



STATEMENT AT THE 58TH SESSION OF THE AFRICAN COMMISSION
ON HUMAN AND PEOPLES' RIGHTS

AGENDA 4 (e) HUMAN RIGHTS SITUATION IN AFRICA

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HUMAN RIGHTS DEVELOPMENT INITIATIVE NPC

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Madame Chairperson, it has indeed been a long time since I stood here and could proudly proclaim that I am South African. Instead, for years I found myself standing here aware that my country had not submitted its periodic report and that the rights of refugees and asylum seekers were being violated with impunity. Today I stand here and can proudly say I am South African not only because my country is presenting its periodic report at this session but also because our Constitutional Court defended our constitution and a fundamental institution of our constitutional democracy, the Public Protector.

I remember when the Chief Justice was appointed, there were suggestions that as a so-called Zuma appointee he would compromise the independence of what had become a world renowned institution. But on the 31st of March 2016 it became clear to me that his carefully constructed, technically well thought-through and politically ground-breaking judgment was testament not only to him as Chief Justice but also to the Constitutional Court as an institution.

It is a fascinating era in which we live today, Madame Chairperson. In South Africa, the President was reminded that he has not above the Constitution and the rule of law. And that he cannot ignore recommendations of the Public Protector to pay back a portion of the money for certain improvements to his homestead in Nkandla as this constituted a fundamental breach of his obligation to uphold the Constitution.

On 6 April 2016 the Prime Minister of Iceland announced that he will step aside for an undefined period of time after the recently leaked Panama Papers revealed that his family attempted to hide millions of US dollars in off shore accounts. These papers have also revealed information about



many other powerful individuals and companies that are hiding money in secret off shore accounts including President Jacob Zuma's nephew and President Joseph Kabila's twin sister.

Ordinary Africans are facing a great betrayal at the hands of other Africans, for a mere thirty coins of silver, which as we know is the amount that Judas took when he betrayed the Messiah, Jesus. For a relatively small amount of money, many African people in positions of power have compromised themselves and developed a system of tax laws, policies and practices that enable big companies and individuals to deprive our governments of billions of USD that could be used to fulfil the hopes and dreams of those lovely children that sang earlier on during the opening ceremony. I ask you and all our colleagues here today, Madame Chairperson, in whose interests is it to ensure that these issues appear to be dealt with on the surface but that ultimately the status quo remains? How many of these powerful individuals would want to see the opening of tax havens and the sharing of information? Will their position not be threatened? It is imperative Madame Chairperson that the African Commission address this issue of illicit financial flows in a decisive manner that asserts the independence of the Commission and reflects its determination to provide much needed solutions.

On another more directly related note, Madame Chairperson, when the AU requests the Commission to change a decision and to amend the resolution in terms of which that decision was made, the AU is going way beyond its powers and interfering with the fundamental legitimacy and independence of the main bulwark against abuse of power. Madame Chairperson, we humbly submit that this is not an issue of African values, as it has been framed, but rather of limiting the independence of the Commission.



Madame Chairperson, the Commission is for many the last line of defence. It behoves us to stand firm in our stance and ensure that we give full expression to that which is best about us human beings. Madame Chairperson, we are called upon today to be stronger than we think we are, braver than we can imagine ourselves to be and above all more determined than ever to protect and deepen the independence of the Commission.

I thank you.