



6 August 2021

Dear Mr President

The 'Defend our Democracy Campaign' (the campaign) welcomes the news that you will be appearing in your capacity as State President before the Commission of Inquiry into Allegations of State Capture between 11th and 12th August 2021.

That you are doing so without any compulsion from any court is something that is especially notable.

This appearance will follow testimony that you had provided as President of the African National Congress.

We write in the hope that you will use the occasion to respond to some of our concerns in relation to the issues of state capture, corruption and accountability when appearing before the Commission.

About the campaign

The Defend our Democracy campaign has been supported by over 70 organisations and some 12 000 individuals who signed the campaign's [statement of intent](#) in March this year.

The campaign advocates for ordinary people to play a greater role in deepening and defending democracy, and building unity and cohesion based on the values and vision of our Constitution by:

- Tackling state capture and corruption;
- Calling for action against destabilisation by paramilitary-like forces and others intent on causing disruption to avoid accountability;
- Speaking out against unwarranted and unsubstantiated attacks on the judiciary; and
- Advocating for a more transparent, accountable and participatory democracy.

At its heart, the campaign is both about defending our democratic gains, but also about advocating for a democracy that works for all.

About your appearance before the Commission

We believe that your testimony is crucial in achieving both these objectives. Your input at the Commission should assist the process of rebuilding trust and confidence in our democracy and needs to provide the country with the necessary insight as to how government intends to eradicate the scourge of state capture.

We would like to commend you for displaying a sense of accountability by committing to appear before the Commission. It sets a positive precedent and reinforces the important democratic principle that all are equal before the law, including presidents, past and present.

The Defend our Democracy campaign recommends that your input at the Commission addresses how state capture became so deeply entrenched in post-apartheid SA – including during the period in which you served as Deputy President of the country; how current forms of corruption persist; and how as President of the country, you and the state have, and will continue, to tackle and eradicate it.

Mr President, we think it is critical that you acknowledge that state capture is not simply something of the past: some of its tendrils may have been cut off, but its systems and networks remain entrenched. If the recent PPE corruption and Digital Vibes scandals are anything to go by, it is clear that there are those who are ever-present, intent upon exploiting every opportunity to enrich themselves in an improper manner where there are gaps in oversight. Where the tendrils are cut off, they may once again begin to grow and, like a weed, kill opportunity for real development and transformation in our country.

Last month the consequences of state capture manifested as an attempted insurrection. Had the insurrection succeeded, and our democratic gains been turned to ‘ashes’, those who may have a case to answer for in relation to state capture, could potentially have avoided accountability. The tide could have once again swung in favour of the unscrupulous, who stoop to exploiting the genuine challenges of poverty and inequality for their personal ambitions.

Whilst the attempted insurrection may have failed, the lacklustre approach of law enforcement authorities in acting quickly and effectively requires immediate attention. 337 lives were lost. Properties and infrastructure were destroyed. The costs to the economy are in excess of R50 billion. Some 150 000 people’s jobs are at risk. The impact on the socio-economic well-being of ordinary South Africans is immeasurable.

Developments over the last month underlines the importance of your testimony before the Commission. We expect you to place before the nation plans being instituted to deal with state capture, in order to ensure that the past does not repeat itself, and that the networks that propped up state capture and corruption do not try and reinvent themselves through fomenting further instability.

Dealing decisively with corruption is important given the recent Ipsos findings that South Africans are more worried about this issue than they are about the Covid-19 pandemic. After unemployment, corruption was the most concerning issue for South Africans. The survey also found that 78 percent of South Africans feel that the country is on the wrong track. These statistics give a quick snapshot of just how intrinsic corruption remains in undermining hope for a better life.

Given the above, the campaign proposes a few issues that we believe you should address before Deputy Chief Justice Raymond Zondo:

1. Given that you were Deputy President of the country between 2014 and 2018, your insights on how state capture came to be are crucial. Now that you are President, clear and decisive action is needed to combat corruption and prevent a recurrence of the scourge of state capture.
2. If you were aware that appointments of Ministers during the tenure of former President JG Zuma may have been influenced by individuals/entities outside the state, such as the Gupta family, an assurance from you that this never happens again is important.
3. Mr President, you have the constitutional prerogative to select your Cabinet, and we note the recent reshuffle. We emphasise that Cabinet members must embody the highest standards of integrity, and that they must be capable and efficient in executing their duties. There should not be any hesitation in firing ministers who underperform, or whose integrity becomes questionable.
4. The ruling of the Constitutional Court in the matter of contempt of court, and the custodial sentence handed down to former President Zuma, was used as a direct trigger to the violence,

chaos and mayhem in KwaZulu Natal and Gauteng. Your commitment to decisively and robustly review what has happened and ensure that the most competent and capable leaders are appointed in the criminal justice and security cluster is critical. Recent changes to the security cluster are a step in the right direction. However, there are still individuals at different levels within state institutions, who despite facing serious allegations, have simply been transferred to new positions rather than being suspended, investigated or dismissed. Speedy implementation of disciplinary proceedings should be standard practice to avoid hampering government programmes by retaining and redeploying unsuitable employees.

5. The National Development Plan was adopted unanimously in the National Assembly in 2012. As President of the country now, under your leadership, implementation of the actions set out in Chapter 13, Building a Capable and Developmental State, is urgent, specifically to ensure that appointments at all levels in the public sector and in State Owned Entities, are made based on merit and not because of political links through cadre deployment.
6. You were head of the ANC's deployment committee between 2013 and 2018 and you spoke at length about this in giving evidence as the President of the ANC. In separate evidence before the State Capture Commission, it has emerged that impropriety in the appointments of the likes of Brian Molefe, Siyabonga Gama, Hlaudi Motsoeneng and others was a key enabler of state capture. Your testimony should provide specific plans on how appointment practices will be changed.
7. Mr President, to root out corruption whistleblower reports must be properly investigated. Instead, time and time again, there have been instances of both public and private sector whistleblowers who have been vilified for speaking out. The actions set out in Chapter 14 of the National Development Plan need to be implemented to protect, incentivise and support whistleblowers.
8. In Chapter 13, and elsewhere in the National Development Plan, there are recommended actions to strengthen local government. Despite the District Development Model, governing party infighting, collapse of coalitions and consistent looting at a local level, has crippled municipalities. In reality, what this means is that there is an old lady in a community who has to walk a kilometer to the nearest tap; or children who have to walk past mounds of rubbish and sewage to school because the municipality hasn't done its job. Local government is supposed to enable people to realise the full fruits of democracy, but is today the weakest in that regard. It is also the sphere where corruption is the most rampant and where trust is the lowest. Political leadership to end malpractices in local government requires urgent attention.
9. The funds lost to state capture has consequences for service delivery and the progressive realisation of socio-economic rights set out in the Bill of Rights in the Constitution. Instead of analysing each sector, and owing to the sheer scale of the malfeasance, we highlight the energy sector which is dealt with in Chapter 4 of the National Development Plan. There have been significant technological advances in the sector in the last 10 years making renewable energy significantly cheaper. We recently heard allegations of the astounding R178 billion of red-flagged tenders at Eskom. We have heard allegations about dodgy deals involving sub-standard coal to our power stations. We know how the energy sector has previously been looted and we know that our energy supply is still not secure. Yet Mr President, energy procurement is secretive and the new power ships deal being punted by some is, at face value, inconsistent with the Integrated Energy Plan. We urge you, in all sectors including the energy sector, to relook at the practice of participatory democracy and accountability, harnessing the knowledge, expertise and experience of all who live in South Africa, as a crucial ingredient of placing our country on a better trajectory.

10. In conclusion, a solid and credible country plan to tackle corruption and prevent a repetition of state capture is needed. The pending National Anti-Corruption Strategy needs to practically untangle our country from the tendrils of corruption and provide a game-plan to crack down on corruption.

Mr President, we do not believe that you need to wait for the Zondo Commission report to act, and trust that you will take immediate and decisive steps regarding the many matters that require your attention. We further urge you to commit to making the Zondo Commission report publicly available soon after its submission to you. We also call for its recommendations to be responded to within weeks of its receipt. That response must indicate with clear timeframes how the recommendations will be acted upon.

Advocate Thuli Madonsela's State of Capture report opens with a quotation from the landmark Constitutional Court ruling (*Economic Freedom Fighters v Speaker of the National Assembly and Others; Democratic Alliance v Speaker of the National Assembly and Others* [2016]):

"One of the crucial elements of our constitutional vision is to make a decisive break from the unchecked abuse of State power and resources that was virtually institutionalised during the apartheid era. To achieve this goal, we adopted accountability, the rule of law and the supremacy of the Constitution as values of our constitutional democracy. For this reason, public office bearers ignore their constitutional obligations at their peril. This is so because constitutionalism, accountability and the rule of law constitute the sharp and mighty sword that stands ready to chop the ugly head of impunity off its stiffened neck."

We are confident that you are committed to the rule of law, to ethical government and to restoring confidence in the economy of our country. When Parliament elected you, it put its trust in you to serve the public and to rebuild an accountable state. We therefore expect you to be bold in dealing with corruption and capture. Mr President, we hope that at the Zondo Commission, we see this level of leadership and assertiveness from yourself. The time for simply clipping off a few tendrils of corruption, while the weed continues to grow, is now over. We must be able to "chop the ugly head of impunity off its stiffened neck". We must be able to root out the problem.

Yours sincerely,

Reverend Frank Chikane, Cheryl Carolus, Professor Saths Cooper, Busisiwe Mavuso, Mavuso Msimang, Neeshan Balton, Siphon Pityana, Brigalia Bam, Adrian Gore and Reverend Moss Nthla

The Campaign Conveners on behalf of the Defend our Democracy Campaign