



**COUNCIL**  
FOR THE ADVANCEMENT OF THE  
**SOUTH AFRICAN**  
**CONSTITUTION**

## **MEDIA STATEMENT**

**28 September 2015**

### **CASAC Launches Nkandla challenge**

The Council for the Advancement of the South African Constitution (CASAC) has today lodged an application in the North Gauteng High Court against the President, Minister of Police and Others with regards to the Public Protector's Report on the President's Nkandla residence.

CASAC seeks orders to the effect that:

- The Public Protector may make binding orders on organs of state
- The remedial action in paragraph 11 of the Public Protector's Report are binding on the President
- The Report of the Minister of Police seeking to exonerate the President for liability for costs of the non-security upgrades at Nkandla is set aside
- Parts of the Public Protector Act of 1994 are unconstitutional with respect to being inconsistent with s 182 (1) (c) of the Constitution

The application aims to ensure that there is proper accountability from the President for the upgrades at his private residence, as well as clarifying the powers of the Public Protector. In its founding affidavit CASAC's Executive Secretary Lawson Naidoo states:

*“Unless her remedial orders are binding on the organs of state to which they relate, the power conferred on the Public Protector to take action is ineffective. She cannot exercise that power for the purpose for which it was conferred – namely, to protect the public against abuse of power by the state – if her orders do not have binding effect. Unless her orders have binding effect, she can establish state misconduct but cannot provide a remedy for it. Mere recommendation renders the Public Protector ineffective against state misconduct... the constitutional purpose is subverted if it is some other state institution or functionary – and in practice often the implicated organ of state itself – who decides what remedy, if any, to implement.”*

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Whilst the gross extravagance of the expenditure at Nkandla is a cause for serious concern and redress, the powers of the Public Protector must be clarified to ensure that there is an effective bulwark against the abuse of public power and maladministration.

CASAC is represented by Advocates Wim Trengove SC and Kate Reynolds, and Webber Wentzel attorneys.

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