

The Honourable Deputy Chief Justice
Chairperson
Judicial Commission of Inquiry Into Allegations
Of State Capture, Corruption and Fraud in the
Public Sector Including Organs of State
2nd Floor, Hillside House
17 Empire Road
Parktown
Johannesburg
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28 November 2018

Dear Deputy Chief Justice

RE: Attacks on the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector Including Organs of State

We write to you as representatives of civil society organisations and as academics in South Africa deeply concerned at the attacks made in recent weeks on the State Capture Commission by political actors. We note your comments of yesterday addressing the attacks on the Commission and on witnesses appearing before the Commission and commend these statements. We write to indicate our support for the Commission, appreciative of the enormous task before you, and wish to offer any assistance we can in ensuring the Commission operates as intended by its mandate.

We note in particular the comments by Economic Freedom Fighters (EFF) leader, Mr Julius Malema describing the Commission as a “Mickey Mouse” show, insinuating that its Chairperson is stealing money from the poor, and the several references to the Commission’s evidence leader as “a bastard”. Minister of Public Enterprises, Pravin Gordhan while appearing as a witness was said to be a dog of White Monopoly Capital (WMC) and Mr Malema threatened that the EFF would “hit the dog until the owner comes out”. Mr Malema further suggested that there could be “loss of life” in this fight. Minister Gordhan’s family was also subjected to sustained verbal attack during his appearance before the Commission.

We believe these attacks to go beyond mere political contestation. The insidious threat of violence is intended to intimidate Commission officials as they go about their professional duties and to deter other persons who might be so disposed from appearing before the Commission and making full disclosure.

There is understandably great interest in the Commission’s proceedings. It has the potential not only to lay bare those parts of our constitutional state that have been hollowed out, how this came about and who is responsible but also what the cost has been for ordinary South Africans. Its recommendations may prove critical to future protection of our democracy and realising the promise of our Constitution for all South Africans. Such assessments can only be made with the passage of time.

It is undeniable however that the Commission’s legitimacy can be undercut and eroded even at this early stage by these attacks. We have called on the EFF to desist and have further urged that they approach the Commission and engage its processes, disclosing any incriminating evidence they may have, rather than seeking to throw stones at the Commission, its staff and witnesses from outside.

We appeal to you to give consideration to using such powers as the Commission has – for instance those set out in section 10 of the Regulations – to compel persons insisting that they have relevant incriminating evidence to appear before the Commission.

Sincerely,

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The South African Human Rights Commission

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