



Justice and Security Research Cluster

2022 State of the Nation Address (SONA)

Issue 6
February 2022

Highlights of the SONA: Peace and Security Function

President Ramaphosa delivered his sixth State of the Nation Address (SONA) during a hybrid Joint Sitting of the National Assembly (NA) and the National Council of Provinces (NCOP) on 10 February 2022.

The President called for a new consensus and for South African's to stand together to address fundamental challenges which include high unemployment, poverty and deepening inequality. He identified structural reforms that will be implemented to revive economic growth and reverse inequality and injustice but made it clear that there can be no economic recovery without addressing the scourge of corruption.

This Bulletin provides an overview of issues affecting the justice and security sector as highlighted during the SONA for consideration by the relevant committees.

The two key focus areas in the sector identified by the President are:

- **Corruption and state capture:** The devastating effects of state capture and the looting of public institutions and state-owned entities for private gain have reduced the ability of the State to provide services especially to the poorest and the most vulnerable. The President will present a plan of action in response to the recommendations made by the Judicial Commission of Inquiry into State Capture by June 2022 and present this plan to Parliament. In the interim, he highlighted measures will be taken to implement recommendations contained in the first two Reports. In addition, the President stated that he has set up mechanisms to monitor implementation of the recommendations made by the Special Investigating Unit (SIU) in relation to corruption and fraud in the COVID-19 Personal Protective Equipment (PPE) related contracts.
- **July 2021 civil unrest in KwaZulu-Natal and Gauteng:** The President stated that a national response plan will be developed and implemented to address the weaknesses identified by the Panel of Experts into the July 2021 Civil Unrest. The Report concluded that Government's initial handling of the July events was inept, police operational planning was poor, there was poor coordination between the state security and intelligence services, and the police are not always embedded in the communities that they serve. The President acknowledged that Cabinet would take ultimate responsibility for these events.



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Justice and Constitutional Development

SONA PRIORITY AREAS FOR JUSTICE

The President highlighted the following priority areas:

- **Ensuring those who are responsible for state capture are held accountable.** The National Prosecuting Authority (NPA) will carry out the further investigations that the Commission has recommended, in order to bring the members of the criminal network that infiltrated Government and captured the State swiftly to justice.
- **Expecting the Investigating Directorate to deliver on its mandate.** A new head of the Investigating Directorate will be appointed following the departure of Adv. Hermione Cronje.
- **Accepting private sector assistance to enhance forensic investigation and prosecution.** This will be done while simultaneously protecting the NPA's constitutional independence and ensuring transparency through the development of a framework for private sector cooperation that will be managed through National Treasury.
- **Strengthening the system to protect whistle-blowers.** This will be achieved through (i) a detailed review of all applicable legislation; (ii) a comparative study of other jurisdictions and (iii) steps to address immediate concerns about the safety of whistle-blowers.
- **Engaging with the Judiciary for the creation of special court rolls for state capture and corruption cases.**
- **Establishment of a mechanism to monitor the implementation of Special Investigating Unit recommendations.** This mechanism has been set up in the Presidency to monitor implementation of SIU recommendations and ensure that Government departments and entities act against those who have violated regulations and broken the law.
- **Continuing to intensify the fight against gender-based violence and femicide.** This will be achieved through the implementation of (i) the National Strategic Plan on GBVF; and (ii) critical legislation to ensure that cases are successfully prosecuted, and survivors are protected.
- **Tackling economic sabotage of essential infrastructure.** Specialised multi-disciplinary units have been established to address economic sabotage, extortion at construction sites and vandalism of infrastructure.



Justice and Constitutional Development cont.



STATE CAPTURE

The following key issues were highlighted:

- ✓ The first two parts of the Report of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector make it clear that there was indeed 'state capture'.
- ✓ Public institutions and state-owned enterprises were infiltrated by a criminal network intent on looting public money for private gain.
- ✓ This criminal activity had a devastating effect on key state-owned enterprises, SAA, Transnet, DENEL, SARS, as well as GCIS.
- ✓ State capture had a direct and very concrete negative impact on the lives of all South Africans, but especially the poorest and most vulnerable members of our society.
- ✓ State capture has weakened the ability of the State to deliver services and to meet the expectations and constitutional rights of the people.
- ✓ The Commission Report must be acted upon and the many individuals and companies that the Commission has found were responsible for state capture must be held to account.
- ✓ By no later than 30 June 2022 the President will present a plan of action to Parliament in response to the Commission's recommendations.

Key areas for oversight

- ✓ Tracking progress with the further investigation and prosecution of those persons and institutions, in both the public and private sphere, that facilitated/participated in and benefitted from state capture.
- ✓ Monitoring the appointment of a new head of the Investigating Directorate (ID), as well as the putting in place of a permanent structure for the ID.
- ✓ Requesting more information on plans to accept private sector assistance to enhance forensic investigation and prosecution, including the costs of such assistance and potential for skills transfer.
- ✓ Engaging with the Justice Department, NPA and groups such as Whistle-blowers for Change on the issue of whistle-blower legislation, given the deficiencies identified in the Protected Disclosures Act 26 of 2000.
- ✓ Ensuring that relevant stakeholders in the JCPS Cluster act speedily to ensure that a bona fide whistle blower who reports wrongdoing should receive, as a matter of urgency, effective protection from retaliation.
- ✓ Monitoring the support given in the 2022 Budget to those agencies at the forefront of investigating and prosecuting state capture and corruption matters. Any further budget cuts must be interrogated. The Finance Minister in the 2021 MTBPS has committed to additional funding for the Investigating Directorate.
- ✓ Scrutinising the effectiveness of the mechanism established in the Presidency to monitor the implementation of Special Investigating Unit recommendations, while also tracking cases referred by the SIU for possible prosecution to the NPA and those matters enrolled at the Special Tribunal, in respect of the SIU's extensive COVID-19 PPE investigation.
- ✓ Monitoring any challenges with the effective implementation of the, Criminal and Related Matters Amendment Act 12 of 2021, Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act 13 of 2021 and Domestic Violence Amendment Act 14 of 2021, which were recently signed into law by the President.



The President did not mention anything specific to the Department of Correctional Services but a number of cross-cutting issues were highlighted including COVID-19 related corruption and the filling of critical vacancies.

COVID-19 Corruption

- In his Address, the President announced that, in December 2021, the SIU submitted its final report on its investigations into COVID-19 related contracts.
- In the Department of Correctional Services, the SIU received allegations that an official had awarded PPE contracts to family and friends.
- The total value of the alleged contracts awarded to companies linked to family and friends was R53.2 million.
- The SIU reported that the investigation into 15 of the companies have been finalised and found that the SCM process was irregular and there was possible collusion between officials and some of the service providers.
- The SIU made 4 referrals for disciplinary actions against officials in the Department of Correctional Services. Those involved are reported to be in both senior and middle management. The charges relate to contravention of the PFMA

Filling of critical vacancies

- The chronic understaffing of the Department of Correctional Services is normally referred to as 'leaking bucket' due to the challenge of filling vacant positions at a rate that compensates for the staff leaving its employ.
- The President mentioned the filling of critical vacancies as well as making leadership changes in a number of security agencies to strengthen the security structures. Currently the Department of Correctional Services does not have a National Commissioner since the departure of Mr Arthur Fraser in September 2021.
- The current approved post establishment of the Department of Correctional Services is 42 061 and only 38 123 positions are filled with a vacancy rate of 9.4%. In terms of critical skills, the highest vacancy rate is in the medical profession at 33.3%, followed by professional nurses at 16.3% and educationists at 13.6%.
- There are two key factors that contribute to vacancies not being filled in the Department of Correctional Services. These are:
 - the moratorium placed on the filling of vacancies; and
 - the reduction in the compensation of employees' budget.

These two factors will seriously inhibit the Department of Correctional Services' efforts to rehabilitate offenders in their care noting that this Department is mostly labour intensive and relies on their personnel to realise their mandate.

Youth Employment

- In its effort to realise the President's call for employment of young people, the Department of Correctional Services has trained 1 944 young people in 2020/21 period through its Corrections Services Learnership Programme and absorbed 923 of them into full time employment in July 2021. The remaining 1 021 will be absorbed in the 2021/22 period.
- The Department has also started to set targets for youth employment in their strategic and annual performance plans. For the 2020/21 financial year, the target of 20% young people of their recruited personnel was exceeded when performance was recorded at 72%.

Key areas for oversight



- ✓ The investigation by the SIU in the Department of Correctional Services points to an ongoing problem of corruption and poor governance within the Department. The Committee should monitor and track progress on how the Department deals with corruption and implements consequence management to all those found guilty.
- ✓ The filling of critical vacancies is important to ensure that service delivery is not hampered. The Committee should track progress quarterly on the filling of critical vacancies in the Department of Correctional Services. In addition, the Committee should request the Minister to provide regular progress on the filling of the National Commissioner position.



Police



**JULY 2021
PUBLIC UNREST**

In his Address, the President stated that “the report paints a deeply disturbing picture of the capabilities of our security services and the structures that exist to coordinate their work”.

The President further stated that –

- The Report concludes (amongst others) that police operational planning was poor, and police are not always embedded in the communities they serve.
- Cabinet will, as recommended by the Panel, develop and drive a national response plan to address the weaknesses that the Panel has identified.
- As an immediate step, critical vacancies will be filled and positions affected by suspensions in the State Security Agency and Crime Intelligence will be addressed.
- Leadership changes in a number of security agencies to strengthen the security structures will be announced.
- The staffing of the public order policing unit of the SAPS will be brought to an appropriate level, with appropriate training courses in place.
- An additional 12,000 new police personnel will be recruited to build urgently needed capacity.
- Immediate attention will be given to the re-establishment of Community Policing Forums (CPFs).
- The President called on all South Africans through their various formations to participate in developing a National Security Strategy.
- The National Security Council will urgently develop implementation plans that address the range of recommendations made by the Expert Panel.
- In conclusion, the President stated that these measures will go a long way to address the serious concerns about the breakdown of law and order in society.



STATE CAPTURE

The following key issues were highlighted:

The President highlighted the effect of state capture and announced that, he will present a plan of action in response to the Commission’s recommendations by no later than 30 June 2022. The Commission made various recommendations for (further) investigation by law enforcement agencies. During the SONA, the President focussed on the NPA to lead these investigations. Importantly, the Commission states that there is evidence that “suggests very strongly that the Directorate for Priority Crime Investigation (DPCI) was probably captured”, but stated that the “Commission will not make a definitive finding on the DPCI as it may have to be the subject of other processes.”

Key areas for oversight

- ✓ Amendment of the SAPS Act: Ensuring that CPFs are adequately funded to improve relations and coordination between local police and residents of the areas they serve.
- ✓ Amendment of the SAPS Act: Clearly defining the roles, responsibilities and mandates of the Minister of Police and the National Commissioner to ensure leadership stability.
- ✓ Amendment of the SAPS Act: Incorporating the recommendations of the Farlam Panel of Expert’s recommendations on crowd control, public order policing and a sustainable doctrine on the use of force during public protests.
- ✓ The stabilisation of the Crime Intelligence Division should take priority and must be a key area of focus of the Committee. The serial instability in the Division has had a paralysing effect on the effectiveness of the Division.
- ✓ Funding: The SAPS’ budget must be sustainable to implement the capacity upgrades in terms of personnel numbers, in general and in the public order policing units.



Defence & Military Veterans



JULY 2021 PUBLIC UNREST

The following key issues were highlighted:

- The Report highlights significant shortcomings in the security services, with specific focus on the Intelligence and Police services. While the SANDF was not specifically mentioned in the SONA, it is also inhibited by fiscal and equipment shortcomings, as highlighted by Parliament in the past. The Expert Panel Report also notes the need for additional training to the SANDF to better assist the Police when needed.
- Security services have been tasked by National Security Council to develop measures to address concerns around the breakdown of law and order. The SANDF will, as part of the country's security services, input into these measures.

Alignment to the MTBPS

- The 2021 MTBPS focused on additional funds allocated to the Department of Defence for its assistance to the Police during the July 2021 unrest.
- It further noted that, over the next few years, the Department of Defence will reprioritise funds to set up a rapid response unit and implement reforms to manage pressure on compensation that is resulting in irregular spending. While the 2022 SONA did not refer to the compensation pressures in the DOD, it referred to a cooperative approach by the security sector to address concerns around the breakdown of law and order, which is likely to see continued cooperation between the SANDF and Police.

SONA PRIORITY AREAS FOR DEFENCE

The President highlighted the following general priority areas:

- The Welisizwe rural bridges programme was announced and aims to build 95 bridges in rural areas. The SANDF will be the implementing agent due to their demonstrated engineering capability to carry out the function.
- The President focused extensively on the important role of the private sector in economic recovery and expansion. The South African Defence Industry has the potential to contribute to such economic expansion and the South African Defence Sector Charter provides a potential roadmap in this regard.

COVID-19

The President thanked all frontline workers for their contributions during the COVID-19 pandemic. This contribution includes the deployment of the SANDF.

KEY ISSUES RELEVANT TO MILITARY VETERANS

- The announcement of the extension of the Social Relief of Distress grant for an additional year impacts on the Department of Military Veterans (DMV) as it provides qualifying military veterans with a top-up of R850 per month in addition to the R350 allocated by government.
- The President placed focus on the high levels of unemployment and the significant role of the private sector in creating employment. The DMV aids unemployed veterans in finding work and may be encouraged to increase its engagement with private sector stakeholders to find employment opportunities for veterans.



Key areas for oversight



- ✓ Budgetary allocation, expected expenditure, available capabilities and an implementation plan for the SANDF's involvement in the Welisizwe rural bridges programme.
- ✓ Conducive conditions for the South African Defence Industry to contribute to economic expansion and focusing on the South African Defence Sector Charter.
- ✓ Regular Parliamentary engagement with the South African Defence Industry and government regulatory bodies such as the National Conventional Arms Control Committee (NCACC).
- ✓ Balancing the SANDF's constitutional defence mandate and its increasing developmental role and assistance to the Police.
- ✓ Monitoring of DMV support to unemployed veterans and the payment of the Social Relief of Distress grant.

[Please click here for a comprehensive research paper](#)

Justice and Security Research Cluster

2021/22 Adjusted Budget Bulletin

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The Research Unit offers research support to individual Members of Parliament, to Committees and to the Houses. Researchers proactively provide:

- ✓ Summaries and analysis of Bills
- ✓ Analysis of the State of the Nation Address (SONA), Budget Votes, Annual Performance Plans, Quarterly Performance and Expenditure Reports, and Annual Reports
- ✓ Briefing papers in support of Committee meetings on topical oversight issues
- ✓ Comparative studies and international best practices
- ✓ Briefing papers to prepare for oversight visits and on-site oversight visit support
- ✓ Papers in support of House debates

On request, researchers will provide briefings and presentations to Committees, as well as research support to individual Members of Parliament.

Useful links:

SONA 2022

State of the Nation Address (SONA) 2022 Speech, [click here](#)

Reports of the Judicial Commission of Inquiry into State Capture

Part 1 (SAA, New Age, SARS and Public Procurement), [click here](#)

Part 2, Volume 1: Transnet, [click here](#)

Part 2, Volume 2: Denel, [click here](#)

July 2021 Unrest

Report of the Expert Panel into the July 2021 Civil Unrest, [click here](#)

MTBPS

Medium Term Budget Policy Statement (MTBPS) Speech, [click here](#)

Medium Term Budget Policy Statement (MTBPS) Full Document, [click here](#)

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