

Citizens turned into criminals by draconian lockdown regulations

By Glynnis Breytenbach MP - DA Shadow Minister of Justice and Constitutional Development

Chairperson, Honourable Members

At the inception of this 6th Parliament, with the advent of a new President and a new Cabinet, we were cautiously enthusiastic in our support for the new Minister.

We hoped that new brooms would sweep clean, that the new Administration would shake off the abysmal performance of the past 10 years and embrace the opportunity to be innovative and make a concerted effort to overturn the catastrophic results of State Capture. We hoped that Minister Lamola would work hard to ensure improved service delivery in the many departments for which he is responsible and begin to address the serious issues preventing the functioning of the system, including the criminal justice system.

The new Minister was young, embraced technology and inspired us all to hope that sweeping change was on its way, that he would walk his talk of a commitment to the Constitution and the rule of law, of a drive to improve the criminal justice system, of serious action to be taken against those responsible for State Capture and the many other grand corruption schemes.

To quote the Minister in his maiden budget speech, he said *"It is with a sense of immense honour that we are here today to present the Budget. Part of the mandate of this budget amongst others is to fight corruption and ensure that Justice is not only done, but also seen to be done. The various Commissions of Inquiry have shown us that the levels of fraud, corruption and greed in our country are sophisticated and unacceptably high. The large amounts of monies involved, no doubt, constitute a serious affront to our twenty-five-year old constitutional democracy."*

Little has come of this commitment to the rule of law. While we all agree that the rule of law is an essential cornerstone of any constitutional democracy, that no one with a modicum of common sense would invest in a country that did not have an unshakeable commitment to upholding the rule of law, we have not seen these words put into action.

To uphold the rule of law we must have an independent prosecuting authority, properly resourced in every fashion, to enable effective and efficient prosecutions to enforce accountability for breaking the law. This, Honourable Members, we do not have.

Despite the appointment of Adv Shamila Batohi, whose appointment we applauded and still do, we have seen slow or no progress, largely due to a woefully inadequate budget and lack of resources, human and otherwise.

The NPA remains bogged down in the mess left after State Capture and will never be able to function at the level required while it remains under-resourced. Adv Batohi has told the Justice Portfolio Committee that the NPA simply does not have the prosecutors to prosecute these cases.

The Investigative Directorate was established and more than 18 months later we have not seen one prosecution. We have seen a couple of arrests, which is encouraging, but not of any "big fish". By their own admission, the Investigative Directorate have gone back to the drawing board, and don't expect to have any prosecutions in court within the next 3 years. Bearing in mind that it has a lifespan of only 5 years, that will mean that they will have done no prosecutions at all. All their work

will simply be re-absorbed into the SCCU units of the NPA and have to be done by other prosecutors. It would have been better, then, to leave them to it in the first place.

The Minister told us *“we will make a significant investment in the modernisation of the criminal justice value chain. The Justice, Crime Prevention and Security cluster is implementing the Integrated Justice System, which is a cutting edge multi-departmental modernisation programme, aimed at enhancing the efficiency and effectiveness of our criminal justice system.”*

Well, this sounds impressive, real 21st century stuff, but in reality, this project has been ongoing for the past 20 years and shows no progress whatsoever. Vast amounts of money have been poured into this bottomless pit, with no discernible returns.

The reality is that hundreds of complainants, like Alison Oates, the victim of a 2015 farm attack, in which she was beaten, burned and gang raped has still not had her day in court. 5 years later, and no progress. Despite repeated requests over the past 4 weeks, the NPA can provide no details explaining the delay. Shameful.

The Minister assured us of his commitment to the Constitution, and the rule of law. He took the Honourable Malema to task saying *“You cannot be in charge in a democracy. The people are in charge.”*

But just a few months later, while announcing more draconian lockdown regulations, Minister Lamola proudly proclaimed that the government does not have to consult the public extensively on the regulations governing South Africa’s lockdown despite the implications they might have on the citizenry, and proclaimed himself to be the custodian of the Bill of Rights. Given the opportunity to step up and provide leadership in the questionable National Covid Command Council, the Minister has failed dismally to do so, bleating like a lamb after the autocrats around him. He has not uttered one word about the excesses of the securocrats around him and is clearly happy to turn citizens into criminals by endorsing draconian lockdown regulations with no regard for reality or the resultant misery.

No one could prepare for the Covid-19 pandemic, no budget could foresee and accommodate it. This we understand. But when provided with a unique opportunity to step up, show leadership and redesign the Department and the criminal justice system to launch it into the 21st century and a digital age, all that was forthcoming was this budget, which has all the innovative qualities of an amoeba, and the abuse of the pandemic as an excuse for an inability to address the real issues.

The Democratic Alliance does not support this budget.