

28<sup>th</sup> January 2024

Ms. Nosiviwe Mapisa-Nqakula,  
The Speaker of the National Assembly,  
Parliament Street, Cape Town,  
The Republic of South Africa.

Email: [speaker@parliament.gov.za](mailto:speaker@parliament.gov.za)

Dear Honourable Madam Speaker,

I call upon you, as the Honourable Speaker of the National Assembly to execute your constitutional duty, investigate and raise in Parliament, how and why Shamila Batohi was given a top secret security clearance and appointed as the Head of the NPA in total disregard of the Minimum Information Security Standards [MISS] compliances, as detailed below.

We have the right to know why and how the Joint-Committee and the Department of Justice condoned this unlawful appointment of Shamila Batohi who does not meet the requirements and compliances of MISS.

The *prima facie* evidence points to a total disregard of the law and Constitution, and by notifying your office and the below named Heads of various Law Enforcement departments, I bring this matter to you, Madam Speaker, for your urgent attention for resolution.

One has to do one's civilian duty and report corruption wherever it may be uncovered, in terms of Precca, POCA and other Acts.

The Constitution is the highest law of the land and must be upheld by an impartial judiciary, sec179[2] refers, law or conduct inconsistent with the Constitution is invalid and the obligations imposed by the Constitution, must be fulfilled.

The unlawful appointment of Shamila Batohi has placed the National Security of South Africa at risk and is an act of treason. The President, the DoJ, and the State Security Council should all resign and be charged immediately, having failed the nation, by condoning this unlawful appointment.

Ms. Shamila Batohi and her Deputy, Advocate Anton du Plessis statements, "we cannot prosecute our way out of corruption" and "law and order is on life support", are admissions that South Africa is a lawless, failed state and the NPA is unable to uphold the constitution, notwithstanding that NPA is a Chapter 9 institution with the mandate to uphold the Constitution, without fear or favour, with a free and impartial judiciary.

## **FACTS OF THE UNLAWFUL APPOINTMENT OF SHAMILA BATOHI**

MISS, Minimum Information Security Standards, states: **any** security appointment by the President of the Republic of South Africa must comply with *inter alia*, Chapter 5, s4.1, s4.1.3.

### **SECURITY CLEARANCES OF PERSONS WHO HAVE LIVED ABROAD FOR EXTENDED PERIODS.**

*4.1 Where a security clearance is required for an RSA citizen who has resided/studied/worked abroad for a long period (excluding transferred public servants or students) and who applies to a government or semi-government institution or a national key point for employment, such a person is temporarily not eligible for any grade of security clearance.*

*Applications for clearance can, however, be considered after a period, as set out hereunder, on condition that the applicant did not give up RSA citizenship or accepted dual citizenship during the period of absence:*

#### **4.1.3 A Top Secret clearance after five years back in the RSA.**

Top secret security clearances are essential for these top posts to prevent South Africans from becoming foreign agents during extended absences.

### **BACKGROUND OF SHAMILA BATOHI:**

[https://en.wikipedia.org/wiki/Shamila\\_Batohi](https://en.wikipedia.org/wiki/Shamila_Batohi)

Batohi led the prosecution of Proteas cricket captain Hansie Cronje at the King Commission of Inquiry in 2000,<sup>[3]</sup> and served as director of public prosecutions for KwaZulu-Natal from 2000 to 2009.<sup>[2]</sup>

She served in her personal capacity as senior legal advisor to the prosecutor at the International Criminal Court of the Hague from 2009 to 2018.

Upon her return, on 4 December 2018, she was appointed national director of public prosecutions by President Cyril Ramaphosa, and assumed the office on 1st February 2019.

<https://www.pressreader.com/south-africa/sunday-tribune/20091018/283605281289037>

confirms Batohi was at the Hague.

<https://www.npa.gov.za/adv-shamila-batohi>

Shamila Batohi was out of the country for 9 years returning in December 2018 with an immediate unlawful and unconstitutional appointment by President Ramaphosa in December 2018 with Batohi taking office on the 1<sup>st</sup> February 2019.

Batohi admits SA “rule of law is on life support” <https://mq.co.za/news/2023-09-21-batohi-says-sa-rule-of-law-is-on-life-support/>

The appointment, by President Cyril Ramaphosa of Shamila Batohi is clearly an unlawful appointment.

This *prima facie* evidence must be raised in Parliament as it is time to show the nation that law and order does exist, and failure to act in this matter will prove to the nation, that we are indeed a failed state.

I look forward to your response.

Sincerely,



Henry William McCarter  
Ambassador of the State of the African Diaspora.  
Email: [HenryMc@afrilegal.com](mailto:HenryMc@afrilegal.com)

**AND TO:**

Advocate Kholeka Gcaleka  
The Public Protector  
Email: [Kgcaleka@publicprotector.gov.za](mailto:Kgcaleka@publicprotector.gov.za)

Honourable Minister Ronald Lamola.  
The Chief Justice  
Email: [cphiri@justice.gov.za](mailto:cphiri@justice.gov.za)

Mr Jerome Joseph Maake  
Chairperson of Joint Standing Committee on Intelligence  
Email: [jmaake@parliament.gov.za](mailto:jmaake@parliament.gov.za)

Mr Gratitude Magwanishe  
Chairperson of Portfolio Committee on Justice and Correctional Services  
Email: [gmagwanishe@parliament.gov.za](mailto:gmagwanishe@parliament.gov.za)

General Godfrey Lebeya  
Head of the DCPI Hawks  
Email: [lebeyag@saps.gov.za](mailto:lebeyag@saps.gov.za)

Major-General Makinyane  
Head of Serious Crime & Corruption  
Email: [MakinyaneM@saps.gov.za](mailto:MakinyaneM@saps.gov.za)

Ms. Alutho Sombexé  
Secretariat of Joint Standing Committee of Intelligence  
Email: [asombexé@parliament.gov.za](mailto:asombexé@parliament.gov.za)