

Department of Justice must restore confidence in the NPA and the criminal justice system

By Werner Horn MP – DA Shadow Deputy Minister of Justice and Constitutional Development

Justice and Constitutional Development has a major role to play to restore the confidence of South Africans and the world in our country.

Governance, policies, strategies, programmes and budgets cannot be a mere tick box exercises if we are to restore our image as a constitutional democracy on the path to prosperity.

The Honorable Breytenbach has referred to systematic hollowing out of the institutions of justice which has earmarked our recent past and has dealt with the positive developments at the NPA.

Chair: In addition to the vital need to deal speedily and effectively with corruption and state capture our ability to deliver justice to the thousands of victims whose personal safety are breached and broken down every day in our streets and on our farms is of equal importance if we are to restore confidence in the NPA and the criminal justice system and if we are to fulfil the dream Pres Ramaphosa has of reducing crime by fifty percent.

For let there be no doubt: The current composition, skills set and budget of the NPA is in no way aligned to this target.

This is not a political statement. It is a statement of fact based on what the NDPP and functionaries of the Department of Justice told the Portfolio Committee during our budget briefings.

Minister, it is glaringly obvious that your top short term priorities MUST be to ensure the proper funding and up skilling of the prosecution services of the NPA.

If you cannot do this Minister, the NPA and our Criminal Justice System will be set up for continued failure.

In this regard we welcome the insight of the new National Director and her willingness to admit that conviction rates as a percentage cannot be the only or the most reliable way to measure the success of the role of the NPA in the fight against crime.

Let me state only one of the real numbers that paints the sorry state of the NPA decline, to illustrate the task at hand: Despite fewer criminal cases being enrolled, the backlog roll (that is cases on the roll for longer than 12 months) is estimated to grow from about 28 000 three years ago to about 35 000 at the end of this financial year.

Honorable Lamola, in the short and medium term your legislative agenda will also either work towards restoring confidence that this government has re-embraced constitutionalism and with it recommitted to the rule of law and the centrality of human rights in our international relations, or that it is continuing on the path of what at best can be described as re-imaging the world in line with the rule of man rather than the rule of law.

In this regard you should be warned not to place much trust in your deputy minister.

While he was part of the Zuma administration, he brought us some very bad bills, bills that not only undermined the rule of law and our international obligations, but which he also was well aware could never hope to pass constitutional muster.

A Cyber Security Bill which, in typical Zuma era thinking, could not imagine a South Africa where the State Security Agency is not at the centre of every state operation.

A Traditional Courts Bill which panders to the worst unconstitutional instincts of traditional leaders and half-hearted democrats, rebuffing the constitutional demand that customary law and practices are to be developed in a manner consistent with the Bill of Rights.

A Hate speech and Hate Crimes Bill which sought to criminalise offence and to clamp down on free speech instead of establishing a true culture of human rights earmarked by tolerance.

Not one, but two attempts to facilitate our withdrawal from the International Criminal Court on the back of the friendship of the Zuma administration with Omar Al Bashir, a despicable dictator who was and is of course wanted for crimes against humanity, war crimes and genocide.

Minister, whatever you do, never rely on the advice and opinion of your Deputy when it comes to your legislative agenda. His ability to identify and prevent legislation that is averse to our Constitution is severely impaired by his service to the Zuma administration.

We note your announcement today that you want Parliament to proceed with the finalisation of the Traditional Courts Bill and Prevention of Hate Crimes Bill.

We nonetheless urge you to first to a constitutional and specifically a Bill of rights audit on these bills, before you put your stamp of approval on them.

Chairperson: the biggest threat to the plans of the Minister to bring the reforms that the justice cluster need, is that crisis management and the day to day drag that comes with being the Minister responsible for three government departments can become all-consuming.

Therefore Minister, while it is obviously very important that you in the short and medium term attend to the deficiencies of the State Legal Services – an issue that has been simmering at just below boiling temperature for years on end,

the embarrassment that is the process of bringing into operation the Information Regulator, where there has been miniscule progress since the leadership took office nearly three years ago

and the snail's pace at which the Integrated Criminal Justice System is being developed – it having been announced twelve years ago already and it having gulped up hundreds of million Rands of taxpayers money while very little real integration has been achieved'

There is of course also Minister, on your admission, for the sake of safeguarding our constitutional institutions the serious need to strengthen the institutional independence of the NPA and the NDPP and attend to long outstanding matters relating to the recommendations of what is colloquially known as the Kader Asmal report in respect of our Chapter 9 institutions – also a teenager at the age of twelve now.

This Minister is the mission you chose to accept.