

A national state of disaster will deepen SA's electricity crisis

Speech by Cilliers Brink MP, DA Shadow Minister of Cooperative Governance and Traditional Affairs (CoGTA)

Last year National Assembly had the chance to amend the Disaster Management Act to prevent the abuse of government power under a national state of disaster.

At the time the government's monumental mishandling of Covid-19, was still fresh in the minds of ordinary South Africans: the corruption, the mismanagement, the shutdown of entire industries in defiance of economic and scientific evidence.

The Disaster Management Act, so the lockdown made clear, has serious constitutional defects, making it a dangerous weapon in the hands of incompetent ministers who only care about command and control.

Section 27 gives a single cabinet minister, presently the honourable Dlamini-Zuma, the power to decree a national state of disaster, by which she obtains extraordinary law-making and law-breaking powers.

Neither the minister's decree nor regulations issued under it need to be tabled or debated in Parliament.

Parliament cannot veto or amend these regulations and the decree can be rolled over again and again by stroke of ministerial pen, so that the country can in theory be governed under a perpetual national state of disaster.

This is why the DA is challenging section 27 of the Act, but had the ANC majority not blocked the Disaster Management Amendment Bill last year, parliament could've solved the problem by its own accord.

At the time the DA sounded the following warning:

"The government's handling of Covid-19 was worse, because they had too much power.

The same is going to be true of the next disaster."

And so, here we are again.

In the ordinary sense of the word, the electricity crisis and our dependence on Eskom is a *disaster*.

It is an ANC-sponsored disaster, the cumulative effective of decades of cadre deployment, state capture, race-based recruitment and procurement, and a stubborn, ideological refusal to let go of the state's electricity monopoly.

But let's not be under any illusions, declaring a national state of disaster isn't going to conjure a solution to the electricity crisis.

On the contrary, if the president has a Covid-19-like response in mind, South Africa will be in for an even bigger disaster.

As for removing the blockages that do stand in the way of quick and cost-effective decisions at Eskom, and the eventual reform of the electricity sector, the president does not need a national state of disaster.

Think of the failure to unbundle Eskom.

Four years after the president made this announcement, there is still no separate board and entity for electricity transmission, and no progress on upgrading the grid without which we can't bring on line thousands of KW/hours of wind and solar power.

The president's erstwhile adviser Anton Eberhart has confirmed that the minister of public enterprises, the honourable Gordan, is actively blocking Eskom's unbundling. A minister on his own ideological mission.

Think of the development of a 3000MW combined cycle gas plant in Richard Bay that has now taken more than a year to be approved. Eskom made this application to the energy minister, the honourable Mantashe, in January last year.

The minister took five months to reply, only to ask for more information. He then forwarded the application to NERSA, who in turn took another six months to determine that Eskom had followed the wrong process, and should start all over again.

In this 11 months of bureaucratic pin pong, the rapid decline of Eskom's generation capacity has brought South Africans to the edge of stage 7 and 8 loadshedding.

Dink aan die 150 miljoen liter diesel per wat Eskom elke maand moet brand, en natuurlik verwelkom die DA die president se verskering dat die regering sal toesien dat die diesel nie opraak nie.

Dieselfde minister Mantashe het Eskom se aansoek om diesel teen grootmaat pryse aan te koop van die hand gewys, blykbaar omdat hulle nie voldoen bergingsvereistes nie.

As hierdie grootmaat diesel-lisensie wel toegestaan kan word sal dit Eskom tot R6 per liter spaar, 'n besparing van biljoene rande vir belastingbelaters op die lange duur.

Replacing ministers Gordan and Mantashe, the Tweede Dee and Tweedle Dum of the electricity crisis, does not require a national state of disaster. Removing them from cabinet does not require a national state of disaster.

But there are also burdensome and wrongheaded laws that bear down on Eskom.

To this list we can add the requirements of preferential procurement and BBBEE.

To abridge these rules, regulations and ministerial determinations does not require a national state of disaster.

In terms of section 44(2) and (3) of the Constitution, the President can bring draft legislation to Parliament that is narrowly tailored to solve the problems at Eskom, including exemptions from preferential procurement, BBBEE, diesel storage requirements, and other statute that prevent quick and cost-effective decisions from being made to stabilise Eskom.

In fact, provisions of the BBBEE Act and the Preferential Procurement Policy Framework Act allow the ministers of trade and industry and finance respectively to exempt Eskom from the provisions of these laws.

This is the ring-fenced disaster response envisaged by the DA, and if the president brings a sensible set of solutions of this kind to Parliament he will have our support.

We hope that in his response to this debate he responds to this offer, but in the meantime we have no option but to fight the national state of disaster in court.