

For immediate attention: His Excellency President Cyril Ramaphosa

February 2023

Advisory: Public Support for Whistle-blowers

The National Anti-Corruption Advisory Council (NACAC) is concerned about the current socio-political environment that has led to the ongoing harassment, retaliation and victimization of whistle-blowers who seek to expose and confront corruption in South Africa. Threats to the lives, livelihoods and dignity of whistle-blowers undermine the President's efforts to deal decisively with corruption, and create a context of fear and retaliation associated with the act of exposing misconduct, corruption and wrongdoing. Despite public commitments¹ made by the President to create an environment that is conducive for whistle-blowing, there are numerous examples of whistle-blowers facing retaliation as a result of their disclosures. One such case that deserves the President's attention is that of Ms Martha Ngoye, the suspended Head of Legal at the Passenger Rail Agency of South Africa (PRASA).

Ms Ngoye is a whistle-blower, who provided testimony at the Judicial Commission of Inquiry into Allegations of State Capture on widespread corruption and misconduct at the rail agency. While the NACAC respects the independence, mandate and rights of PRASA and its board of directors, we are troubled by the ongoing use of taxpayer money to fund retaliatory litigation against bona fide whistle-blowers and corruption fighters, especially in the context of a dysfunctional rail agency where corruption has negatively impacted poor and working class communities, who are reliant on the services of PRASA.

Unfortunately, Ms Ngoye is one of many whistle-blowers who are currently under threat as a result of their disclosures. The recent debacle surrounding the SA Tourism Board and its proposed deal with an English football club, revealed the extent with which the Board and CEO of the organisation were willing to go to "find" and "isolate" the whistle-blowers – calling the act of disclosing the deal "un-South African".

¹ The President's response to the recommendations of Judicial Commission of Inquiry into Allegations of State Capture – "Whistle-blowing is an essential weapon in the fight against corruption. The actions of whistle-blowers have played a vital role in exposing many of the activities that were part of state capture. Whistle-blowers need to be encouraged to report instances of fraud and corruption, and need to be protected from victimization, prejudice or harm. Among other things, whistle-blowers need protection from retaliatory action – in the form of disciplinary action or criminal charges – by public or private bodies at which corruption has been alleged."

Further commitments were made to improve the legislative and policy environment in the 2023 State of the Nation Address.

We reiterate that the ongoing retaliation by state agencies against whistle-blowers directly undermines the efforts of the President, NACAC and other interested stakeholders to create an environment that protects, supports and encourages whistle-blowing.

Given the current environment, we advise the following:

1. That the President issue further public communication in support of whistle-blowers who are exposing corruption. This could be in the form of a media statement, or from the President's weekly "From the Desk of The President" newsletter;
2. During a meeting with the Cabinet, the President should table his support for whistle-blowers and note that retaliatory behaviour towards whistle-blowers will not be condoned. In this regard, a statement by the Cabinet should be released to the public, outlining that consequences will be meted out against public servants and public office bearers who are attacking and victimising whistle-blowers;
3. Through the relevant NACAC work stream, the President should convene a small gathering of whistle-blowers who exposed corruption at various state entities, to publicly recognize these individuals for their effort, integrity and perseverance, and to understand the plight that they faced; and
4. That the President consider acknowledging whistle-blowers who exposed corruption with national orders of merit, for their duty to our country and service to our nation.

Publically recognising whistle-blowers for their bravery and efforts to expose corruption, will contribute to an environment where the act of whistle-blowing is encouraged and respected. It will also send a signal to those in various state and private entities that the ongoing harassment and persecution of whistle-blowers will not be tolerated or condoned.

Finally, the NACAC has established work streams that are currently working on proposals to improve the legislative, policy and social environment for whistle-blowers. This is a priority for the NACAC and the President can expect to receive subsequent advisories in this regard.