

# T.P. LUTHULI ATTORNEYS

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28<sup>th</sup> April 2020

**Attention: - The Office of the President**

**Cyril Ramaphosa**

[presidentrsa@presidency.gov.za](mailto:presidentrsa@presidency.gov.za)

**Spokesperson to the Office of the President**

**Khuselo Diko**

[khusela@presidency.gov.za](mailto:khusela@presidency.gov.za)

**The Minister of Health**

**Zweli Mkhize**

[minister@health.gov.za](mailto:minister@health.gov.za)

**RE: - URGENT DEMAND TO END THE LOCKDOWN ON THE BASIS OF IT BEING  
PROCEDURALLY IRREGULAR & UNCONSTITUTIONAL**

1. We have been instructed to advise your office that there are matters of serious & grave concern by the recent acts of the Office of the President and the Cabinet of 28 Ministers mandated to make those acts and omissions and **which require accountability** for these decisions taken: in particular the **draconian lockdown** which commenced on the 27<sup>th</sup> March 2020 and will continue on the 1<sup>st</sup> May 2020.

2. We act for and/on behalf of the **The National Peace Commission** – and that represents a wide sector of Civil Society including the Christian Community and other religious and traditional leaders. This includes the **Business Chambers and Corporate Sector** – and most importantly those in the rural and wider community including informal Sector – and those living in the informal settlements that have been negatively affected by the decisions taken by the present Government and Cabinet Ministers.
  
3. We have further instructed to advise your office that ***The National Peace Accord*** has been in place for some time since 2015 and was established to also build a social: cultural and racial cohesion in South Africa for the purposes of accountability and transparency on the part of all public servants. This is to ensure that the law and order is enforced and maintained and that the Rule of Law is obeyed by all public servants and this is also in line with The Batho Pele Principles for service delivery.
  
4. The **Batho Pele Peace Accord** was compiled out of an essential need for responsibility to be taken for the poor judgement calls and any acts and omissions that have led to the present and current humanitarian crisis: and include: Junk Status: the Economic Recession: and the lack of those interventions that would provide Economic Certainty: Political Stability: Investor Confidence: and also the essential Socio-Economic Growth and Development as promised in the 2019 and a 2020 State of the Nation Address by the Office of the President and all Offices of the Premiers.

5. We have been instructed to advise your office that The National Peace Commission and The Batho Pele Peace Accord is the result of more than *26 years of meticulous research: careful planning and essential patient preparation and that it is needs and purpose driven*. It has taken into mind-full consideration the **social: economic and political issues** - that have led to this recent state of events leading to the Military Lockdown - and a Declaration of the National Disaster as a result of this health issue.
  
6. The State of Emergency at a global level has raised serious concern - as the direct result of a number of factors that require necessary clarity and transparency and most importantly accountability for the reasons those decisions were taken by the office of the President and the Cabinet of 28 Ministers mandated to lead and manage all of the affairs of this country. The Minister of Health in **particular is respectfully requested to provide the reasons and justification for an extreme national programme of safety and security - when this was clearly a medical crisis AND NOT THE DEPLOYMENT OF THE MILITARY OR THE IMPOSITION OF A POLICE STATE.** Further the state has imposed regulations that would normally be imposed under a state of emergency and NOT a state of disaster.
  
7. We have been instructed to also respectfully advise your office that a Museum of Truth and a Library of Evidence has been compiled to fully support this request for Batho Pele Principles of Accountability and that Transparency and The Code of Conduct: Rules of Engagement: and these Terms and Conditions will be adhered to in a respectful manner that also demands equal respect and compliance from the Office of the President.

8. **The Military Lockdown and extreme measures taken by the office of the President and the Cabinet of 28 Ministers has raised concerns** and this legal intervention action taken by **The National Peace Commission** is motivated by the recent public statement made by Surgeon General of the United States of America in April 2020 regarding the World Health Organisation – as well as Dr Fauci and the Centre for Disease Control. These entities and all other interest groups are also being held totally accountable and responsible for their questionable acts - and omissions.

9. We have been instructed to respectfully advise your office that extensive research has had a positive outcome in being able to understand that **there is clearly a conflict of interest and a conflict in opinion on this Covid 19 Virus that requires investigation** and responsible action on the part of all governments and more especially the Office of a President of South Africa.

10. The Terms of Reference that The National Peace Commission has relied on are all sourced as evidence provided by **Dr Tasuka Honjo** – a **Japanese Professor of Physiology** - and effective medical practitioner.

Others also include:

**Dr Shiva Ayyudarai:**

**Dr Judy Miskovits:**

**Dr Rashid Buttar:**

**Dr Sherri Tenpenny:**

**Dr Lipton:**

**Dr Andrew Kaufman:**

**Dr Dana Ashley:** as well as Captains of Industry: mind leaders in the area  
: and those who have been negatively affected by government actions.

**Professor Knut Wittkowski**, for twenty years as head of The Rockefeller University's Department of Biostatistics, Epidemiology, and the Research Design, says that *lockdown is the absolutely worst way to deal with an airborne respiratory virus.*

**Dr John P.A. Ioannidis** is a professor of medicine and also professor of epidemiology and population health, as well as professor by courtesy of biomedical data science at the Stanford University School of Medicine, and professor by Courtesy of Statistics at Stanford University School of Humanities and Sciences: currently a co-director of the Meta-Research Innovation Centre at Stanford (METRICS) at Stanford University. He has suggested *that the lockdown actually causes much more severe ailments (both physical and psychological).*

**Dr. Jay Bhattacharya** is a professor of medicine at Stanford University. He is a research associate at the National Bureau of Economic Research and a senior fellow at both the *Stanford Institute for Economic Policy Research* and the *Stanford Freeman Spogli Institute*. He states that the figures have been manipulated and that the lockdown prolongs the stay of the 'virus' in the community

**Professor Johan Giesecke**, is also one of the world's most senior of all epidemiologists, advisor to the Swedish Government (he hired Anders

Tegnell who is currently directing Swedish strategy), **the first Chief Scientist of the European Centre for Disease Prevention and Control, and also an advisor to the director general of the WHO**, lays out with typically Swedish bluntness why he thinks: - “UK policy on lockdown and other European countries are not evidence-based - *The correct policy is to protect the old and the frail only - This will eventually lead to herd immunity as a “by-product” - The initial UK response, before the “180 degree U-turn”, was better - The Imperial College paper was “not very good” and he has never seen an unpublished paper have so much policy impact - The paper was very much too pessimistic - Any such models are a dubious basis for public policy anyway - The flattening of the curve is due to the most vulnerable dying first as much as the lockdown - The results will eventually be similar for all countries - Covid-19 is a “mild disease” and similar to the flu, and it was the novelty of the disease that scared people. - The actual fatality rate of Covid-19 is the region of 0.1% - At least 50% of the population of both the UK and Sweden will be shown to have already had the disease when mass antibody testing becomes available”*

11. We advise your office of the President that there is an ever-increasing speculation over the origins and motives for the **Military Lockdown** that are **NOT** in the best interests of the country: and the people: and their future needs to be clarified and it is the perfect opportunity for both the President and the Cabinet of 28 to cooperate in that spirit of Ubuntu – Respect Others – and Batho Pele – People First. In this spirit of respect it

is the 11 Batho Pele Principles that will be invoked to ensure collaborative cooperation in this.

12. The Terms of Reference regarding this accountability will be based on The Constitution: The Bill of Rights and The Batho Pele Principles that were all initially compiled and provided by the State in November 1997:

1. **Consultation:** and clearly provides for public servants to be instructed on issues.
2. **Service Standards:** that clearly insists that all service promises be kept and that these public commitments to service excellence be provided.
3. **Access to Information:** that clearly insists that access to public servants is mandatory and that they 'must' be available to provide information.
4. **Courtesy and Respect:** that clearly demonstrates 'insensitivity' will not be tolerated: and that respect be shown for all members of civil society.
5. **Information Disclosure:** that clearly insists full details and all particulars of the required and desired information be provided on that demand.
6. **Transparency - and Openness:** that clearly states all Administration is an Open Book. This is self-explanatory and it includes all areas governance.
7. **Redress - and that Accountability:** that clearly insists that positive and immediate action be taken to address the concerns raised by the public.
8. **Value for Money – and Austerity:** that clearly states finances are used 'responsibly': and that the misuse: wastage: or loss is to be accounted.

The Batho Pele Principles have Three (3) more important elements to complete compliance:

1. **Encouraging Innovation and Rewarding Excellence:** It is the solemn duty and their sole responsibility and moral imperative to improve the service

delivery: raise standards: and maintain this excellence in all Organs of State: State-Owned Enterprises and all of the 234 Municipalities in the 9 Provinces of South Africa. This is also public service and the excellence.

2. **Service Delivery Impact - and that Service Excellence:** It is these Batho Pele Values or Principles that are the foundation and corner stone of all public service and these in fact provide the guidelines for infrastructure and service delivery that ensures that quality of life and the standard of daily living that is all required for an orderly - and also a healthy society.

3. **Leadership Strategy and also that Strategic Direction:** It is the ethical leadership and moral management in the country that determines the success or failure in our society and the leadership also has the solemn responsibility to create the right environment and an infrastructure that not only encourages innovation - but also empowers all people to plan: and then work together to achieve all of those common goals in a user-friendly manner – and that relies on collaborative cooperation between the public and private sector. Collaborative cooperation is all essential.

13. The Batho Pele Principles in The Peace Accord are the Code of Conduct that the Office of the President and the Cabinet of 28 must familiarise themselves with when responding to this in the spirit of respect and a willingness to cooperate at every single level of Government and also in all the areas of Municipal Management. The Government compiled this.

14. **The National Peace Commission** is also comprised of leadership that is determined to seek Truth: Justice: Righteousness and Restorative Justice for those many acts and omissions in Three (3) specific areas of primary concern. These are relevant and possibly in many ways related; as these decisions taken and all acts and omissions have involved both an Office

of the President and also the Cabinet of 28 Ministers in the wide range of portfolios. Transparency and accountability is required in these areas:

1. **The Zondo Commission** – The past delays in providing the Summary of Findings and also all recommendations for investigation: prosecutions: and restorative justice has not been acceptable - and the cost of R380 million has not been warranted - or justified when based on an inability to ‘prosecute’ a single person in more than 18 months defies all logic.
  2. **The Anti-Corruption Tribunal** - The delays in providing the Summary of Findings in this Presidential Appointment has not been acceptable - and not many members of Civil Society have been appointed as an essential Oversight Committee despite only 18 of the 234 Municipalities having clean audits - for the 2019 and 2020 period of audits. This is essential.
  3. **The Military Lockdown and COVID 19** – The delays in providing all the Summary of Findings regarding the severity of this Health Hazard in relation to the negative and destructive impact this has had on the mainstream economy and the lives of those in desperate need of food security and poverty relief. This devastation is yet to be assessed and quantified and we have witnessed a Humanitarian Crisis and Ecological Disaster that has been initiated by the Office of the President - and a Cabinet of 28. The justification for this extreme action is questionable.
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15. We have been instructed by **The National Peace Commission** to place on public record that this Submission has been made in the best interests of the economy: people of this country: and also an entire nation in 2020.
  16. The **National Peace Commission** and also the concerned interest groups respectfully request the following information and cognisance is taken of

the need to apply The Batho Pele – People First – Principles when also responding to these questions that can no longer be ignored and it is the foundation upon which other questions will be brought to the Office of the President - and the Cabinet of 28 Ministers. These questions are in relation to the decisions taken and are specific to the Military Lockdown:

1. On the basis of **only 60 reported cases** a National Disaster was declared - when there is more evidence that for more than 5 years more than *60 murders a day were reported in South Africa and according to all these Government Statistics provided by that Census*. This was not a priority.
2. On the basis of only 60 deaths after more than 5 weeks of this Military Lockdown and an undeniable and an unprecedented destruction of the mainstream economy, the informal sector and all informal settlements have been allowed to continue trading in addition to the taxi industry.
3. On the basis of more than **56 000 reported deaths from Tuberculosis** in 2019 and more than **18 000 deaths from influenza** in the same period, the schools and also all the churches: mosques: temples - and places of religious worship were never closed. The Military Lockdown is extreme.
4. On the basis of more than **60 murders a day** and with South Africa being the number one crime: murder: drug: rape and also human rights abuse capital of the world and second only to Mexico, the shopping malls: and all food supply chain centres were not ever closed. Lockdown is extreme.
5. On the basis of a global rating of **Junk Status**: Economic Recession: and an increasing crime: grime and inner city decay and also unemployment: urban migration and zero socio-economic growth and development the mainstream economy is the last bastion of hope. Lockdown is extreme.
6. On the basis of more than **550 informal settlements** in Kwa Zulu-Natal alone and increasing poverty and pollution and need for food security

and poverty relief – it is a decision that defies all basic logic or common sense or common decency to close essential areas of economic growth.

7. On the basis of these findings and other global: national and provincial research the conclusion has been reached that there are other reasons for taking these actions – as there seems to be no logical, or justifiable reasons, for imposing these closures. The need for transparency cannot be denied and the desperate need for accountability cannot be ignored.

17. We seek explanations to these concerns and the Office of the President and the Cabinet of 28 Ministers are all respectfully requested to provide full disclosure and accountability to the people of South Africa as soon as possible and in compliance with not only The Constitution: The Bill of Rights and **The Batho Pele Principles** but with attention to detail and in respect of the duty of every single public servant to comply with these legitimate requests. It is a duty: responsibility - and a moral imperative.

18. The **National Peace Commission** immediately requests that it be also provided with the information and Summary of Findings on these **THREE (3) main issues**. The essential references will also be provided to support this.

19. Our clients will seek the necessary relief in declaring the present 2020 lockdown as unconstitutional and will seek the necessary relief and will approach the Higher & Constitutional Court **IN DECLARING THE PRESENT LOCKDOWN PROCEDURALLY IRREGULAR IN TERMS OF THE DISASTER MANAGEMENT ACT AS WELL AS ALSO BEING ALL UNCONSTITUTIONAL.**

20. We request that you kindly revert to us as a matter of extreme urgency.

Yours faithfully

(T.B. LUTHULI)

Electronically signed)

**Thembinkosi Luthuli**