000). *A Consumer's Guide to Intelligence*. Washington, DC: CIA Office of Public Affairs.
- DCAF Intelligence Working Group. (2003). Intelligence practice and democratic oversight – a practitioner's view. *Occasional Paper No 3*. Geneva: DCAF, 67–68. Available at https://www.dcaf.ch/sites/default/files/publications/documents/op03_intelligence-practice.pdf (accessed 14 February 2021).
- Hannah, G, O'Brien, KA & Rathmell, A. (2005). Intelligence and security legislation for security sector reform. *Technical Report for the United Kingdom's Security Sector Development Advisory Team*. Cambridge: Rand Corporation.
- Matthews, J, Ginwala, F & Nathan, L. (2008). 'Intelligence in a Constitutional Democracy'. *Final Report to the Minister for Intelligence Services, the Honourable Mr Ronnie Kasrils, MP*. Available at <https://www.r2k.org.za/2013/02/11/matthews-commission-gilab-south-africa-spies/> (accessed 2 March 2022).
- Parliament of the Republic of South Africa. (2021). *Annual Report of the Joint Standing Committee on Intelligence for the Financial Year ending 31 March 2020 including the Period up to December 2020*. Available at <https://pmg.org.za/taled-committee-report/4715/> (accessed 2 March 2022).
- Parliament of the Republic of South Africa. (2024). *Annual Report of the Joint Standing Committee on Intelligence for the Financial Year ending 31 March 2024 including the period up to May 2024*.
- Snyder, J. (1977). The Soviet strategic culture: Implications for limited nuclear operations. *A Project Air Force Report prepared for the United States Air Force*. Santa Monica, CA: Rand, 1–40.
- South African Human Rights Commission (SAHRC). (2024) *July's People: The National Investigative Hearing Report into the July 2021 Unrest in Gauteng and KwaZulu-Natal*. Cape Town: SAHRC.

- South African Presidency. (2018). *Report of the High-Level Review Panel on the State Security Agency*. Available at <https://www.gov.za/sites/default/files/gcis...> (accessed 25 January 2022).
- South African Presidency. (2021). *Report of the Expert Panel into the July 2021 Civil Unrest*. Available at <https://www.thepresidency.gov.za/content/report-expert-panel-july-2021-civil-unrest> (accessed 2 March 2022).
- Treverton, GF, Jones, SG, Boraz, S & Lipsky, P. (2006). *Toward a Theory of Intelligence: Workshop Report*. Santa Monica, CA: Rand National Security Research Division.
- Zondo, Justice RMM. (2022). *Judicial Commission of Inquiry in State Capture Report: Part V Vol 1: State Security Agency and Crime Intelligence*. Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State. Available at https://www.gov.za/sites/default/files/gcis_document/202206/electronic-state-capture-commission-report-part-v-vol-i.pdf (accessed 10 July 2022).

9.2.7 Speeches

- Ramaphosa, C. (2019). *State of the Nation Address*. Available at <http://www.thepresidency.gov.za/state-of-the-nation-address/state-nation-address-president-cyril-ramaphosa%2C-parliament> (accessed 3 March 2020).

9.2.8 Websites

- Africa News. (2021). 'Explainer: What caused South Africa's week of rioting?' Available at <https://www.africanews.com/2021/07/21/explainer-what-caused-south-africa-s-week-of-rioting/> (accessed 22 December 2023).
- Intelligence White Paper. (1995). *Towards a New National Security Doctrine*. Available at <https://www.gov.za/documents/intelligence-white-paper#top> (accessed 16 May 2021).
- Memdutt, V. (2013). The Matthews Commission, the GILAB, and why we're worried about SA's spies. *Right2Know*. Available at <https://www.r2k.org.za/2013/02/11/matthews-commission-gilab-south-africa-spies/> (accessed 6 August 2022).
- Merten, M. (2023). 'Lawmaking behind closed doors a possibility as new intelligence Bill processed'. *Daily Maverick*. Available at https://www.dailymaverick.co.za/article/2023-11-23-lawmaking-behind-closed-doors-a-possibility-as-new-intelligence-bill-processed/?utm_source=TouchBasePro&utm_medium=email&utm_campaign=Weekend+Thing+25+November+2023&utm_content=Weekend+Thing+25+November+2023+CID_8360d27f8e5445a9157233cd02fb2223&utm_source=TouchBasePro&utm_term=Lawmaking+behind+closed+doors+a+possibility+as+new+intelligence+Bill+processed (accessed 21 December 2023).
- Ngqakamba, S. (2020). 'Jacob Zuma on "9 wasted years": That is "propaganda, dishonesty"'. *News24*. Available at <https://www.news24.com/news24/SouthAfrica/News/jacob-zuma-on-9-wasted-years-that-is-propaganda-dishonesty-20200510> (accessed 13 August 2022).
- The Presidency. (2019). President Ramaphosa releases Review Panel Report on State Security Agency. *The Presidency Republic of South Africa*. Available at <https://www.thepresidency.gov.za/press-statements/president-ramaphosa-releases-review-panel-report-state-security-agency> (accessed 6 August 2022).

10. Addendum

There were no personal costs to participants who participated in this project. They did not receive any direct benefits from participation and there were no disadvantages or penalties if they did not choose to participate or if they withdraw from the study. They could withdraw at any time or not answer any question if they did not want to. The interviews were completely confidential as they were not asked for their name or any identifying information, and the information they gave is being held securely and not disclosed to anyone else. A pseudonym (false name) was used to represent their participation in the final research report. However, anonymity could not be guaranteed, neither throughout the data-collection process nor in resulting research reports or publications because even though participants were anonymised in the write-up, they may still be identifiable because of their status as experts. No distress or discomfort was experienced at any point in the process, and if it had been, we would have stopped the interview or resumed it another time.

If the participants had any questions during or after about this research, it was communicated to them that they are free to contact the author. This study has been written up as a research report which will be available online through the university library website in the future. If the participants wish to receive a summary of this report, this can be sent to them. The data collected from this research project have been stored on a personal laptop and iCloud Drive. With their permission, the data collected from this research project may be used by other researchers. If participants have any concerns or complaints regarding the ethical procedures of this study, they were told that they are welcome to contact the University Human Research Ethics Committee.

Date

Dear Participant

My name is Darren Brookbanks and I am a PhD student in Governance at the University of the Witwatersrand, Johannesburg. As part of my studies, I have to undertake a research project, and I am investigating the transformation of intelligence governance in South Africa under the supervision of Prof Anthoni Van Nieuwkerk. The aim of this research project is to find out how South Africa can transform the governance of its intelligence sector (both control and oversight) in order to achieve the most appropriate balance of efficiency and transparency for the country.

As part of this project, I would like to invite you to take part in a semi-structured interview online. This activity will involve a single interview with open-ended questions and will take around 60 minutes. With your permission, I would also like to use an audio recording of the interview. The interviews will take place on Zoom between January and June in the first semester of 2023 and I will send you the Zoom invitation link in advance of the interview.

There will be no personal costs to you if you participate in this project. You will not receive any direct benefits from participation but there are no disadvantages or penalties if you do not choose to participate or if you withdraw from the study. You may withdraw at any time or not answer any question if you do not want to. The interview will be completely confidential as I will not be asking for your name or any identifying information, and the information you give to me will be held securely and not disclosed to anyone else. I will be using a pseudonym (false name) to represent your participation in my final research report. However, anonymity cannot be guaranteed throughout the data-collection process nor in resulting research reports or publications because even though participants will be anonymised in the write-up, you may still be identifiable because of your status as an expert. If you experience any distress or discomfort at any point in this process, we will stop the interview or resume another time.

If you have any questions during or after about this research, feel free to contact me on the details listed below. This study will be written up as a research report which will be available online through the university library website. If you wish to receive a summary of this report, I will be happy to send it to you. The data collected from this research project will be stored on a personal laptop and the cloud. With your permission the data collected from this research project may be used by other researchers. If you have any concerns or complaints regarding the ethical procedures of this study, you are welcome to contact the University Human Research Ethics Committee (Non-Medical), telephone +27 (0)11 717 1408, email hrecnon-medical@wits.ac.za.

Yours sincerely,
Darren Brookbanks

Researcher:
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Research Office

HUMAN RESEARCH ETHICS COMMITTEE (NON-MEDICAL)
R14/49 Brookbanks

CLEARANCE CERTIFICATE

PROTOCOL NUMBER: H22/03/01

PROJECT TITLE

Towards the transformation of intelligence governance in South Africa

INVESTIGATOR(S)

Mr D Brookbanks

SCHOOL/DEPARTMENT

Wits School of Governance/

DATE CONSIDERED

18 March 2022

DECISION OF THE COMMITTEE

Approved
Risk Level: Low

EXPIRY DATE

21 April 2025

DATE

22 April 2022

CHAIRPERSON

(Professor J Watermeyer)

cc: Supervisor : Professor A Van Nieuwkerk

DECLARATION OF INVESTIGATOR(S)

To be completed in duplicate and **ONE COPY** returned to the Secretary at Room 10004, 10th Floor, Senate House, University. **Unreported changes to the application may invalidate the clearance given by the HREC (Non-Medical)**

I/We fully understand the conditions under which I am/we are authorized to carry out the abovementioned research and I/we guarantee to ensure compliance with these conditions. Should any departure to be contemplated from the research procedure as approved I/we undertake to submit an amendment of the protocol to the Committee. **I agree to completion of a regular progress report. For Minimal and Low studies, this is due annually on 31 December. For Medium and High Risk studies, this is due twice annually on 30 June and 31 December.**

Signature

10 / 07 / 22

Date

PLEASE QUOTE THE PROTOCOL NUMBER ON ALL ENQUIRIES

Towards the transformation of intelligence governance in South Africa
Darren Brookbanks

I, ..., agree to participate in this research project.

I agree to the following:

(Please circle the relevant options below)

The research study was explained to me. I understand what this study is about.	YES	NO
--	-----	----

I understand that I can volunteer to take part in the study	YES	NO
---	-----	----

I agree that the interview may be audio recorded	YES	NO
--	-----	----

I agree that direct quotations from my interview may be used by the researcher in their dissertation	YES	NO
--	-----	----

I acknowledge that my participation in this project cannot be anonymous	YES	NO
---	-----	----

I agree that other researchers may use the information I provide in my interview (depending on their own ethics clearance being obtained) but my name and any personal information will not be used or passed on	YES	NO
--	-----	----

..... (signature)
..... (name of participant)
..... (date)

..... (signature)
..... (name of researcher/person seeking consent)
..... (date)

Towards the transformation of intelligence governance in South Africa

Darren Brookbanks

I intend to conduct semi-structured interviews online supported by audio recordings of experts (academics/think tanks/NGOs/media) and retired professionals over the age of 18. Below are my proposed interview questions.

Chapter 2 – Literature Review (theory)

1. How can South Africa transform the governance of its intelligence sector (both control and oversight) in order to achieve the most appropriate balance of efficiency and transparency for the country?

Chapter 3 – Literature Review (practice)

2. With regard to control, oversight, efficiency and transparency, what were the biggest lessons that you learned from the recommendations of the Matthews Commission Report, Report of the High Level Review Panel of the State Security Agency, the 2020 JSCI Annual Report, the Report of Expert Panel into the July 2021 Civil Unrest and the Report on the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State?
3. Do you think that South Africa can transform the governance of its intelligence sector (both control and oversight) and achieve the most appropriate balance of efficiency and transparency for the country by changing the internal strategic culture of the intelligence services through an intelligence culture that adheres to the law, political non-partisanship and constitutionalism? If yes/no, what are your thoughts on the extent to which institutional culture contributes towards the transformation of intelligence governance in South Africa?

Chapter 5 – Case Study

4. What is the problem with the intelligence culture of decision-making around national crisis in South Africa and how can this be transformed?
5. Do you agree that the 2021 July insurrection and the key oversight function of the Joint Standing Committee on Intelligence represent key turning points in the transformation of the intelligence culture of decision-making around national crisis in South Africa and what lessons about intelligence governance do you think the country has learned from them?