

# OPINION

## BusinessDay

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### VBS arrests a win for Batohi

Seven of eight suspects appeared in court on Thursday in connection with the R1.9bn looting of VBS Mutual Bank. It was a small but important step by the head of the National Prosecuting Authority (NPA), Shamila Batohi, in ensuring that her agency is at the forefront of putting those behind an industrial-scale corruption behind bars.

In one of the country's biggest banking scandals, VBS, which was thrust into the spotlight in 2016 after it advanced a loan to former president Jacob Zuma to pay back the state for upgrades at his Nkandla personal home, collapsed shortly after a Reserve Bank-mandated investigation found that dozens of people stole the money they were supposed to look after on behalf of municipalities, stokvels and the elderly in Limpopo.

The Wednesday morning arrests of the suspects – who include former chair Tshifhiwa Matodzi, CEO Andile Ramavhunga and treasurer Phophi Mukhobobwane – came just more than two years after Terry Motau released findings in a report that detailed a criminal enterprise perpetrated at the behest of executives and benefiting politicians who illegally deposited money with the bank in return for backhanders.

Others in the group facing 47 counts, including of racketeering, theft, fraud, corruption and money laundering, are former KPMG audit partner Sipho Malaba, who signed off on the bank's falsified financial statements; two former representatives of the Public Investment Corporation to the bank's board, Paul Magula and Ernest Nesane; and Phalaphala Avhahoni Ramikosi, board member and former CFO of the SA Police Service.

The eighth suspect, CFO Philip Truter, will appear in court after clearing a Covid-19 quarantine.

While it is good to see VBS's senior ranks in handcuffs, officials in municipalities – some representing some of the poorest areas in the country – are also facing the music for losing roughly R1.2bn that they illegally deposited in the bank.

The scandal rightly prompted a public outcry as it surfaced amid daily revelations from the Gupta leaks and later the Zondo commission of a brazen patronage network.

For Batohi, whom President Cyril Ramaphosa named in December 2018 to lead the NPA, it was never going to be easy to build watertight cases against those implicated in a flurry of corruption scandals, including at VBS. She had to spend much of her time rebuilding the capacity of the agency, which did not escape the corruption cancer in every layer of the government.

Not only did she have to root out those bent on undermining her effort to fight corruption and deliver justice, she also inherited an ill-equipped agency unsuited to successfully prosecuting high-level financial crimes. The NPA has yet to charge anyone in relation to the huge fraud that almost brought down Steinhoff, even after an internal investigation found that a group of executives used complex transactions to hide financial losses at underperforming subsidiaries.

Steinhoff, which first disclosed so-called accounting irregularities in December 2017, has since agreed to pay forensic auditors at PwC to help the law enforcement agencies investigate it, perhaps a sign that neither the Hawks nor the NPA have skilled staff or the resources to take on complex financial crime cases.

In the national budget in February, finance minister Tito Mboweni allocated R2.4bn to the NPA, the Special Investigating Unit (SIU) and the Hawks, acknowledging that law enforcement agencies faced a backlog of cases and needed to appoint hundreds of investigators and prosecutors. It's not clear if these allocations will be revised down as money is diverted towards the government's efforts to fight the Covid-19 pandemic and provide a cushion for companies and individuals.

Still, continued support for the NPA, the Hawks and the SIU is crucial for Batohi to ensure the list of those in handcuffs extends beyond VBS's senior management.

#### SECOND TAKE: UK GUARDIAN

### Cyberlibel ruling hurts free press

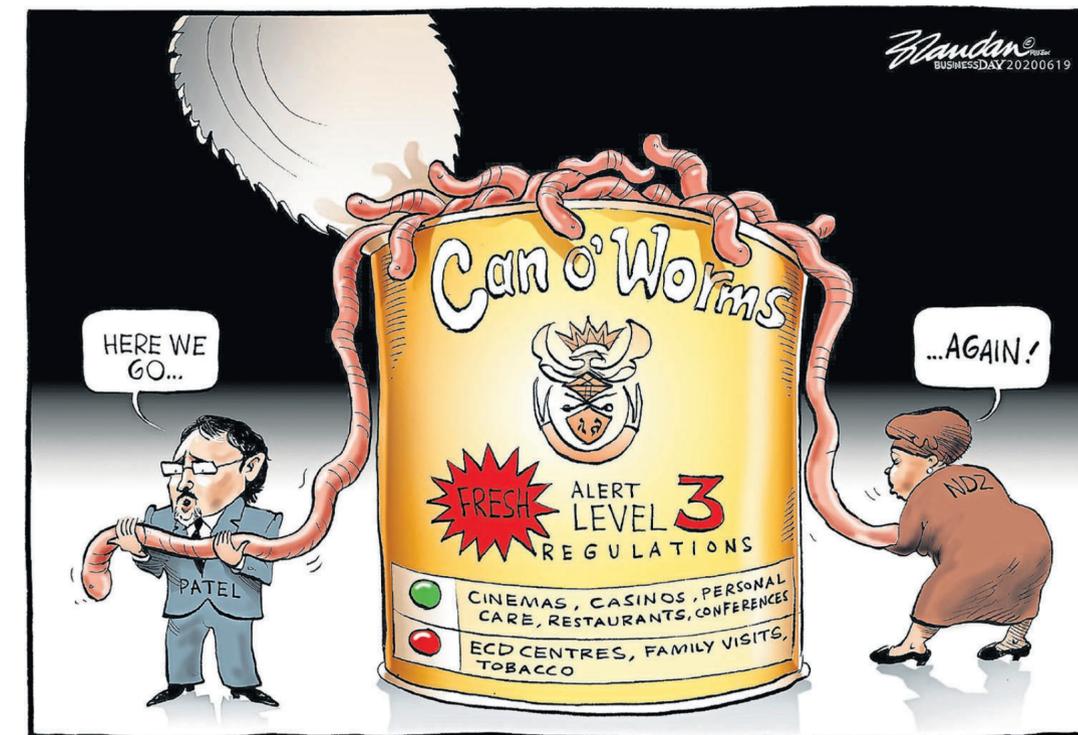
The persecution of the journalist Maria Ressa in the Philippines should horrify not only her compatriots and counterparts elsewhere. Her conviction for "cyberlibel", which could lead to six years in prison, is designed to chill the media. But it should reverberate widely, as it is part of a broader assault on democracy.

Having overthrown dictatorship three decades ago the Philippines is now regressing under its authoritarian but popular president, Rodrigo Duterte. His brutal "war on drugs", with thousands of extrajudicial killings, has been accompanied by a relentless campaign against those who challenge it or otherwise criticise him. As president-elect Duterte suggested that corrupt journalists are "not exempted" from assassination and told reporters: "You won't be killed if you don't do anything wrong."

Rappler, the news website headed by Ressa, has faced verbal attacks by Duterte, multiple investigations, tax fraud charges and revocation of its licence. Amnesty described this week's verdict as a sham – the Philippines has signed treaties that outlaw jailing people for libel. The article, which alleged ties between a businessman and a high court judge, was not authored by Ressa herself and appeared years before the cyberlibel laws had been passed. Yet the court accepted Rappler "republished" it because a single spelling mistake was corrected.

As Ressa has said, this is an existential moment for journalism and democracy. The legislature has just passed a draconian antiterrorism bill allowing the surveillance, warrantless arrest and detention of "suspicious" individuals. A sudden surge in phantom Facebook accounts – created in the names of journalists and campaigners – has sparked fear people will be held for faked material.

Ressa's case has frightening implications beyond her own country. When Duterte is given a free pass for his behaviour other leaders take note. /London, June 16 UK Guardian



#### PUBLIC-PRIVATE CO-OPERATION

# WEF's Great Reset: new behaviour and new ways to measure success

Quick adoption of change during pandemic is a hopeful sign as World Economic Forum rethinks capitalism

Daniel Malan

The World Economic Forum (WEF) has launched the Great Reset: an initiative to accelerate change and fundamentally rethink capitalism in the new context brought about by the Covid-19 pandemic.

There is general agreement that the world needs drastic change – already battered by the effects of climate change and social inequality, the most recent forecast by the International Monetary Fund (IMF) is that the global economy will shrink 3% in 2020.

The WEF has positioned itself as the International Organisation for Public-Private Co-operation. The endorsements provided during the launch event were significant: joining Prof Klaus Schwab on the virtual stage were UN secretary-general António Guterres and IMF MD Kristalina Georgieva, as well as the Prince of Wales.

In a nutshell, the Great Reset

- provides a framework with three main components:
  - Fair regulation to support a stakeholder economy;
  - Stimulus packages guided by environmental, social and governance metrics; and
  - Harnessing the innovations of the fourth industrial revolution to support the public good.

One of the fascinating aspects of the Covid-19 pandemic has been the immediate impact it has had on human behaviour around the globe. Whether prompted by regulation or by fear, activities such as social distancing and the wearing of masks became the new normal almost overnight. This is very different from the slow progress made over many years to convince people to change their behaviour to deal with environmental risks or social injustice.

But the risk is also there that people will return to "business as usual" as soon as a vaccine for Covid-19 becomes available, or simply as governments rebalance the need for

economic activity with public health concerns.

And while it will be great to be able to have a pint at the local pub again, we don't want people to hop on a plane whenever there is a meeting to attend. People very quickly embraced technology to stay in touch professionally and personally, and we know there will be huge environmental benefits if some of this behaviour can become the new default option.

#### FINANCIAL CRISIS

We should be mindful of the "recovery" that was pursued after the global financial crisis only 12 years ago. The metrics used to measure recovery were quarterly results of companies, arguably the very metrics that contributed to the crisis in the first place.

The task of the Great Reset is more daunting: it requires us not only to stick to new behaviour but also to embrace new metrics to measure success and apply technology to accelerate the progress. The operational aspects of

the Great Reset are complex, but the principles behind it are not. It is clear that there will be a very broad range of regulatory interventions, stimulus packages and technological interventions. There is no one-size-fits-all; context will determine strategy. But the principles underpinning these measures are universal: fairness, transparency and accountability.

As Schwab pointed out during the launch event, to achieve the Great Reset will take a change in mindset. We have seen that it is possible to make short-term changes to achieve short-term objectives with long-term effect, for example to flatten the curve. We

**BUT THE PRINCIPLES UNDERPINNING THESE MEASURES ARE UNIVERSAL: FAIRNESS, TRANSPARENCY AND ACCOUNTABILITY**

now have the choice to maintain the new normal to achieve long-term objectives, not only in terms of public health but also in terms of broader equality and sustainability issues. In essence, we have the opportunity to recalibrate the measure of success. New metrics will help us understand the value of a healthier society and a healthier planet.

A few years ago Wharton professor Tom Donaldson and University of Michigan professor Jim Walsh teased us with the following riddle: "Law is to justice, as medicine is to health, as business is to ...?" Their tentative (academic) answer was "optimised collective value". In more practical terms, they offered "prosperity with an emphasis on dignity", as opposed to profit.

To implement their solution they have to face the same obstacle as the Great Reset: a change in mindset. That will not be easy, and as the WEF engages with different stakeholders over the next six

months, leading up to its annual meeting in Davos, the following words of philosopher John Rawls, written almost 50 years ago, will serve as an uncomfortable but necessary reality check:

"Society ... is typically marked by a conflict as well as by an identity of interest. There is an identity of interest since social co-operation makes possible a better life for all than any would have if each were to live solely by his [or her] own efforts. There is a conflict of interests since persons are not indifferent as to how the greater benefits produced by their collaboration are distributed, for in order to pursue their ends they each prefer a larger to a lesser share."

● Malan, an assistant professor in business ethics at Trinity Business School, Trinity College Dublin, is co-chair of the B20 task force on integrity and compliance, and a member of the WEF's Global Future Council on Transparency and Anti-Corruption.

#### NATIONAL PROSECUTING AUTHORITY

# Real test will be arrest of top politicians

The Hawks and National Prosecuting Authority (NPA) should be applauded for this week's arrests and appearance in court of eight people accused of looting and collapsing VBS Mutual Bank.

Finally, almost two years since the great bank heist was revealed, some of those responsible are being held accountable.

But this is just the beginning and authorities are going to have to do much more to win back public confidence in their ability to successfully investigate and prosecute those who have defrauded the citizens of this country for far too long.

Those arrested this week are some of the bank's top executives and board members, but the big test for the criminal justice system is going to be when the time comes for arrest and prosecution of high-profile politicians.

VBS collapsed amid



GENEVEVE QUINTAL

allegations that its executives looted almost R2bn they were supposed to be looking after on behalf of municipalities, stokvels and elderly people in Limpopo. The Reserve Bank had the bank placed under curatorship in March 2018 after withdrawals by municipalities caused a cash crunch.

Besides the executives, the scandal has seen several mayors and municipal managers implicated, with some losing their jobs in the aftermath. EFF leader Julius Malema and his deputy, Floyd Shivambu, also have been embroiled in allegations – repeatedly denied – that they benefited from money looted from VBS.

Malema and Shivambu were not named in the SA Reserve Bank forensic report into the banking scandal, but investigative journalists have since reported their alleged links to the saga. Shivambu's brother Brian was named in the forensic report.

During a media briefing on Wednesday Hawks head Godfrey Lebeza and national director of public prosecutions Shamila Batohi were asked numerous times to take South Africans into their confidence and confirm that politicians will also feel the might of the law. Unsurprisingly, they refused. But they did say that this was

**WE DON'T WANT TO SEE A REPETITION OF THE ESTINA DAIRY FARM MATTER, WHERE THE NPA WAS FORCED TO PROVISIONALLY WITHDRAW CHARGES**

the first leg of the work done on the VBS Mutual Bank case and that more is to come. Describing the investigation, Lebeza said it had taken two years for the investigative team to get to this point, at which warrants of arrests could be carried out.

The team was made up of 15 investigators, some seconded from the SA Police Service. This calls into question how long it will take to complete other legs of the investigation.

But what of other high-profile cases, especially those relating to state capture and corporate corruption, such as the Steinhoff matter? Do institutions such as the Hawks and NPA have the capacity to work on big cases like this simultaneously, or will it be years before we see these matters come to their conclusion? We know that during the state capture years institutions such as the Hawks and NPA were hounded out and used to fight political battles, diminishing their capacity.

Part of the battle for those in

charge now is to revive public confidence in their ability to be effective.

After the announcement of the VBS arrests, Batohi said the work done by the Hawks provided some confidence that the authorities were making headway in key cases.

"While today's developments are an important milestone, and we are certainly pleased ... we all know that still a lot of work lies ahead," she said.

"Although it is imperative that we move with speed to finalise these matters, the team also has to be meticulous, and painstakingly go through all the evidence with a fine-tooth comb. We have to do this to ensure that in the end justice does prevail and the rule of law prevails as well."

This is fair comment. We don't want to see a repetition of the Estina dairy farm matter, where the NPA was forced to provisionally withdraw charges because it was unable to obtain the information required for prosecution.

The talk about fighting corruption and cleaning up the criminal justice system has been tough, but the action less so.

Two weeks ago, after almost six months, President Cyril Ramaphosa announced the appointments of two of the most powerful positions in the NPA – the deputy national directors of public prosecutions. These appointments are critical in strengthening the NPA's ability to tackle crime and corruption.

After the appointments, Batohi said they would bring vital stability and support for her as she now leads the NPA with a permanent team at the highest level of the organisation. It is now up to this new team to prove that they are there to do the job without fear or favour, and in a timely fashion.

It is only once citizens start seeing results, as in the VBS matter, that faith in the criminal justice system will be restored.

● Quintal is political editor.

#### THE THIRD UMPIRE

##### STELLA NDABENI-ABRAHAMS

The communications minister returned from suspension for violating the lockdown regulations just in time for the SABC to announce up to 600 retrenchments. Who could forget her reaction the last time that happened?



##### MASSMART

The retailer suffered a R2.3bn revenue loss from the ban on alcohol sales before the lockdown regulations were eased, but has in effect been bailed out through a R4bn loan from parent Walmart. Otherwise, it might have been the next Edcon.

##### JOHN BOLTON

In his new book the former US national security adviser accuses Donald Trump of precisely the issues that were central to his impeachment trial, and more. But if that was the case, why did he refuse to testify when it actually mattered?

