




[Home](#) / [Newsroom](#) / [Media Statements](#) / [Details](#)

Menu

Media Statements

Speeches

Latest News

Events

NPA and DPCI (Hawks) enhance collaboration to investigate and prosecute TRC cases

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Joint Media Statement issued by the National Prosecuting Authority (NPA) and the Directorate for Priority Investigation (Hawks)

PRETORIA - The National Prosecuting Authority (NPA) and the Directorate for Priority Crime Investigation (DPCI / Hawks) welcome the judgment of the Supreme Court of Appeal (SCA) on Monday, 21 June 2021 in the Rodrigues matter. This important SCA decision confirms the decision of the full bench of the Gauteng Division to dismiss an application for stay of prosecution, based on the delay before the accused was indicted.

The judgment is an important step towards honouring those who gave their lives for our constitutional democracy. It aligns with both the Hawks and NPA's commitment to end impunity as it enables the NPA to move ahead to prosecute Rodrigues and other perpetrators of apartheid era crimes where there is sufficient evidence, and where prosecutions have not taken place, for various reasons.

This judgment bolsters the NPA's determination under the current National Director of Public Prosecutions (NDPP), Adv Shamila Batohi and unwavering commitment of the National Head of the Hawks, Lieutenant General Godfrey Lebeya, to revive these investigations and initiate prosecutions.

The earlier Rodriguez judgment of the Gauteng Local Division of High Court, on 03 June 2019, directed the NDPP to enquire into improper influence brought to bear on the NPA. This is a complex and complicated matter and the NDPP has been engaging with the Minister of Justice to determine the most effective course of action.

South Africans in general, and families of victims in particular, need to understand why these crimes were not prosecuted in the past. This will also provide important lessons regarding the need to ensure a robust framework to protect the independence of the NPA.

The NPA acknowledges that the unmerited delay of prosecutions of these cases amounts to the denial of justice to the victims of apartheid era atrocities. The NPA, as lawyers for the people and defenders of those who suffered from injustice, has established dedicated capacity to ensure that those who are responsible for atrocities can be held accountable in a fair and transparent process.

To ensure that justice is delivered, and to bolster the NPA's capacity to prosecute these TRC cases, the NDPP transferred the cases to the relevant Directors of Prosecutions (DPP) in the regions where the crimes were committed, with support from a National Office capacity. This approach increased the number of experienced prosecutors available to handle these complex cases. As a result, the number of cases has increased from 4 to 53 over the past 12 months.

Notwithstanding, it was realised that additional and dedicated capacity in both the NPA and importantly the DPCI was needed. As a result a TRC investigation strategy has been adopted by the NPA and DPCI to create dedicated and sustainable capacity to investigate and prosecute apartheid era atrocity crimes. The NPA is in the process of setting up a specialist unit to deal exclusively with these matters, and will be appointing former experienced prosecutors in offices which require additional capacity. A dedicated national office capacity will provide specialised advice, coordination, and monitoring and support

The Directorate for Priority Crime Investigation also embarked on the process to establish a dedicated team by a recruitment drive to re-enlist a number of competent and highly skilled former police officials with wealth of knowledge in the detective environment. Thirty four (34) of these members who were appointed from the 01 April 2021 for a contractual period of three years, are assigned to these cases.

The investigation of these cases that were being conducted by the fulltime Hawks members with multiple case dockets on hand, is now taken over by these dedicated and specialised teams, which is aligned to the regionalised approach adopted by the NPA. Our collective efforts are starting to pay off and a further 59 cases have been identified.

The focus is on implementation. It is envisaged that the investigations would be concluded by the end of the contractual period of the 34 former detective members.

We will continue with our ongoing collaboration with representatives of victims, in line with the NPA's victim responsive approach.

The inquests into the deaths in detention of Neil Aggett and Ernest Dipale, which were reopened have reached an advanced stage. The NPA has also obtained Ministerial approval to open another inquest. Moreover, work is being done on other matters which would enable consideration for those cases to be reopened as well.

The apartheid atrocities cases under consideration date back to the early 1960s. The health conditions and circumstances of the witnesses and suspects and nature of available evidence further complicate the investigation and prosecution of these cases. The challenges in investigating these cases cannot be underestimated.

"The work to investigation, without fear, favour or prejudice on all other remaining cases is continuing. The capacity of the team will be enhanced as the need arises. The DPCI shall

have built sufficient capacity to carry out any processes that may be left pending,” says the Head of the Hawks Lieutenant General Lebeya.

Despite these challenges, the Hawks and the NPA will remain focused on action - doing all that we can to ensure accountability for these crimes. The victims deserve nothing less.

“Time is not in our side. We have a small window to address this; loved ones need to see justice being done; and justice will not be served until we act decisively against those that the NPA was once powerless to hold to account,” says the NDPP, Adv Shamila Batohi.

Ends

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