



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

## **MEDIA STATEMENT**

### **CASAC cautions on leaked Bankorp/ABSA Report**

**18 January 2017**

CASAC notes the renewed media reporting on the payments made by the Reserve Bank to Bankorp/ABSA in the late 1980s and early 1990s. Whilst the current investigation by the Public Protector follows on the inquiries and reports completed by the Special Investigating Unit and Judge Dennis Davis into this matter, we have not had proper disclosure of the scale and extent of transgressions committed by the apartheid regime. Evidence, researched and anecdotal, suggests that the Bankorp/ABSA issue may merely be the ‘tip of the iceberg’ in terms of the misappropriation of state resources under apartheid.

It is important that we uncover the precise nature and details of the Bankorp/ABSA deal and determine whether there is any present-day liability in respect of the deal. Corruption can never be excused or tolerated and once it is uncovered, it falls on those who have been vested with legal authority to investigate matters fully and take appropriate action. That is the transparency and accountability which the Constitution and the rule of law demands

Similarly therefore action needs to be taken urgently as regards the ‘state of capture’ report released by the Public Protector last year. That report detailed several instances of alleged state capture and bribery which have served only to erode trust in our government and public institutions at the very highest levels.

Council for the Advancement of South African Constitution

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Some have sought to simplistically equate the two investigations and thereby blur the distinction between them. This has been unhelpful because the two investigations are markedly different. They should not be 'played off' against each other. They should therefore rather both be brought to finality expeditiously and their findings and recommendations acted upon without fear or favour.

CASAC notes that the recent media reports of the Bankorp/ABSA saga have been revived by a leaked provisional report from the Office of the Public Protector. As such we should be wary not to be drawn into rash conclusions and we should rather allow the Public Protector to complete the investigation. This will involve considering the views of the parties to whom the provisional report has been sent before the report is finalised and made public. We urge Adv Mkhwebane to urgently clarify whether a provisional report was sent out, to whom it was sent, and to provide timeframes for the completion of the investigation.

It is important to caution that publication of leaked reports undermines the work of the Office of the Public Protector. Section 7(2) of the Public Protector Act provides that "no person shall disclose to any other person the contents of any document in the possession of a member of the office of the public protector or the record of any evidence given before the public protector ... during an investigation". This is clearly intended to protect the confidentiality and integrity of the investigations until a final report is produced. We ignore this injunction and feed on these juicy revelations at our own peril.

The manner in which select parts of the leaked report have been opportunistically used highlights the danger of publishing leaked provisional or draft reports. It has intensified the politicking around this investigation, and serves to undermine the effectiveness of the legal and constitutional mechanisms to fight corruption.

We thus call on the Public Protector to finalise the ABSA/Bankorp investigation so that the appropriate remedial action can be taken.

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