

Mkhwebane acted for own ends, claims dumped COO

The Public Protector's former chief operating officer, Basani Baloyi, claims that Busisiwe Mkhwebane has acted unconstitutionally and for her own personal ends in a number of crucial and politically sensitive investigations, including one into donations to President Cyril Ramaphosa's CR17 ANC election campaign in 2017. According to Baloyi, the investigations into Public Enterprises Minister Pravin Gordhan and Water and Sanitation Minister Gugile Nkwinti were also improperly conducted. These reports are being challenged in court, notes legal writer Franny Rabkin in a [Mail & Guardian](#) report revealing these stunning claims. Baloyi is in a labour dispute with Mkhwebane and her chief executive (CEO), Vussy Mahlangu, and is demanding to be reinstated as the chief operating officer. In her affidavit Baloyi says she was 'purged' because she was an 'obstacle to the Public Protector and CEO using their powers for their own personal advancement'. 'The Public Protector has used her power for her own ends. She has released reports in order to advantage the CEO. **She has improperly prioritised investigations, and 'played chess' with the country,**' says Baloyi. The Public Protector's Office said it would be defending the case and 'rejects all of the allegations levelled against her as baseless and malicious'. They seek to 'feed into the meritless claims and perception that are out there', said Mkhwebane spokesperson, Oupa Segalwe. He said Baloyi had never raised any of these issues while she was still employed and was only bringing them up now that she no longer works for the institution and is seemingly aggrieved about that. 'Her court case should be seen as nothing but vindictive vengeance,' and had nothing to do with the issues of performance, which were at the core of her departure from the Office of the Public Protector.

The reports about Ramaphosa's CR17 campaign and allegations of a 'rogue' investigative unit at SARS when Gordhan was Commissioner are two of the most politically contentious of Mkhwebane's incumbency. In them, Mkhwebane found that Ramaphosa and Gordhan had breached the Executive Ethics Code. She directed, as remedial action, disciplinary action against Gordhan and that the Speaker of the National Assembly demand Ramaphosa disclose the details of all the donations made to the CR17 campaign. Both reports were challenged in court, in disputes that have become increasingly acrimonious, with the President and Gordhan questioning Mkhwebane's motives, notes the [M&G](#) report. Baloyi said both these investigations were handled in a way that was 'extremely unusual'. She said when Bosasa's Gavin Watson was interviewed, he revealed that he had also donated to the election campaign of Nkosazana Dlamini-Zuma (NDZ), who was running against Ramaphosa. But when it was suggested that the investigation be broadened to include the NDZ campaign, Mkhwebane refused. **To this the Public Protector said that Watson had subsequently changed his tune and that she had said as much in her report.** 'Further, Dr Nkosazana Dlamini-Zuma was not a member of the executive at the time of her campaign for ANC presidency. The Executive Members' Ethics Act is only applicable to members of the executive.'

Baloyi also notes external people were brought in to conduct the CR17 investigation. 'I do not know who these people were as I was entirely excluded from the process,' Baloyi said. 'This was highly unusual ... The Public Protector is sometimes required to rely on external investigators to aid her with reports. But that is only when the skills or capacity are lacking in the office. That was not the case here. There was no legitimate reason why the complaints could not have been investigated through the ordinary process.' **Segalwe said the number of people working on the Bosasa matter was reduced 'due to the sensitivities involved'**. 'The matter involved the head of state and the information gathered, including bank statements, had to be handled with care. In fact, Ms Baloyi was on a number of times found to have revealed sensitive details of investigations during social gatherings, breaching confidentiality agreements, and was cautioned about that,' said Segalwe. The [M&G](#) notes Baloyi said the CR17-Bosasa and 'rogue unit' reports were also prioritised. These type of investigations normally take about two years, said Baloyi, but the Bosasa and 'rogue unit' reports were completed within a few months. 'This caused suspicion within staff members,' said Baloyi. But Segalwe said there was 'no truth to the claims that reports are 'timed' for release to achieve certain objectives. Reports are only released once they are ready, subject to the dictates of the law such as the Executive Members Ethics Act,' he said.