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Presidential pardon list sparks outrage

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TEN men who were convicted in the Eastern Cape for serious violent crimes which include multiple murders, multiple armed robberies and escaping from custody, have been named on a shocking presidential pardon list intended only for those convicted of politically motivated crimes.

The list – which details more than 340 murders and an equally startling number of attempted murders, along with a range of other heinous crimes – has drawn outrage over the lack of transparency in the pardon selection process and perceptions that many of the crimes were criminally rather than politically motivated.

One of those recommended for pardon, former bank clerk Phethuxolo Aubrey Godolosi, had been sentenced to 20 years' imprisonment for his role in a R9.6-million Mthatha bank robbery in 1998 – four years after the advent of democracy.

The 10 men are on the recently released Department of Justice list of 149 people recommended for pardon under a presidential programme initiated through a special dispensation created by former president Thabo Mbeki in 2007. The dispensation and pardon appeal mechanism was created for those convicted of politically motivated crimes before June 1999 and who did not apply for amnesty through the Truth and Reconciliation Commission (TRC).

A reference group, comprising only political party representatives, was responsible for processing the special applications and initially victims and other parties with an interest in the process were denied the right to make representations.

The reference group had also refused to disclose the names of those who had applied for a pardon.

But following a February 2010 Constitutional Court ruling, victims now have to be consulted prior to a pardon being awarded. This means those who wish to make written representations to the Department of Justice only have until this Wednesday to do so.

At the heart of concerns around the process is that none of the applications in favour of pardons have been made public or opened to any scrutiny.

None of the Eastern Cape applicants on the list were convicted of "soft" crimes and between them were found guilty of a collective eight murders, two attempted murders and 11 counts of armed robbery. In addition to a substantial number of these men having been convicted of being in unlawful possession of firearms and ammunition, two were convicted of escaping from lawful custody.

Six of the 10 were convicted of multiple crimes, with two of these having each been convicted of double murders.

Among the more vocal opponents of the process is the South African Coalition for Transitional Justice, which comprises seven prominent national organisations such as the Institute for Justice and Reconciliation, the Freedom of Expression Institute and the Khulumani Support Group, which represents victims of apartheid.

In a recent statement, the coalition "notes with surprise that there are several individuals on the list of offenders recommended for pardon who are serial killers and who have engaged in crimes such as theft and robbery with aggravating circumstances".

"Such crimes can hardly be described as political. Many of these individuals still represent a serious threat to society," the coalition stated.

James Selfe, Democratic Alliance member of parliament and shadow minister of correctional services, slammed aspects of the pardon process. He said the process in its current form could undermine public respect for the rule of law and that in many instances the victims of these criminals would be insulted and outraged.

"There are a substantial number of other issues, not least of which is that the submissions which were made in favour of a pardon on political grounds should certainly be open to public scrutiny," said Selfe.

Referring specifically to the case of Godolozzi, Selfe said even if he had applied for a pardon because he claimed he was gathering funds for a political organisation, this would be unacceptable. "There are many other methods and means to raise funds. How can they include robbing a bank?" he asked.

Selfe also said the process was showing the potential for two systems of law, "one for normal citizens and one for those connected to the ruling party".

Provincial police spokesman Brigadier Marinda Mills said she had no comment regarding the list, or the applicants on it.

The 10 Eastern Cape applicants recommended for pardon are: Mbulelo Ellen Booi (murder), Phethuxolo Aubrey Godolozzi (robbery), Lundi Kawe (murder, attempted murder and robbery), Mbuzeni Jim Kimbili (three armed robberies, three counts of unlawful possession of firearms and ammunition), Lenox Mpumelolo Mkhize (armed robbery, robbery, escaping lawful custody), Sikhumbuzo Victor Mphambane (murder), Thandile Mpinda (five counts of armed robbery, possession of an unlicensed firearm, escaping from lawful custody), Luthando Arthur Ningolo (murder), Mzoxolo Wiseman Nkosana (two murders, two armed robberies and unlawful possession of a firearm and ammunition) and Xolisile Vena (two murders, attempted murder, two counts of the unlawful possession of a firearm and ammunition).

Despite repeated requests for comment this week, Eastern Cape Correctional Services Department spokesman Zama Feni and national Justice Department spokesman Tlali Tlali could not be reached for comment.

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