

MEDIA STATEMENT

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In South Africa, a deeply troubling pattern persists where black professionals are relentlessly subjected to aggressive scrutiny and humiliation, solely because of their blackness and their stand on transformation. The treatment of Dr. John Hlophe and others is a stark illustration of this. It's shocking that African people are disproportionately singled out for public shaming, perpetuating a blatant racial double standard. This toxic culture of racism criminalizes blackness while shielding whiteness from accountability. The Busisiwe Mkhwebane Foundation is resolute in its determination to confront and challenge this egregious injustice, standing firmly in solidarity with black professionals and advocating for the truth.

In 2020 Dr Hlophe wrote a paper titled "Racism in the Judiciary" in which he argued that the South African judiciary remains racist and exclusionary, despite the country's democratic transition. He raised the following;

- The judiciary is predominantly white and male, failing to reflect the country's diversity.
- Black judges are underrepresented and marginalized.
- Racism persists in court decisions, with white judges often favoring white litigants.
- The judiciary perpetuates systemic racism through its decisions and practices.
- Transformation is necessary to address these issues and create a more inclusive and representative judiciary.





The DA's court challenge to John Hlophe's appointment to the Judicial Service Commission (JSC) blurs the lines of the doctrine of separation of powers, which clearly delineates the roles of the legislative, executive, and judicial branches of government. By attempting to overturn a lawful appointment made by the legislative branch (the National Assembly), the DA is essentially seeking to encroach on the powers of the legislature and undermine the independence of the judiciary. This move threatens the delicate balance of power and the principles of separation of powers, which are fundamental to our constitutional democracy. The DA claims to respect the rule of law and are very vocal in upholding the Constitution but act is contradicting to the very principles they claim to stand for.

Here are the rules and guidelines for a member of parliament to be deployed to the Judicial Service Commission (JSC) in South Africa:

1. Section 178(1) of the Constitution: The JSC consists of 23 members, including 3 members of parliament (MPs) designated by the National Assembly.
2. Section 178(5) of the Constitution: The 3 MPs must be designated from a list of 8 names submitted by the National Assembly, in accordance with a resolution adopted by the Assembly.
3. Rule 322 of the National Assembly Rules: The National Assembly must, by resolution, designate 3 MPs to serve on the JSC.
4. The JSC Act (No. 9 of 1994): The Act outlines the functions, powers, and procedures of the JSC, but does not specify qualifications or criteria for MP members.
5. Parliamentary protocol and convention: MPs designated to the JSC are typically chosen based on their political affiliation, seniority, and experience, rather than specific legal or judicial expertise.

Dr Hlophe has been extremely vocal advocate for land reform and the return of land to indigenous people in South Africa. He has argued that the country's land ownership patterns still reflect the legacy of apartheid and colonialism, with the majority of land still owned by a small minority of white people.

Hlophe has called for expropriation of land without compensation, return of ancestral land to indigenous communities, redistribution of land to address economic inequality and transformation of the agricultural sector to benefit black farmers

His views on land reform have resonated with many South Africans who feel that the country's land ownership patterns are unjust and need to be addressed. However, his stance has also been met with opposition from some quarters, particularly from agricultural and business interests who argue that land expropriation without compensation could harm the economy.

It's no surprise that Judge Hlophe faces fierce opposition from the DA, who are determined to preserve the status quo of racial inequality and land ownership. As a vocal advocate for land reform and transformation, Hlophe poses a significant threat to the DA's interests and the entrenched power dynamics that maintain white privilege. The DA's backlash against him is a predictable attempt to silence him.

While they may attempt to argue that Hlophe's past conduct, including his impeachment, renders him unfit for the JSC or that procedural irregularities occurred during the National Assembly's appointment process, these claims have little basis. The discretionary nature of JSC appointments and the lack of specific constitutional criteria severely limit the DA's chances of success. Ultimately, the DA's case is a weak attempt to undermine a lawful appointment, driven by political motivations and racism rather than a genuine concern for the integrity of the JSC.

