

Thursday 27 October 2022

**Civil Society Working Group on State Capture (CSWG) Statement:
President's response to Zondo Commission's State Capture report must be followed by decisive
action**

On the 23rd of October 2022, President Cyril Ramaphosa made public his response to the recommendations of the State Capture Commission. As the Civil Society Working Group on State Capture (CSWG), a broad coalition of over 20 civil society organisations, we recognise that this is a critical moment for South Africa. The President's response to the State Capture report marks an important moment for the country as it demonstrates the political will to accept, take forward and implement the key recommendations of the Zondo Commission. The government has the opportunity to ensure accountability and justice for years of corruption and maladministration, and to institute key reforms to rebuild the state and ensure that it works for the benefit of all. It must create the environment for ensuring the accountability of private sector actors for their role in state capture.

We welcome the state's acceptance of the Commission's findings with respect to the existence, nature and extent of state capture. The Commission's findings on the mechanisms and causes of state capture, and in particular institutional weaknesses in the state, provide a strong foundation for implementing critical reforms. As the Commission's findings, and the phenomenon of state capture itself, continue to be debated in the public domain, it is important that the Government has endorsed the Commission's findings.

We welcome the President's broad commitment to reforms in the areas of whistle-blower protection and incentivization, procurement reform, the capacitation and strengthening of law enforcement and other accountability institutions, the professionalization of the public administration, and the protection of public institutions from abuse. We appreciate the President's commitment to "reform and depoliticise the appointment processes for the heads and commanding levels of [law enforcement] agencies to ensure that they are properly transparent and independent", and its commitment to reforming appointment processes in state-owned enterprises and the public administration.

However, we strongly disagree with the President's conclusion that state capture is "in the past" and has effectively come to an end. It is clear and obvious that serious corruption remains pervasive throughout government institutions and that key mechanisms of state capture identified by the Commission remain largely unchanged. We also note that the President's response plan has not sufficiently addressed the enabling political factors identified by the Commission. To add, the state must not simply rely on voluntary compliance by the private sector with relevant ethical codes: it must ensure real sanction for breaches of law and governance prescripts. The task of the Executive is not to "mop up" the effects of state capture but to address, seriously and comprehensively, the

complex failures of the state and political system that have enabled and continue to enable corruption and state capture.

In this respect, we had hoped to see greater clarity and specificity on the government's response to the Commission's recommendations on electoral reform. The current Electoral Laws Amendment Bill, for example, is fundamentally flawed in that it does not address lack of accountability of members of Parliament with respect to voters and significantly disadvantages independent candidates. Members of the public need to see clear commitment to meaningful electoral reform that supports democratic accountability and adequate public involvement.

We are disappointed that the President has not yet outlined concrete action with regards to members of the national executive implicated in state capture in the Commission's report. The President's failure to act decisively undermines his assertion that it "constitutes an ethical, moral and institutional departure from the abuses revealed by the State Capture Commission".

Those implicated parties still holding positions of power continue to undermine efforts to reduce the threat of state capture in the future. The failure to hold them accountable continues to demonstrate to the public that there are no consequences for corruption.

We echo the words of the President noting that we are indebted to whistle-blowers that came forward and exposed corruption and state capture. However, being indebted is not enough; we need to see action, in an environment that has become increasingly dangerous for whistle-blowers. We would like to see additional policy and action for the greater protection of whistle-blowers in South Africa as they remain key to the fight against state capture and corruption.

We note the statement released by Parliament on Sunday, 23 October 2022. We call on Parliament to reflect on the findings of the Zondo Commission, particularly pertaining to Parliament's ineffectiveness in holding the Executive accountable, and to be pro-active in its response to the Commission's findings and recommendations. It should release its own implementation plan to address, not only how it plans to deal with the recommendations directed at Parliament itself, but also how it plans to ensure proper oversight of the Executive's response to state capture and address fundamental challenges created by the existing political culture and deficient appointment processes. Parliament must take the necessary steps regarding the findings of the Commission, with due consideration to transparency, accountability and, where possible, meaningful public participation.

The Civil Society Working Group (CSWG) will be releasing a considered collective civil society response to the Zondo Commission's State Capture Commission report and the Presidency's response. The CSWG will continue to keep a watchful eye on the process and progress of the implementation of the recommendations.

This moment provides the opportunity for a fundamental re-set in our system of governance that should not be squandered.

The CSWG statement is endorsed by:

Black Sash

Centre for Applied Legal Studies (CALS)

Council for the Advancement of the South African Constitution (CASAC)

Corruption Watch (CW)

Defend Our Democracy (DOD)

Dullah Omar Institute (DOI)

Helen Suzman Foundation (HSF)

Judges Matter (JM)

MyVoteCounts (MVC)

Open Secrets

Organisation for Undoing Tax Abuse (OUTA)

Public Affairs Research Institute (PARI)

Section27 (S27)

South African Faith Communities Environment Institute (SAFCEI)

Available for media enquiries:

Zen Mathe

Open Secrets

zmathe@opensecrets.org.za

0833818692

Sarah Meny-Gibert

Public Affairs Research Institute (PARI)

sarahmg@pari.org.za

011 482 1739