

## **#OUTAreport**

### **OUTA's Media Statement - 28 June 2017**

#### **OUTA's presentation of its case document: "No room to hide: A President caught in the act"**

Recently the President said: "If I am not told what I have done wrong, I cannot correct my mistakes." Well, Mr President, we believe that OUTA's case document will expose these mistakes.

As the head of State and the head of the national executive, the President occupies "a position indispensable for the effective governance of our democratic country".

The Constitutional Court has explained that: "Only upon him has the constitutional obligation to uphold, defend and respect the Constitution as the supreme law of the Republic been expressly imposed."

Over the past few years, various formal attempts have been made to remove Jacob Zuma from his position as the President of South Africa, through Parliamentary motions of no confidence and debates within the ANC's National Executive Committee (NEC) structures.

OUTA believes that significant and sufficient input has been provided that warrants the removal of President Zuma - be it from investigative media reports, or recent Public Protector's reports on Nkandla and State Capture. President Zuma's supporters on the other hand, have often claimed insufficient evidence against him at the time when Members of Parliament or the ANC's NEC were asked to vote or decide on his removal.

Normally in democratic societies where good governance prevails and those in authority are expected to act in the interests of the people, it takes just one of the incidents or events presented in this document to be sufficient cause to remove a sitting president from power. For some unexplained reason, the removal of President Zuma requires far more compelling evidence to convince those in authority to act in the interests of the country.

We believe there is plenty of evidence.

For this reason, in April 2017, OUTA set out to document a case to expose the reality and extent of Zuma's conduct and connection to state capture. The result is the case document we are presenting here. Our case is compelling, shows there is no doubt about the truth of the claims of state capture and provides those in positions of authority with sufficient evidence for justifying the removal of Zuma as President of South Africa.

This document provides the links and detail in a range of compelling cases against Zuma.

It also provides a basis for potential removal from office and prosecution of a number of officials in key state institutions.

## **OUTA's document is focused with strategic intent**

While the evidence stacked against President Zuma has been substantive and sufficient, we believe we have compiled a compelling case document that pieces together the facts and evidence in a manner that places beyond doubt, the veracity of the claims against him. This document was developed in the format of a court application encompassing strong and compelling legal arguments.

OUTA took advice that instead of turning in haste to the courts, we should present our case document to Parliament, with a view to requesting that it be tabled for discussion by the National Assembly. In doing so, we believe all MPs will be sufficiently empowered with substantive information about President Zuma's conduct, to help them decide how to vote during the forthcoming Vote of No Confidence, whether by secret ballot or not. I would like to quote the Constitutional court judgment delivered last week:

*"Members are required to swear or affirm faithfulness to the Republic and obedience to the Constitution and laws. Nowhere does the supreme law provide for them to swear allegiance to their political parties, important players though they are in our constitutional scheme."*

Our case document shows that President Zuma has without doubt:

1. Allowed himself to be influenced in his appointment of Cabinet members;
2. Appointed poorly qualified and incompetent individuals in decision-making positions (and retained them when he had ample reason and opportunity to remove them);
3. Allowed corrupt individuals to benefit from state coffers or failed to institute action when he became aware of such conduct;
4. Mismanaged his Cabinet in a manner that has had a detrimental effect on the country and the economy;
5. Used or manipulated state resources or appointments to avoid prosecution for at least 783 charges;
6. Willfully and maliciously lied or misled Parliament and the nation; and
7. Abused his position to enrich himself, his family, his friends and his cronies.

The building of this case document has taken several months, with a team of experienced investigators, researchers and legal counsel.

## **The evidence for change has recently got much stronger**

Well into OUTA's project and case-building process, two reports surfaced in May 2017 that added to the sordid picture of state capture:

- i. The first is by the South African Council of Churches, titled "Unburdening Panel" and released on 18 May 2017.
- ii. The second report followed shortly thereafter, released on 25 May 2017 by a team of academics under the Public Affairs Research Institute (PARI), called "Betrayal of the Promise - How South Africa is being Captured".

Then came the gripping saga of the “*Gutpa E-Mail Leaks*” at the end of May 2017, which has continued unabated throughout June. The facts and documents from the #GuptaLeaks have no doubt provided significant support and strength to the claims presented in our case document and we thus recognise and thank the investigation teams at AmaBungane, Scorpio and the Times Media, who have trawled through the content of thousands of documents and e-mails obtained from a server within Sahara - a Gupta owned company.

## **The Journey Forward**

Following the presentation of this document to the Speaker of the House in Parliament today [28<sup>th</sup> June 2017], OUTA will ensure that all MPs will also receive a copy, preferably through the formal engagement processes as requested of the Speaker by OUTA.

OUTA will also ensure that this case document is presented to other relevant institutions and people in authority, such as the African National Congress’s NEC, the Hawks, the Minister of Police, the National Prosecuting Authority and the Public Protector.

As the case document has also been prepared and compiled in a manner that makes it suitable for presentation in a court of law, OUTA will contemplate turning to the Constitutional Court when convinced that it would be meaningful to do so.

Removing President Zuma from power is the primary step that needs to be taken, before South Africa can start the journey of redressing the devastating effect that his conduct and the situation of state capture has had in our country. We believe that others implicated in the report should also be removed from office and prosecuted; we are handing this document to law enforcement for this purpose.

## **A Judicial Commission of Inquiry into State Capture doesn’t halt our action.**

While we welcome the undertaking from the President to signal the formation of a Judicial Commission of inquiry into state capture, we trust that this decision will not be used as a reason or excuse by some to stave off decisions or actions available to them in the quest to remove President Zuma.

Commissions of inquiry are known to take years to unfold but South Africa is burning and we do not have the luxury of wasting any more time in addressing the matter at hand.

OUTA thus believes that while a full and credible judicial commission of inquiry should be encouraged, this should not preclude all other attempts to remove President Zuma from power.

## **OUTA’s mandate and call to action**

OUTA is a non-profit civil action organisation, funded by tens of thousands of individuals and businesses, whose main aim is to hold government accountable for the abuse of power, corruption and maladministration. In doing our work, we ensure that more tax revenues are made available to the benefit all in South Africa, especially the poor and vulnerable.

To date, we have conducted several successful actions and interventions that have saved South Africa from unnecessary and wasteful expenditure, whilst holding the individual transgressors to account for their actions. We believe that our work, combined with that of many others within civil society to remove the State President from power, should be welcomed as an attempt to ensure that South Africa is managed in the best interests of the people.

We submit this document with the trust and hope that those in authority will reflect thereon and commit to a future in which leadership is held accountable for their actions. We do so in the belief that the evidence herein is substantive and strong enough to convince those in doubt as to the seriousness and veracity of the President's transgressions and furthermore, with the intention of taking this matter as far as is required, to bring about President Zuma's removal.

We look forward to working with those who take this matter seriously.

***END***

***Media Enquiries: Ben Theron – OUTA COO. Phone: 082 9418444***

*or Wayne Duvenage - OUTA – Chairperson. Phone 082 8846652*