



New legislation will undermine SA's security staff abroad

[Note, edited versions of this op ed appeared on 27 September 2005 in both the Cape Times:

<http://www.capetimes.co.za/index.php?fSectionId=273&fArticleId=2891749> and the Pretoria News:

<http://www.pretorianews.co.za/index.php?fSectionId=1656&fArticleId=2891723>]

1900 L Street, NW
Suite 320
Washington, DC 20036
USA

+1 (202) 464-0721
+1 (202) 464-0726 Fax

IPOA@IPOAonline.org
www.IPOAonline.org

Private South African citizens are found in dangerous places all over the world providing critical services to international peace and stability operations. They bring remarkable talents and skills, management capabilities and a legendary robustness. In Haiti, Liberia, Darfur, Afghanistan, Iraq and in many other countries suffering from armed conflicts they are providing crucial humanitarian services. South Africans of all backgrounds are actively involved in demining, logistics, medical services and security. The numbers of South Africans involved in private sector peace operations easily surpass the numbers of SANDF troops engaged in peacekeeping operations, possibly by a factor of two or three.

Unfortunately, South African companies and citizens desiring to be open and transparent about their activities around the world are discovering singular hostility from their own government. 'Anti-mercenary' legislation drafted by the South African government eschewing industry input risks undermining the critical work of these citizens. While the government has legitimate interests in regulating the activities of firms in the Peace and Stability Industry, the ruthless imposition of overly-broad legislation causes far more harm than good and actually undermines international peace efforts. It should be remembered that the Peace and Stability Industry has every motivation to ensure a positive industry reputation and thus has good reason to cooperate with the government in weeding out any shady elements. But to truly formulate effective legislation, South African citizens and companies must be allowed to have a meaningful voice in the legislative process.

Reports in the press tell us that the latest legislation has been passed to parliament from the cabinet; however few have seen this legislation, and a government that was once a model for the world in transparency has been surprisingly secretive about its contents. Similar legislation in the past has been vague in its meaning and while allegedly directed at individuals operating outside the law, has dissuaded many more legitimate South Africans from providing their remarkable capabilities in support of UN and AU missions abroad. Nor has it deterred others from doing the activities the government is trying to prevent. The opaque nature of the latest version has thousands of South African citizens abroad wondering if they will learn one day that they are operating in violation of a law none have been allowed to see.

Past government efforts to control a perceived 'mercenary elements' have not been helpful to South Africa or to international peace efforts, or even in controlling 'mercenaries.' American academic Deborah Avant writes in her recent book, *The Market for Force*, "South Africa's strategy . . . has cost the government influence over and information about the activities of its [companies] abroad. More private security activity simply takes place outside the purview of the government. . . . the South Africans risk pushing private military capacity underground and out of its influence."

While professor Avant focuses on armed security, the unfortunate side-effect of the unwieldy legislation has been to deter too many South Africans from providing any services at all to international peace and stability operations. Poorly drafted regulations has negative domestic and international repercussions. For peace operations world-wide, it means higher costs and a

loss of skilled personnel that are desperately needed. Domestically, it results in damaging economic losses and missed opportunities. At the same time, Western governments make full use of the invaluable influence and information gained by their own companies' and citizens' involvement in international peace operations. South Africa gains nothing.

Alienating a free citizenry makes little sense for the South African government and is astonishingly costly to the nation's economy. The Institute for Security Studies reports that as many as six billion Rand are added annually to the nation's economy from citizens abroad working in the Peace and Stability Industry. While their wealth flows back into the country, these individuals are frustrated by the arbitrary nature of the law and the lack of inclusiveness in the process. South African citizens should be allowed - indeed they should be encouraged - to operate openly and ethically in support of peace and stability operations around the world. There is no reason that the industry, government and other concerned parties cannot revisit the legislation and design a better law. South Africa needs the necessary regulation and transparency while assuring citizens and companies willing to operate openly and legally they will not be arbitrarily charged with crimes.

Thus in the interests of improving this situation South African companies in the peace and stability industry propose the formation of a Panel of Experts that would include members of the industry, academics, and most importantly, government representatives from cabinet and parliament. The Panel would address the original goals of the legislation by facilitating the sharing of information on contracts and personnel and brainstorming ways to best address the key issues. It would ensure that individuals or companies are informed of the law while maintaining a public database of licenses and applications, and the Panel would be perfectly positioned to single out the rogue actors. The Panel would ensure that South Africans can continue to support international peace and stability operations comfortable in the knowledge they will be welcome to return to their families and to a nation that supports their efforts and values their investments.

International peace efforts desperately need the participation of South Africans with their phenomenal capabilities and skills. The South African government has been a key player in initiating many valuable peace processes in Africa; it would be ironic if it were now to become an impediment to peace.

Doug Brooks is President of the International Peace Operations Association, a Washington based nonprofit association of services companies dedicated to improving peacekeeping and stability operations worldwide.