

**DDP political forum:**  
**How does the decision to disband the Scorpions reflect on our democracy?**

**Date** : Tuesday, 24 June, 2008

**Venue** : Southern Sun / Elangeni Hotel, Durban

**Presenters** : Dr. Steven Friedman (IDASA) and Dr. Johan Burger (ISS)

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**Briefing note**

DDP hosted a discussion to gauge public perceptions of how the decision to disband the Scorpions or Directorate for Special Operations (DSO) reflects on our democracy and whether its disbandment will harm or benefit our country's crime-fighting capacity. The forum was well attended by representatives of a broadswathe of political parties and civil society organisations, including the DA, IFP, UDM, SANCO, ANCYL, SAYC, etc.

Dr. Friedman indicated that governance is primarily about the relations between citizens and the government. He mentioned that a paucity of engagement between government and citizens on public affairs would spark inevitable discontent as citizens feel that the leaders are undermining their trust. Hence, it is prudent that the democratic leadership takes the trust of citizens seriously.

Friedman argued that accusations of human rights abuses against the Scorpions are not persuasive. The police have been responsible for ubiquitous rights abuses of grassroots activists, including members of the Abahlali base Mjondolo shack-dwellers movement, the Coalition against Water Privatisation and members of the Landless People's Movement, but no one wants to shut the police down.

Meanwhile, legislation should enjoy the support of the majority of citizens. He argued that parliamentary consultations are invariably exclusionary as most citizens lack the resources and information to access these participatory processes. Government thus needs to adopt a more innovative strategy for engaging citizens on legislation.

He asserted that there is a tendency to confuse party activists with society. For example, it is frequently assumed that activists who join the ANC express the views of the grassroots. It is fallacious. Friedman argued that it is inconceivable for the 600 000 and odd members of the ANC to represent the voice of the South African citizenry.

He indicated that this has been cogently illustrated during a recent visit by Jacob Zuma and senior ANC politicians to local communities affected by Xenophobic-related violence. Grassroots citizens showed that they will not uncritically accept the performance of the government, and demonstrated that they are perfectly capable of judging whether the government is working for them.

At a more technical level, Dr. Burger observed that whilst the Scorpions have undoubtedly enjoyed an incredible success record, it has also been dogged by some major deficiencies. These, however, do not warrant the disbandment of the elite crime fighting Unit. He indicated that some of the main reasons presented for dissolving the Directorate for Special Operations (DSO) or Scorpions included concerns about a lack of coordination between the DSO and the SAPS, leaking of information to the media, political manipulation and abuse of the DSO, the DSO is unconstitutional, etc. Regarding the latter, he indicated that the Kampepe Commission refuted claims that the DSO is unconstitutional.

Dr. Burger mentioned that Cabinet approved the South African Police Service Amendment Bill in May 2008, which is designed to dissolve the DSO and replace it with a new SAPS Division, which will be called the Directorate for Priority Crime Investigation (DPCI). The Division will consist of selected members of the DSO and the Organised Crime Unit and Commercial Branch of the SAPS. However, he indicated that prosecutors are exempted, and will remain with the NPA. The Division will be located within the SAPS. It will be headed by a Divisional Commissioner, which will be appointed by the National Commissioner.

Apropos this, he indicated that there are a number of practical issues that are either not adequately addressed in the Bill or require further clarification. Given that only 'selected' members from the above Units would join the DPCI, a question naturally arises: *What would happen to the members not selected?* Dr. Burger argued that if this question is left unattended, the likelihood of insecurity and confusion among members cannot be ruled out.

Furthermore, the critical issue of oversight does not seem to have been given sufficient attention in the Bill. Dr. Burger observed that given the ubiquitous criticism leveled at the DSO in this regard, the lack of clarity about accountability measures in the Bill is disconcerting. It is his contention that the DSO and the SAPS, despite their poor working relations, acted as a counterbalance to the abuse of power or the natural disposition to protect one of their own.

But, more disquieting, he expressed concern about the "all-powerful" position that the Bill creates for the National Commissioner of the SAPS. In terms of the Bill, the National Commissioner would have the authority to 'hire and fire' members of the DPCI and, as overall commander of the police, would be in a position to influence the outcome of almost all DPCI investigations.

The two presentations generated a lively debate which produced a rich spectrum of views. A majority of participants felt that the decision to disband the Scorpions reflects negatively on our democracy, and that it would harm our country's crime fighting capacity. Many bemoaned the paucity of citizen engagement outside the ANC, and felt that the decision was *fait accompli*. Hence, they questioned the veracity of the parliamentary hearings on the future of the Scorpions. Participants argued that the decision to dissolve the Scorpions did not bode well for the country's crime fighting capacity given the parlous state of the country's policing service.

However, some participants felt that the decision does not reflect negatively on our democracy as there are designated participatory forums where citizens can express their views. They accused the Scorpions for acting simultaneously as “referee and player”, and for being used as a political tool by ANC detractors who want to destabilise the ruling party.

Emanating from the above combustion of views is the need for a more focused discussion on meanings of citizen participation, the relations between citizens and the state and the relationship between political parties and civil society.