

A Smart Lockdown that trusts the people does not require a curfew

The Democratic Alliance (DA) opposes the imposition of a curfew between 20:00 and 05:00 as part of the revised lockdown regulations. We call on the government to withdraw its intention to institute a curfew.

As a first principle, we must always and under all circumstances be the guardian of civil liberties against abuses by the state. This includes protecting the right to freedom of movement and guarding against the undue militarisation of society. The imposition of a curfew – especially one likely backed by military force – is an extraordinary measure that should meet an extraordinarily high threshold before it can be supported. It does not meet that threshold in this case, and is opposed by the DA as a matter of principle.

There are a number of practical reasons why the curfew does not meet the high threshold and must therefore be opposed.

During the first month of the lockdown, when the government followed a “hard” approach, citizens were asked to stay at home without the imposition of a formal curfew. This original approach was centred on trust and voluntary compliance by citizens and most South Africans did indeed comply.

It is therefore irrational that the alleged relaxation of lockdown measures under a level four lockdown would include a formal curfew, when no curfew was imposed during the stricter hard lockdown under level five. This is especially relevant given the fact that – despite some notable exceptions – most South Africans did comply with the severe restrictions on movement under the hard lockdown in the absence of a formal curfew. Indeed, research by the Human Sciences Research Council showed that 99% of citizens did comply with the lockdown regulations. The people deserve to be trusted, not coerced.

In opposing the curfew, the DA instead argues for the urgent need to enhance social mobilization efforts through education and raising awareness. There is no need for militarisation and a formal curfew when citizens understand and trust the need for the limitations on freedom of movement. No amount of force or coercion will bolster compliance in the absence of understanding and trust.

The second practical reason for scrapping of the curfew is the risk of militarisation that comes with a curfew. Mere days before the curfew was announced for the first time, South Africans learned that the government had resolved to deploy an additional 73 180 soldiers onto the country's streets, bringing the total number of soldiers deployed to 75 460. This means that nearly the entire South African National Defence Force (SANDF) will be on the streets of our communities.

It is therefore highly likely that the SANDF will be used to enforce the curfew between 20:00 and 05:00 every night. Given that we have already witnessed horrendous acts of abuse, torture and even alleged murder by the SANDF when only 2 280 soldiers were deployed, the use of nearly the entire military to enforce the curfew is likely to unleash a wave of abuses by the security forces.

A legal opinion obtained about the curfew pointed out that “while the draft lockdown framework does not expressly say this, it must be that one would be permitted to break curfew in ‘emergencies for medical reasons;’ and by workers in essential services that must work at night.”

If the SANDF is used to enforce the curfew, it would mean that soldiers are granted the discretionary power to decide whether someone who travels between 20:00 and 05:00 faces a bona fide medical emergency or is performing an essential service. This grants far too wide a scope of powers to the SANDF, and is likely to lead to undue harassment, bribery, and abuse of civilians by the military.

A third practical factor in deciding to oppose the imposition of a curfew concerns the legality of such a move. The party has obtained a legal opinion on the “lawfulness of the imposition of a curfew as part of a ‘relaxed’ lockdown after the end of the current lockdown on Thursday.”

Should the government fail to rescind its plans for a curfew, the DA reserves the right to challenge the move in court. We will demand to know the reasons and rationale behind instituting the curfew, explore the various legal avenues available to us, and we will not hesitate to use the legal system to protect citizens from any abuses by the security forces enforcing the curfew.

In Summary:

- The DA is opposed to any undue limits on freedom of movement and the militarisation of society as a matter of principle;
- There is no rational reason to assume that the institution of a formal curfew under a “relaxed” lockdown is key to limiting the spread of the coronavirus when no such curfew was required under a hard lockdown;
- Instead of a curfew, we need a much greater focus on social mobilization through educating citizens about the virus. A curfew is not needed when society understands and trusts the reasons for the limitation on freedom of movement;
- It is likely that the curfew will be enforced by the SANDF, thereby granting vast and dangerous discretionary powers to soldiers over civilians; and
- Should the government fail to scrap the planned curfew, the DA reserves our right to a legal challenge.