

THE ROAD TO DICTATORSHIP IN SOUTH AFRICA

AN OPEN LETTER TO PARLIAMENT SA FROM MARY DE HAAS

It has come as news from you that the Minister is leading a Ministerial task team investigating political killings and we shall be addressing that with him..... We do agree with the assertion that the involvement in police operational matters is not the preserve of the Minister but the National Commissioner.....Thank you once again for your timely alert and we shall continue to exercise our mandate over the Minister' (letter to author dated 26 July 2021 signed by late Chairperson Police Portfolio Committee Joemat-Pettersson'

The late Police Portfolio Chairperson was correct about the role of the Minister of Police, for It relates to matters of policy and oversight, as per Section 205 of the Constitution. That a minister should not be engaged in operational matters is also implicit in Constitutional principles about political nonpartisanship in the Public Service Commission. Minister Cele's conduct is also in breach of the SAPS Act. Over two years after this letter was written by the late Chairperson, and many missives to Parliament later, Cele continues to do exactly as he pleases, unsanctioned by Parliament or the President. It is he who facilitates, and is responsible for, the escalation in violent crime while taxpayers pay for his extravagant travel and subsistence expenses, and other grossly irregular expenditure. With elections looming he is becoming an even greater threat to democracy, with his reported recent attendance at a Cape Flats *ANC meeting* with an escort of 6 Flying Squad vehicles, 3 POP vehicles and 3 TRT minibuses - a dire warning of what is to come, with party politics trumping the safety and security of South Africans.

Increasing political meddling, especially in SAPS Crime Intelligence

Neither of the CIS management members doing Cele's bidding, including financially, have security clearances from State Security. One, who has an outstanding criminal case against him, is reportedly a close family relation of the minister. He manages CIS finances, including the Secret Service fund. A 'go slow' at the national office was precipitated by the failure to provide members with vehicles which had been purchased for them (It seems media publicity has assisted them; the minister called management to a special meeting to warn them against leaking information to the media and 'academics'). It is also known that in some instances 'safe houses' are occupied by, or let out by, management members. Funding for informers is being cut right back, with potentially very dangerous consequences (warning about C-I-Ts, for example). Now, it seems, there is going to be a major reshuffle of management staff,

including at the highest levels, to ensure that politically correct staff are in charge (and this correctness appears to extend to divisions within the ANC). Favoured replacements include some allegedly implicated in criminal activities including, in one instance, an alleged crime against the state. Serious allegations are circulating about funds disappearing, and common gossip is referring to the acquisition of interception equipment which is more sophisticated than the notorious 'grabbers' procured before the 2017 NASREC conference. According to suspended Deputy Commissioner Vuma's Protected Disclosure, she was investigating the acquisition of further 'grabbers' by Minister Cele and his close associate and former CIS head Jacobs (who had been disciplined following her investigation into the death of Charl Kinnear). She also referred to threats to her own safety in her Disclosure. It is impossible to verify the truth of these allegations since it is only the office of the Inspector-General of Intelligence and Parliament's Intelligence Oversight Committee which may investigate these matters. According to Oversight Committee member, Dianne Kohler-Barnard, speaking to BizNews interviewer Chris Steyn, despite reports of serious security breaches in the country's Intelligence, and other pressing issues for discussion, a meeting by the committee was cancelled. However, given the failure to deal with the damning findings of the Zondo Commission about corrupt Crime Intelligence networks and activities, it seems highly probable that similar processes continue. If, with elections looming, political diversion of State funds is happening, it is *at a cost to the security of South Africa*.

The increased politicization of the SAPS since 2009 has continued, with the baton having passed from Zuma and Magashula to Cele, with their appointees now running the police nationally. The flicker of resistance to ministerial meddling by the National Commissioner seems to have died, perhaps under threat of his being removed. Incompetence and political allegiance are rewarded with promotion, including to the top ranks which cost over a billion rand a year, at the expense of police members who risk their lives doing dangerous work, often without even sufficient vehicles. Attempts to expose gross corruption are among the reasons for illegal dismissals of competent police members; their dismissals make way for further corrupt appointments*.

Under Minister Cele's hands-on leadership corruption rules the SAPS. Over 4000 members, some in senior positions, have criminal convictions, many of the trainees entering the system recently have bought their way into it, and in one year alone 700 guns disappeared from SAPS custody. Unsurprisingly, given

that relatively few arrests result in convictions, and that torture and deaths at the hands of police are rife (633 deaths in 2021/22) those who are Constitutionally charged to prevent crime face civil claims of R108 billion. Amazingly, few members of the public – or even the media - seem to challenge the truth of what Cele says, despite his having been dishonourably discharged as National Commissioner SAPS for, among sundry other things, lying under oath. He also lies about his struggle credentials. Although there are criminal investigations against him, he has, for some inexplicable reason, not been charged together with former KZN Commissioner Ngobeni and businessman Panday for the 2010 World Cup tender which he personally signed off on.

The consequences of the criminalization of the State, led by the SAPS and its Minister

Criminality continues to gain ground, terrorizing communities as the following three examples in KZN show.

In the Camperdown area near Pietermaritzburg, well organized, armed criminal housing syndicates continue to take over, and sell, private land, some belonging to land restitution beneficiaries. Despite there being *high court interdicts preventing illegal occupation, no constructive action has been taken by the police or the District municipality. A circular sent to all stations by SAPS Legal Service management twenty years ago provided instructions about what action should be taken. Those instructions are being ignored.* While members of Operational Response Teams travel with the Minister, there is no deployment of ORS - with water cannons - or dog units, to deal with life-threatening criminals there, or in other violence-torn areas. Some landowners employ private security at great expense. According to a senior SAPS member, a big company in which the minister's father-in-law is a management member, has been given the use of six SAPS vehicles, despite it being well known that the police are short of vehicles, many of which are not properly maintained (management's fault).

One of the areas of Inanda badly hit by a spate of inexplicable murders is Bhambayi. Shortly after a recent shootout in nearby Ntuzuma left alleged criminals and a police member dead, and arrests were made, armed youths robbed commuters and a taxi driver in Bhambayi in broad daylight, and shot and injured one who resisted. As with a written request to Camperdown SAPS, for assistance, a call to Inanda police to deploy a patrol has been ignored – *but, increasingly, there is a complete lack of accountability on the part of police*

station management in many areas so, unsurprisingly, many people do not trust local stations. The SAPS, like all government departments, appear not to know that the Constitution requires accountability, and just administrative action, of them, including in writing.

Worst affected of all are poor rural areas, where killings, especially at night, are common. A recent victim in the Mbazwane area was an elderly woman who had long, through her own hard work, supported, educated and cared for her children and grandchildren. She died on her knees begging, in vain, for her life, before armed gunmen shot her dead. She is not the first woman in this area to die for unknown reasons. This police station has long been notorious for facilitating the cross-border movement of stolen vehicles and other contraband goods to and from Mozambique. Publicity is, correctly, given when farmers are murdered. However, the lives of poor people are held in such little regard by our black government that police do not even bother to deploy dog units to try and track down killers moving on foot. Police telephone numbers listed on the internet may be incorrect and/or telephones may not be answered.

Corruption in, killings and torture by, the SAPS continue, with impunity, because of high levels of dysfunctionality at IPID, especially in KZN where, according to one staff member, 300 serious cases have never been investigated. Some investigators, apparently lacking any qualifications for the job, cannot even take proper statements. Even those who were police members may have had no detective training. At head office, investigators stand accused of defeating the ends of justice, with serious consequences for good police members, but there is no independent body to investigate serious allegations against what is a body overseen by the same minister who is unconstitutionally running the police operationally himself. Despite his dishonourable dismissal, Cele even signs himself on IPID reports as 'General Cele' and, while telling police to 'shoot to kill' also oversees investigations into these killings! Whoever in the Civilian Secretariat drafted the latest version of the IPID bill which is supposed to give the Directorate Independence does not seem to understand the meaning of the word. In terms of this bill, for it is the Minister, consulting with cabinet, appoints the Executive Director of IPID for a period of not less than seven – and up to ten – years. Any reference to criteria for removal are omitted. There are various other new provisions in this sinister bill which give the Minister, through his appointee, new powers which have no place in a Constitutional democracy.

This draft legislation is surely a very serious indictment of the Police Ministry, which has taken over six years, with an apparent lack of any critical parliamentary corrections to previous drafts, to produce a piece of legislation which is even worse than what the Constitutional Court made the Order *against* in its 2016 Judgment. Instead of curing the defects of the legislation, as ordered, this bill is perpetuating them. *Is this not showing complete contempt for an Order by the Highest Court of the land – and the stricture by our Chief Justice that there should be no Executive involvement in Public Service appointments? Should the Police Ministry not be sanctioned for contempt of court? If us mere mortals can be criminally charged for breach of a court order, surely the same should apply to people in government?*

Free and fair elections in jeopardy : Please act immediately

How, with the blatant political meddling in policing by a minister dismissed as national commissioner, accompanied by rising levels of violent crime – including out of control gun violence – and ministers commandeering very scarce police resources to pursue their political activities, can the safety of all those embarking on campaigning ahead of elections be guaranteed? How can the 2024 elections be free and fair under these circumstances? As I write to you, there is one mass shooting after another in KZN because of the failure of CIS and PSIRA to expose and deal with gun proliferation. Is this a climate conducive to safe electioneering – bearing in mind that KZN is predicted to be one of the more closely contested provinces. It is also the home of taxi hitmen and probably the most powerful, and politically well connected (including to the minister) taxi boss. Whether the minister's known friendship with a KZN based trucking magnate (an apartheid policeman convicted for drug dealing, now apparently employed by CIS) had any bearing on his failure to request SANDF deployment timeously in July 2021 is not known.

I remind Honourable Parliamentarians that our Chief Justice has warned about the continuation of State Capture if Parliament does not do its oversight job. Given what is happening in CIS, it appears to have done nothing about the Zondo Commission report on this component. Despite the late Joemat-Pettersson's agreement that the Minister should not engage in operational matters, *Parliament has done nothing to stop his illegal, unconstitutional, conduct*. I remind you too of the suggestions our Chief Justice has made about how to improve that oversight (Volume 6 of the Commission Reports) and

Section 55(2) of the Constitution regarding your obligations to establish mechanisms for ensuring *proper oversight of the Executive*.

The unbridled illegal conduct of the Minister of Police, together with the sinister new IPID bill – and the failure of Parliament to pass legislation to restore civilian oversight of the State Security deemed urgent almost five years ago, together with the state's lack of transparency and accountability – is the stuff of which Police States are made, and the self-aggrandizing conduct of the Minister is reminiscent of that of dictators.

I hope I have made clear to you how the Constitution of South Africa is being breached with impunity, and I entreat you to act *immediately* to deal with the issues I have raised, *before Parliament rises for, if lives are to be protected, there is no time to lose*.

Obviously, the buck stops with the President who appointed Cele (who is known to overrule him). He also, reportedly shows reluctance to authorize SIU investigations into the police. The President must be held to account by Parliament for his failure to deal decisively with his Minister, and the threat he poses to the security of the country and its residents. Our President shows creativity in appointing new ministers and task teams, so perhaps you could persuade him to appoint a Judicial Police Oversight body with forensic investigate powers before electioneering starts in earnest.

Please *order the Minister to stop all operational involvement and interference immediately, and hold him accountable personally for all travel and subsistence costs he incurs in performing duties which are so blatantly unconstitutional*.

Regarding his expenses, please call for an itemized breakdown, including whether it is true that he spent at least R5 million in catering during a two week stay in the Eastern Cape in latter August 2023.

I have been complaining to the Portfolio Committee about the operations of the political killings task team, and its complete lack of transparency, for over two years. It is known to take dockets with no apparent link to politics. Has it ever been called on to provide a full breakdown of dockets under investigation, and convictions? *This task team must immediately be disbanded, and all dockets handed back to specialized SAPS detective units reporting to provincial and national SAPS management as has historically been the case. This team serves no purpose whatsoever, except, possibly, to cover up for political colleagues of the minister who may be implicated in killings related to politics*

(some allegedly are) and siphon off police funds for personal or political purposes.

While the office of the Inspector-General of Intelligence will be fully briefed, the Intelligence Oversight Committee should meet urgently to interrogate what is happening in CIS. Information can be provided in confidence. I suggest that the Justice Portfolio Committee interrogates the NDPP about why no charges have been brought against Cele for the 2010 World Cup tender corruption, and progress in investigations into the corruption cases which led to his dismissal as Commissioner of Police.

Constitutionally, Parliament must surely act when members of the Executive are in such overt breach of the Constitution that they – like all you Honourable members – have taken an oath to protect. *What you have allowed Minister Cele to get away with doing is further endangering people's lives, including those of competent police members. It can only impact negatively on electioneering, especially in KZN. Please take my suggestion about the appointment of a Judicial Ombudsbody by the President seriously*

I conclude by reminding you to revisit reports, especially by the Expert Panel chaired by Prof Sandy Africa, and interrogate whether any of the serious security deficits, including in the SAPS ORS and PSIRA have been remedied. It was Minister Cele as Police Minister, who bears responsibility for what happened. It can very easily happen again, even if not on the same scale.

Kind regards,

Mary de Haas

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