

Will the high-flyers ever be prosecuted?

Despite new evidence emerging weekly that many SA politicians and their business benefactors are involved in corruption, money laundering, theft and fraud – including that given to the Zondo Commission of Inquiry into State Capture, the Nugent Commission of Inquiry into SARS and the Mpati Commission of Inquiry into the Public Investment Corporation – constitutional law expert Professor Pierre de Vos believes **there are severe constraints on the ability of the NDPP to speed up prosecutions**. It is not possible for the NDPP to fix internal NPA problems overnight, he says, adding some of the reasons why prosecutions are not happening also have very little to do with the NPA. 'The problem is that political interference in both the SAPS and the Hawks has had a devastating effect on the willingness and ability of those employed by these bodies fearlessly to investigate corruption, money laundering, theft and fraud perpetrated by well-connected politicians and by their business benefactors.' In a detailed analysis on his [Constitutionally Speaking](#) blog, De Vos argues the 'long list of disastrous political appointees' as commissioner of the SAPS is just the 'tip of the iceberg' as far as the politicisation of the SAPS is concerned. Furthermore, the Hawks has its own problems, 'having been born in sin'. Then, the political interference into the Hawks and the SAPS led to an exodus of many of the 'best and most honest' investigators employed by these bodies. Now there is a dire shortage of skilled investigators who can collect the appropriate evidence required for a successful prosecution of complex financial crimes. However, De Vos says one would need to rid the SAPS and the Hawks of a large number of senior officers and replace them with 'more professional, more honest, more competent and more diligent people'. He adds it is naïve to hope that the SAPS and the Hawks will speedily and effectively investigate the large number of priority crimes involving politicians and politically connected businesspeople.

De Vos believes it is for this reason that President Cyril Ramaphosa created a Special Investigative Directorate inside the NPA, which allows the directorate to conduct investigations in which both prosecutors and other investigators are involved – similar to the method used by the former Scorpions. He notes the directorate has the power to investigate statutory offences relating to corruption, money laundering, organised crime, as well as offences committed in terms of the Public Finance Management Act, Municipal Management Act, Financial Intelligence Centre Act, and 'any other statutory offence involving dishonesty'. It is also empowered to investigate any unlawful activities relating to serious, high profile or complex corruption. However, De Vos argues that **the NPA itself is in crisis, as there has consistently been political interference in the work of the NDPP and the NPA**. 'NDPP Shamila Batohi inherited a dysfunctional and weak institution and it is going to take years to fix the NPA. Just because the NPA is now headed by an honest and fearless person does not mean that all the institutional problems and weakness of the organisation will magically disappear.' To compound the problems, the NPA does not have unlimited funds to secure the successful prosecution of 'rich' culprits. 'There is no equality of arms between the defence and the accused, which means that the NPA is likely to be legally outwitted unless it takes extraordinary care with the preparation of its cases.' He adds that if the NPA decides to go after extremely rich or powerful individuals, it would have to make absolutely sure that these cases are watertight.