

REPORT BY PREMIER OF KWAZULU-NATAL SIHLE ZIKALALA TO THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION ON THE CIVIL UNREST WHICH TOOK PLACE IN JULY 2021 IN KWAZULU-NATAL

## **1. Introduction**

This report is a reflection by the Premier of KwaZulu-Natal on the much-publicised civil unrest which took place during July 2021 and engulfed the entire province with devastating effect.

## **2. Background**

- a) The civil unrest which took place in the second week of July 2021 in parts of KwaZulu-Natal is noted as one of the most embarrassing moments in the history of our province, having led to the massive destruction of infrastructure, and the erosion of many of the gains in the economy over recent years.
- b) The first explosion related to the civil unrest was on Friday the 09th of July 2021 when at least 20 trucks were set alight and looted on the N3 in Mooi River.
- c) This was not the first incident involving the torching of trucks on our national roads. Government had already started a process to engage aggrieved truck drivers who had previously staged a blockade several times in parts of the province before. The primary complaint in the past was that they did not want South African freight logistics firms to hire foreign nationals as truck drivers.
- d) We later learnt that this latest incident of torching was not related to the grievances of the truck drivers. Instead, many messages on social media indicated that this was linked to the incarceration of former President Jacob Zuma who had been taken into custody on Wednesday night, the 07th of July 2021.
- e) The imprisonment followed the decision of the Constitutional Court on the 29th of June 2021 ordering the former President to be imprisoned for 15-months for contempt of court. The Constitutional Court had found the former President guilty because he had disregarded its order to appear before the Commission of Inquiry into Allegations of State Capture which was headed by Deputy Chief Justice Raymond Zondo.
- f) The burning of trucks may have taken place after the former President entered the gates of Escourt prison, but tensions had already been building up since the 29th of June 2021 decision by the Constitutional Court ordering a custodial sentence.
- g) In the immediate aftermath, scores of supporters of the former President issued threats of a bloodbath and promised to form a ring of steel at the former President's Nkandla home. These groups said they would do everything to prevent the SAPS from taking the former President to a Correctional Services centre to serve his sentence.
- h) The nation held its collective breath on Wednesday the 07th of July 2021 as the midnight deadline approached for the former President to hand himself over. Once the former President was taken into custody, we began noticing statements on Social Media platforms calling for his release. Sporadic incidents of protest were also reported mainly including via social media.
- i) It must be said however that the protests later took a new momentum that we as political leaders were not forewarned about or adequately prepared for. What had started as a few protests, suddenly came together into a series of incidents of looting. The scale and speed of the looting was unprecedented and came with the public destruction of infrastructure.

j) Malls, business premises, warehouses and factories were among the targets, leading to easily the most destructive protest by residents of KwaZulu-Natal in the country's history. Even medical supplies were looted and government buildings were also identified as targets. While there were also threats to attack the Ports of Durban and Richards Bay these were not executed.

k) The looting, wanton destruction and burning of buildings and infrastructure was massive and affected the economy in a negative way.

### **3. The Role of Law - Enforcement in the crisis**

a) Before the outbreak, there was no information received from any crime Intelligence structure (SSA or other) on the imminent threats in KwaZulu-Natal indicating its extent, nature and the need to prepare the Security Cluster response accordingly.

b) This means that while the Premier ordinarily receives regular security briefings, no briefing had ever warned of the impending largescale events that took place during July 2021. It is also worth reporting that the province did not at the time have a head of SSA.

c) As leaders of government we too relied on Social Media and mainstream media reports for updates and through a pamphlet that called for a planned Shutdown.

d) The only briefings given to the Premier were from the MEC for Transport, Community Safety and Liaison and the Provincial Commissioner of the SAPS.

e) It was only on the 11th of July that the team from State Security briefed the Premier. The briefing was led by Mr Graham who came from SSA in Pretoria and General Tshika from KZN Provincial Crime Intelligence.

f) According to that briefing the main cause for the violence was to express dissatisfaction around the arrest of former President Jacob Zuma. The team called on us as provincial government to do everything we could to calm down the situation.

g) It must be noted that we received no briefing on the possible scale, magnitude and impact of the protests. However, as we observed the increased threats, we activated our JCPS Cluster and began engagements with other Members of the Executive Council.

h) The Premier engaged the MEC for Transport, Community Safety and Liaison and the Provincial Commissioner on beefing up security and they committed that the police are monitoring the situation.

i) Following the burning of trucks in Mooi River, the Premier escalated the matter and engaged the Minister of Police, who indicated that there had been additional personnel to deal with the situation.

j) Before and during the period of the violence breakout, the Premier held constant briefings with the President, and by the 11th July the Premier pleaded with the President to deploy the army to restore order. Indeed, on the 12th of July the President made the announcement that the army would be deployed to KZN and Gauteng.

k) On the 14th July, the Premier together with MEC for Transport, Community Safety met with Colonel Nyalunga who was in charge of the SANDF team deployed to the province. The Premier raised a serious concern that notwithstanding the President's announcement that the army would be deployed, there was no presence of the army. The Premier and the MEC took Colonel Nyalunga around the affected areas.

l) The Premier further escalated the matter to the former Minister of Defence who connected the Premier to a joint teleconference with the Secretary of Defence. The Secretary of Defence was of the view that there were more than 500 soldiers who had arrived by then but in reality there were about 150.

m) The Premier convened a meeting of the SAPS, SANDF and Metro Police and requested that they get together and strengthen their coordination. This meeting was later joined by the Minister of Police.

n) On the 15th July 2021, the Premier convened another meeting. At this stage, the meeting was joined by the Provincial JCPS, Minister of Police, Minister of Defence and Minister of State Security. The meeting received a briefing from the JCPS on plans to quell the unrest.

#### **4. Responding to the Outbreak of Violence**

a) Our most immediate response to the crisis was to roll out communication through the Office of the Premier. We hoped that through public communication we would be able to quell the violence by appealing to the protesters reason and adherence to law and order.

b) We were worried that the threat and the unfolding violence were creating uncertainty in the province and the country. Based on the advice of the ANC and Members of the Executive, the Premier issued a statement calling for calm.

c) The Justice Crime Prevention and Security Cluster (JCPS) was convened to report to the Premier and the Executive Council. This was done on 16 July 2021, 20 July 2021, 02 August 2021, 04 August 2021 focusing on the situation and various intervention efforts to quell down the unrests and prevent the looting.

d) The briefings dealt with the extent and nature of the violence, incidents and areas affected by the unrest as it was unfolding. The reports also dealt with the operational responses of the law enforcement agencies, deployments, reported cases, arrests, confiscations and recoveries.

e) Furthermore, it dealt with the impact on service delivery, the restoration of the services and other related interventions. The subsequent reports dealt with the post-mortem of the causes of the unrest and the remedial actions to be taken.

#### **5. Key Stakeholder Engagement Activities by Provincial Government**

a) On 15th of July addressed the Provincial Legislature by means of Executive Statement by the Premier on the Developing situation within the Province amid ongoing violent protests.

b) On 20 July the Premier Visited the families of victims killed in Phoenix violence

c) On 28 July 2021 the Premier convened a Social Cohesion and Moral Regeneration Council

d) The KZN Provincial government adopted the KwaZulu-Natal Inter-Governmental Mitigation Plan to Quell Unrest (Adopted On 16 July 2021).

e) The Provincial government organised a Peace Walk from Phoenix to Bhambayi with the aim of encouraging social cohesion

f) The Premier supported the Instability Response Plan of the JCPS and agreed that the necessary resources must be made available to implement the plan.

g) The Premier directed that all Members of the Provincial Executive Council must play an active role in communicating a strong message condemning violence and acts of criminality. In this regard, MECs were deployed to hotspots in affected communities in their Districts.

h) The Premier consulted all the major political parties in KwaZulu-Natal to build consensus and to speak with one voice to calm the situation and punish offenders.

i) The Premier consulted Members of Civil Society through the Social Cohesion and Moral Regeneration Council on 14 July 2021

j) The Premier held a meeting with SANTACO on 15 July 2021

k) The President visited KwaZulu-Natal on 16 July 2021

- l) The Premier consulted with the KZN Council of Churches and Leaders of the Faith-based Community on 16 July 2021
- m) The Premier consulted the business community through the Durban Chamber and other chambers in the districts.
- n) The Premier endorsed and Supported the engagements with the taxi industry and road freight and logistics sector.
- o) On 12 August held a meeting with from around the world in Pretoria on 12 August as part of the Economic Recovery and Transformation Plan
- p) The Premier endorsed the activation of the community safety structures and the Public Protest Rapid Response Teams.
- q) The Premier agreed that appropriate public messages must be issued discouraging unlawful acts of violence in the Province.

#### **6. Public Engagement through Media Statements on the Civil Unrest**

- a) On the 04th July 2021, the Premier held a media briefing to update the KZN citizens on Covid- 19. During this briefing, the Premier urged all people to remain calm and desist from massive gatherings and protests.
- b) On the 08th July the Premier held intensive engagement with the media calming the situation and calling on people to desist from mass gatherings and mobilisation as this was also against the Covid-19 restrictions.
- c) Media Statements were issued as part of Media Engagement as follows:
  - i. Media Statement by Premier Sihle Zikalala on the Province's Response to The Civil Unrest, 12 July 2021
  - ii. Report by Premier Sihle Zikalala to the KZN Legislature on The Province's Response to the Civil Unrest 14 July 2021
  - iii. Statement by the Premier of Kwazulu-Natal on the Incident that transpired during the arrest of a looter resisting arrest on 15 July 2021
  - iv. KwaZulu-Natal Premier Sihle Zikalala Condemns Fake Facebook Post on Neighbourhood Watches 16 July 2021
  - v. Premier Zikalala Visited Families of Victims Allegedly Killed in Phoenix After Racial Tensions Flare Up Amid Violent Protests on 20 July 2021.
  - vi. 30 July 2021 Statement by The Premier of Kwazulu-Natal Condemning Hate Speech and Racist Videos Circulating On Social Media
  - vii. The Premier engaged extensively with the Media including Broadcasters such as SABC Radio (UkhoziFM, LotusFM and SAFM), ENCA, Newsroom Africa locally CNBCAFRICA, CNN and BBC internationally.

#### **7. General Comment on System Readiness for Violence at the Time of the Outbreak including Forecasting Capacity for such Occurrences**

- a) The province has the Intelligence Coordinating Committee (ICC) in the Province convened by the SSA and Crime Intelligence in the SAPS. We can say with certainty that no forewarning was ever provided to the Premier and the Executive Council.
- b) The Inter-Ministerial Subcommittee on Public Protest Chaired by the MEC for Community Safety and Liaison.
- c) The JCPS Cluster receives regular reports from the ProvJoints.
- d) There is a JCPS Structure in eThekweni Metro under the OSS DDM.
- e) There are ad-hoc reports to Political Principals on potential threats.

## **8. Legal Instruments in Place for Coordinated Provincial Government's Response to Such Violence and Threats as Spelt out Above**

- a) Chapter 3 of the Constitution of the Republic of South Africa requires all organs of state to work together in ensuring peace in the country and for them to collaborate with each other.
- b) The Intergovernmental Relations Framework Act
- c) Chapter 11 of the Constitution of the Republic of South Africa provides for provincial police oversight and promoting good relations between the community and the police.
- d) The Civilian Secretariat for Police Service Act, Providing for police accountability to provinces.
- e) With all these in place it is important to emphasise that the province does not have the authority to command the police and they are accountable to National Commissioner and Minister of Police only.
- f) Equally, the province has no authority over any of the province's intelligence structures. They therefore provide briefings as and when they deem it necessary, and in the form and quality they see appropriate.

## **9. Review of Effectiveness of Security and Law Enforcement Coordination and Decision-making Structures and Processes to bring the violence to an end**

- a) There was poor coordination of the deployment of the SAPS and other Security assets.
- b) The Army and the Police plans lacked synergy
- c) Police visibility and capacity was the main challenge
- d) This was a result of poor planning processes by the Law-enforcement who never in their operations predicted the intensity and extent of the violence.
- e) When the SAPS was deployed, there was no adequate capacity available to stop the unfolding situation from various deployed units. In particular there appeared to have been no adequate equipment to deal with public order.
- f) Reports of the involvement of some of members of Law-enforcement in the civil unrest undermined efforts to deal with the civil unrest.

## **10. Short and Long-term Socio-economic Impact**

The Premier noted the tragic and blatant disregard of the Covid-19 Regulation and the impact of the unrest which resulted in the following:

- a) Disregard of the rule of law (malicious damage to property)
- b) Tarnished image of the province locally, nationally and globally.
- c) Erosion of the social and moral fibre of the people of KwaZulu-Natal.
- d) Erosion of all our positive gains as KZN in ensuring stability
- e) Disruption to economic activities in KZN.
- f) Socio-economic impact.
- g) Impact on investor confidence
- h) Loss of life
- i) Increased racial tensions especially in the aftermath of reports of Africans having been killed in Phoenix, Chatsworth and Northdale

## **11. Lessons Learnt and Recommendations**

- a) We have been reminded of the urgency to address the prevailing socio-economic challenges facing society such as poverty and unemployment

- b) Covid-19 itself presents several security risks as it fuels tensions. The recent, Global Peace Index Report, released on 17 June 2021, paints a picture of rising tensions, protests, and violence across the world.
- c) This is in the context of lockdowns, rising levels of poverty, lack of income etc. South Africa has obscene levels of inequality and high levels of youth unemployment and therefore we remain with the huge risk to national security and stability.
- d) KwaZulu-Natal has renewed its partnership with the United Nations in order to help avert similar disasters in future and to address some of the root causes of violence and instability. We share the sentiment of the UN Resident Coordinator in South Africa, Ms Nardos Bekele-Thomas, who during her visit to KZN at the end of July remarked that, "People need a stake in the economy because then they will protect it and not destroy it".
- e) There is no doubt that high levels of crime in South Africa and the view that the state is not harsh on wrongdoing fuelled the lawlessness.
- f) The capacity of our law enforcement and security agencies to predict, anticipate and deal with riots and unrests need serious, urgent attention.
- g) Greater attention must be paid to the role of social media in promoting and coordinating the civil unrest. More resources should be deployed there in terms of technical and human capacity.
- h) There is a need for better analysis of the socioeconomic environment and the mood in the country and to put in place measures to ameliorate the negative sentiments in society against key institutions.
- i) There is a need for better understanding the impact of judgements which although arrived at independently, can have impact on the functioning of the state. This analysis of judicial decisions should not become an interference in the work of the judiciary, but an analysis will better prepare the state and deploy adequate resources to address threats
- j) Overall, there is a need for better planning in the Security Cluster. There is a need to examine the capacity of the security agencies. The police are under resourced and SANDF seems to be struggling, i.e. their vehicles are not relevant for urgent response. To this extent as the province we had to plead with the private sector to donate cars and logistics for the army.
- k) The law enforcement agencies need adjusted contingency planning to also cater for organised mass attacks from internal sources and not just for normal Public Order Policing and Crime.
- l) Improved coordination in the province and expanding the reserve forces that can be summoned in future to deal with unrest.
- m) Our communities need to be educated on how to protect their communities, businesses and themselves within the ambit of the law.
- n) Operational Planning by the law enforcement agencies must cater for community participation in operations.
- o) Street Level Policing should be implemented working together with existing community structures.
- p) The Department of Labour and Department of Transport need to work with the Provincial Government and the logistics industry to address the long-standing challenges which include grievances about the hiring of drivers who are non-South African.
- q) The hiring of foreign nationals in many other industries like in the hospitality industry remains a sore point to many SA citizens and a threat to peace and stability in KwaZulu-Natal. On the basis that they will not demand better salaries or living wages.

r) There is always room to improve government communication especially in such situations of disaster and emergency. There is a need for government, from the Presidency and Cabinet, to a Ward Councillor and a Public Official to communicate the same message and avoid contradictory messages or messages that can inflame tensions.

Regards,

MR SIHLE ZIKALALA

PREMIER OF KWAZULU-NATAL