**MEDIA STATEMENT**

**COMMITTEE FOR SECTION 194 HEARS ADV MKWHEBANE’S ENTITLEMENT TO CLASSIFIED INTELLIGENCE REPORT ON SARS UNIT**

**Parliament, Wednesday, 29 March 2023 –** The Committee for Section 194 Enquiry into Public Protector (PP) Adv Busisiwe Mkhwebane’s fitness to hold office today heard that the role of the PP and other Chapter 9 institutions to strengthen the constitutional democracy meant that Adv Mkhwebane should have been given the Inspector-General of Intelligence (IGI) report on the South African Revenue Services (SARS) Investigative Unit.

The committee previously heard that the classified IGI report was dropped off anonymously at the offices of the Public Protector South Africa (PPSA). The committee since obtained an affidavit from the legal advisor to the IGI that maintained that the report had never been declassified, which made it an offence to be in possession of, share or read the contents of the report.

Adv Mkhwebane told the committee that, in terms of Section 182 of the Constitution and her responsibility to strengthen democracy, it means Chapter 9 Institutions must have access to any information. She said: “This is in order, so you can go deep into raw state power.”  She said it means that they had to give her the IGI report or it would amount to stifling her work.

Adv Dali Mpofu, SC, introduced his next “big topic” just after morning tea after spending more than three days on testimony about the PPSA’s investigation into CR17/Bosasa matter. The latter refers to the then Deputy President Cyril Ramaphosa’s donor funding during his campaign to be President of the African National Congress.

Adv Mkhwebane agreed with Adv Mpofu that the SARS unit report is probably the most litigated and contested report during her tenure. She said the first part of her SARS investigation was driven by the fact that Minister Pravin Gordhan had been accused of misleading Parliament about whether he had met a member of the Gupta family. She said Minister Gordhan deliberately misled Parliament and it “does not seem like a bona fide mistake”. She went on to say that Minister Gordhan should have corrected his earlier answer to Parliament when he realized his mistake.

According to her Minister Gordhan either “intentionally or inadvertently” mislead Parliament. Adv Mpofu responded and said there was “no inadvertently” to which Adv Mkhwebane agreed.

Adv Mkhwebane emphasized that her investigation was never aimed at undermining the capability of SARS to conduct investigations and deal with tax evasion. She, however, wanted to stop SARS from encroaching into the terrain of the State Security Agency. She claimed SARS had monitoring capabilities that went beyond monitoring tax offenders.
At the start of today’s proceedings evidence leader Adv Nazreen Bawa, SC, requested a deviation for the questioning process the committee has followed up to now, by allowing her to question Adv Mkhwebane on the CR17 evidence when Adv Mpofu concludes this part of his questioning.

She requested to do so before Adv Mpofu moved to the next topic of the SARS unit. Adv Bawa indicated that there was a lot of information before the committee and she argued that whilst the information is still fresh in the minds of members of the committee and Adv Mkhwebane, it would be effective that she answer questions on this topic before moving to the next . Adv Mpofu disagreed with the request and said the suggestion is “completely impractical”.

Committee Chairperson Mr Qubudile Dyantyi ruled that although he understood the practicality behind Adv Bawa’s request, he would, however, “err on the side of us not disturbing the flow”. He ruled that the committee will proceed as planned with Adv Bawa asking questions at the conclusion of Adv Mpofu leading the testimony of Adv Mkhwebane.

The committee will continue tomorrow with further evidence from Adv Mkhwebane. The committee was established on 16 March 2021 to conduct a constitutional inquiry into the PP’s fitness to hold office and is now expected to conclude its work towards the end of May 2023. Committee documents can be found at [Committee for Section 194 Enquiry - Parliament of South Africa](https://parliament.us15.list-manage.com/track/click?u=174940c63c5e06b60f5650bea&id=4592761470&e=da105e4f6a)
**ISSUED BY THE PARLIAMENTARY COMMUNICATION SERVICES ON BEHALF OF THE CHAIRPERSON OF THE COMMITTEE FOR SECTION 194 ENQUIRY, MR QUBUDILE DYANTYI.**

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