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ESCAPING THE CULTURE OF
MISOGYNY

BABES WODUMO
I CAN'T GO BACK, HE WILL
KILL ME

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SPY BOSS CHARGES PUBLIC PROTECTOR

IT'S SSA VS BUSISIWE MKHWEBANE AS SHE STANDS ACCUSED OF ILLEGALLY OBTAINING A CLASSIFIED REPORT

SETUMO STONE and ABRAM MASHEGO
setumo.stone@citypress.co.za

The State Security Agency (SSA), under Minister Dipuo Letsatsi-Duba, has opened a criminal case against Public Protector Busisiwe Mkhwebane, charging her with theft of information and violation of South Africa's security laws after she allegedly laid her hands on a classified state document.

The low-key warfare between Mkhwebane and Letsatsi-Duba blew out into the open this week, after numerous exchanges of correspondence and a meeting between the two failed to resolve a dispute that can be traced back to the allegations of a rogue intelligence unit at the SA Revenue Service (Sars) and factional bickering in the ANC.

Central to the dispute is a classified investigative report belonging to the SSA, which Letsatsi-Duba's predecessor David Mahlobo had commissioned in 2014 - through the inspector-general of intelligence (IGI) - to look into media allegations of illegal operations by the spooks to destabilise Sars.

The secret report also flagged issues at Sars that needed closer scrutiny. The inspector-general could not probe these because the office did not have a mandate over the revenue agency.

After Mkhwebane's repeated attempts to get the report officially from Letsatsi-Duba, City Press learnt, a copy was "leaked" to her by unidentified persons, who dropped it off at her office. Letsatsi-Duba wants it back.

She has turned to the SA Police Service (SAPS) for support after failing to convince Mkhwebane to hand the copy over and assist counter-intelligence investigators looking into the leak to her office as well as into investigative publication Noseweek, which published the contents of the report.

The SSA confirmed yesterday that it had laid a criminal complaint regarding illegal possession of classified information.

Said Letsatsi-Duba: "It is absolutely crucial that the person occupying the Office of the Public Protector respect the laws of our country and that she/he also understand the role of the public protector in our constitutional democracy.

"It is extremely disturbing to note that the incumbent, Advocate Mkhwebane, has not shown the necessary willingness to comply with the prescriptions of the law as it concerns the classified report which is in her possession."

Police confirmed that a criminal case against Mkhwebane was opened recently at Lyttelton Police Station in Centurion and that the docket was later transferred to the Hawks. According to the police case management system, officers opened a case of theft of information and "contravention of the information act".

"The state is the complainant in the case and the Office of the Public Protector is the accused," said a security cluster source, who is privy to the details.

According to the source, the Office of the Public Protector failed to obtain a subpoena through the legal route and received the information illegally.

"The case remains under investigation and will be handed over to the National Prosecuting Authority to decide whether to prosecute or decline," said the source.

City Press established that Mahlobo's report landed on Letsatsi-Duba's desk and that Mkhwebane - who "respectfully declines to comment" - was keen to access its contents, particularly where it relates to Sars.

But government insiders have cast aspersions on Mkhwebane's motives, claiming that her interest in the report was part of the factional battles in the ANC, pitting the new guard under President Cyril Ramaphosa against former president Jacob Zuma's old guard.

They say her dogged pursuit of the document is aimed at undermining Ramaphosa and Public Enterprises Minister Pravin Gordhan, who was Sars commissioner at the time allegations of the rogue unit surfaced.

"She is being handled from somewhere," a source said.

The office of the IGI said yesterday that in August 2014, the SSA had instructed it to look into "media allegations against the agency's Special Operations Unit and/or other branches of the SSA".

"The report included certain aspects of Sars, bearing in mind that the IGI has no statutory mandate over Sars," the office said, adding that the completed report was "submitted to the minister of state security as the tasking authority".

The office of the IGI said they were also "made aware that the report was dropped off anonymously at the Office of the Public Protector".

City Press learnt that after receiving a subpoena from Mkhwebane, Letsatsi-Duba had offered her a redacted version of the report to avoid identifying members of the agency and sources, but Mkhwebane insisted on a full version.

At the beginning of last month, according to sources with intimate knowledge, Mkhwebane informed Letsatsi-Duba that she had received a copy anonymously, but she still wanted the minister to comply and hand over the report officially.

The minister warned her that it was illegal and unlawful to be in possession of the copy.

In mid-February the two met, and Mkhwebane confirmed that she had the report. She repeated that it was dropped off anonymously.

Five days later, on February 20, Letsatsi-Duba again wrote to Mkhwebane, warning her that she was "in unlawful possession of the classified report".

An affidavit by a senior manager in the SSA says that Mkhwebane is in violation of the Protection of Information Act and the Intelligence Services Act. "She has no right to retain that report," the affidavit says.

Her possession of the classified document also violates the rights of the SSA's agents and the agency itself, and has the potential of "disrupting its operations, and impairing its intelligence-gathering methods and its operations and cooperation with domestic institutions".

Furthermore, her possession of the report can cause "undue damage to the integrity of individuals and endanger people's lives".

The affidavit says the "unlawful disclosure" of the report to Mkhwebane and Noseweek was done "with the intention to harm the agency, its members and the republic of South Africa".

According to Noseweek, the sought-after IGI report found that Sars created a covert unit using covert and intrusive methods, in direct contravention of its mandate.

It also found that Sars had created a way to intercept and monitor communication, which went beyond targeting tax offenders, to be used for political purposes.

A political insider warned that Mkhwebane was playing political games. "She is very dangerous. It is a pity that when her matter goes to Parliament, the ANC does not even want to talk about it," said the source, referring to the governing party's shutting down of the probe into Mkhwebane's fitness to hold office.



UNDER FIRE
Busisiwe Mkhwebane

Africa MY LOVE

Kenyan model Ajuma Nasanyana waits behind the scenes before a fashion show presenting African fashion and culture during a gala marking the launch of a book - **African Twilight: The Vanishing Rituals and Ceremonies of the African Continent** - at the African Heritage House in Nairobi, Kenya. Whirling masked spirits clad in raffia and laughing children daubed with clay dance across the pages of African Twilight, the latest book by two photographers documenting rapidly vanishing rituals across the continent. Carol Beckwith and Angela Fisher have traversed 44 of Africa's 54 countries over four decades, documenting rituals. Now their archive - comprising more than a million images, hundreds of artefacts and field diaries, and thousands of hours of video footage - is looking for a home. They want the collection to go to a university in Africa or some other venue that will guarantee access to African artists, historians and researchers. 'This record of Africa won't be taken again. It can't be taken again because 40% of it is already lost,' said Fisher.

PHOTO: REUTERS

R13bn Eskom bonanza for US firm

SIPHO MASONDO
sipho.masondo@citypress.co.za

The US company that designed the extremely flawed Kusile Power Station in Mpumalanga was given a blank cheque by Eskom, which it cashed in to score R12 billion.

Despite the fact that the engineering consulting firm Black & Veatch, which is situated in Kansas in the US, delivered shoddy work that continues to hobble Kusile's performance, two senior Eskom executives told City Press this week that the company is still being paid hundreds of millions of rands.

The Special Investigating Unit (SIU) has launched an investigation into irregularities around the construction of the Kusile, Medupi and Ingula power stations, which cost a combined R342 billion.

A senior law enforcement official told City Press: "The second phase of the SIU's investigation is looking at the performance of, and payments made to the value of more than R139 billion, 11 identified contractors appointed by Eskom in respect of [the] power stations".

At the same time, the National Energy Regulator of SA this week announced hefty power price hikes (see **Business**), and the Zondo commission into state capture heard from Eskom officials how they went to extraordinary lengths to do the Gupta family's bidding.

IRREGULAR CONTRACT

Black & Veatch was handed a highly irregular open-ended contract in 2008 to design Kusile, a six-unit power station that was supposed to supply 4 800MW of electricity to the country's grid.

A confidential Eskom tender council report, which City Press obtained, shows that, by the end of December 2017, Black & Veatch had been paid R12 billion.

The nine-year contract was signed by Eskom's Jan Oberholzer, who was the parastatal's general manager for capital projects at the time. He resigned in 2008 and was re-employed last year as Eskom's chief operating officer.

The contract further shows that, one month before the contract expired, Eskom decided to extend Black & Veatch's contract by another four years - until 2022 - at an additional cost of R1 billion.

The report further states that Black & Veatch's open-ended contract allowed it to charge hourly rates per employee, and it does not stipulate a maximum value, which flouts the Public Finance Management Act (PFMA).

Construction contracts usually include a pre-agreed fixed rate of between 7% and 10% of the project's value. However, Eskom also agreed to pay Black & Veatch a 15% advance payment on every work order, which

amounted to more than R1.2 billion.

The PFMA expressly forbids advance payments for goods and services.

The report states that the consulting firm has been paid R12 billion to date, and will be paid R13 billion by the time it is done in 2022.

However, senior Eskom executives told City Press this week that the reason the contract was extended by four years was because they did such poor work on site that they had to now repair the damage.

The documents also reveal that Black & Veatch charged higher hourly rates for their employees from the US than for those from India, Thailand and China, which has sparked fury and cries of racism among some top Eskom officials.

An experienced construction engineer told City Press that advance payments for consultants were "unheard of".

"I have been an engineer for more than 30 years and I have never heard a single case where consultants were paid in advance," he said.

"One could argue that construction companies undertaking massive construction projects could justify requesting upfront payments to set up on the construction site. But for professional services providers, it is a no-no."

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