

FORM 2

PART E: PARTICULARS OF COMPLAINT AND RELIEF SOUGHT

Nature of complaint: (Please give full details of the complaint, the date of the incident(s) and the particulars of possible witnesses. Also indicate which right has been violated and the reasons why you think such right was violated.)

Details of Complaint

Mr Julius Malema addressed supporters of the Economic Freedom Fighters (EFF) on 20 November 2018 outside the offices of the media group Tiso Blackstar, which is also the venue that houses the Commission of Inquiry into State Capture, where Mr Malema made the following utterances against me:

"Our attack on Pravin Gordhan is an attack on White Monopoly Capital because Pravin is a dog of White Monopoly Capital. We must hit the dog until the owner comes out and once the owner comes out, we must deal decisively with the owner. Pravin is a cabal that belongs to the UDF and destroyed all good African comrades ... he's no good this guy. He has destroyed Peter Mokaba, Winnie Mandela, he has destroyed everyone else that stood for the truth against the apartheid regime... Pravin has gone in to all SOE and removed all black excellence because he hates Africans, he doesn't like Africans. Any African who speaks back to Pravin, Pravin threatens those people....

Once you take a decision to go after Pravin, you must be ready. If you are not ready, don't come to the EFF. We've now taken a decision to fight Pravin, and therefore you must know Pravin is going to fight dirty... There will be casualties. There can even be a loss of life. If you are not ready for that, stand aside. I'm not scared. I'm ready. I'm prepared to confront them one by one."

These statements can be found on the following link: <https://www.youtube.com/watch?v=b7eahs-HIMpY> at 2minutes 28 seconds and 19min 50 seconds respectively.

Mr Malema's statement indicates that I am a dog of White Monopoly Capital who must be assaulted; that I destroyed individuals who stood for the truth against the apartheid regime; that I hate Africans and threaten them when they retaliate; and that going after me implies that there will be serious consequences including the loss of life.

In a blog by Mr Floyd Shivambu dated 19 October 2018 titled: "*Pravin Gordhan runs a Cabal and operates a parallel State apparatus in South Africa*" which can be accessed on this url internet link: <http://www.floydsviews.com/2018/10/pravin-gordhan-runs-cabal-and-operates.html> Mr Shivambu makes various hateful and defamatory statements against me. There include:

"...PG, as his protégés refer to him, employs a combination of narcissism, self-righteousness, manipulation and threats to domesticate African comrades and achieve his selfish ends. His overarching and abiding intentions are the protection and empowerment of people primarily of Indian descent - all of this he does under the cover of transformation. Toward this parochial end he finds a ready ally in the white capitalist establishment.

As will be argued, Pravin (and his Cabal) employs political blackmail to slander political opponents and then hold his actions and articulations up as a modular example of political



virtue and duty. In an article published in 1917, Lenin warns against political blackmail, which he defined as; "the extortion of money under threat of exposing certain facts or invented "stories" which may be disagreeable to the person concerned, or under threat of causing him some other unpleasantness. Political blackmail is the threat of exposing, or the actual exposure, of true, but more often invented, "stories" with the aim of causing an opponent political damage, of slandering him, of depriving him of the possibility of engaging in political activity, or of making it difficult for him.

...The Cabal was basically an Indian Cabal that was put in place to slander the character and standing of African comrades in the MDM, and it was led by Pravin Gordhan.

Even when the MDM was confronted with a common enemy – the white settler colonial state – Pravin was keen on sowing divisions within MDM structures, undermine and denigrate the role of mostly African leadership in the mass movement. The essence of Pravin's ideological and political outlook was and remains collaboration with existing capitalist interests and undermining the overall leadership of the movement.

One of the distinct features of the Cabal under the leadership of Pravin was domestication of African comrades. And this phenomenon continues to define how he relates with African leadership in the ANC up to this day.

Mr Shivambu makes many other equally defamatory statements against me in his blog. I have not quoted them so as to avoid making this affidavit unnecessarily bulky. However, a copy of the entire blog can be accessed at the url link I have referenced above.

Right which has been violated

My right in terms of Section 10(1) of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 Of 2000 ("Equality Act") has been violated. Section 10 of the Equality Act provides that:

"Subject to the proviso in section 12, no person may publish, propagate, advocate or communicate words based on one or more of the prohibited grounds, against any person, that could reasonably be construed to demonstrate a clear intention to

- (a) be hurtful;*
- (b) be harmful or to incite harm; or*
- (c) promote or propagate hatred."*

Section 1 of the Equality Act defines prohibited grounds as:

- (a) race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth; or*
- (b) any other ground where discrimination based on that other ground-*
 - (i) causes or perpetuates systemic disadvantage;*
 - (ii) undermines human dignity; or*
 - (iii) adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to discrimination on a ground in paragraph (a);*

Section 12 of the Equality Act which prohibits the dissemination and publication of information that unfairly discriminates has also been violated. It reads as follows:



*"No person may –
(a) disseminate or broadcast any information;
(b) publish or display any advertisement or notice,
that could reasonably be construed or reasonably be understood to demonstrate a clear intention to unfairly discriminate against any person: Provided that bona fide engagement in artistic creativity, academic and scientific inquiry, fair and accurate reporting in the public interest or publication of any information, advertisement or notice in accordance with section 16 of the Constitution, is not precluded by this section."*

The statements seek to demonise me by drawing a comparison between me and a dog and calling me a friend of the apartheid regime and also indicate that anyone who "fights him" may end up dead. The statements advocate hatred and propagate violence towards me, are racist and undermine my human dignity

The statements suggest and were understood to mean that I have blackmailed and threatened people; that I established an unconstitutional and unlawful unit; that I run a parallel state; undermining African leadership, that I have captured people, amongst others, are not true and correct and were published by Messrs Malema and Shivambu with the intention to defame me, hurt my good name and reputation, as there is no evidence to substantiate them.

These statements are based on the prohibited grounds of discrimination that undermine human dignity and infringe upon various constitutionally guaranteed human rights such as my right not be to unfairly discriminated against as enshrined in section 9 of the Constitution, as well as my right to human dignity as enshrined in section 10 of the Constitution.

The offending statements by Messrs Malema and Shivambu should be declared to be hurtful; harmful, inciting harm and propagating hatred; infringing on my inherent right to have my dignity respected and protected; and to amount to hate speech as envisaged in section 10 of the Equality Act, read together with section 10 of the Constitution.

The offending statements speak ill of me and suggest that fighting me is not only dangerous but can lead to loss of life.

How has it affected you?

It has impaired my dignity, character and political persona. The statement has also propagated hatred and violence towards me.

The statements are unreasonable and unjustifiable as they infringe on my right to a good name. The statements are not true and not supported by any evidence

The statements are intended to expose me to hatred, contempt, ridicule and to diminish the esteem in which I am held by the people of the Republic of South Africa.

Documents: Are there any documents to substantiate your complaint (e.g. pay slips, references, records of conversations) to substantiate your claim? (If so please attach.):

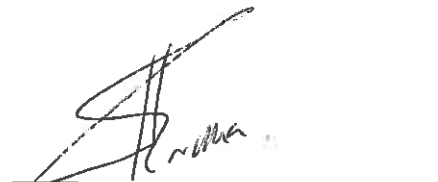


Yes. Below is a youtube link to Messrs Malema and Shivambu's statements and newspaper online articles:

1. <https://www.youtube.com/watch?v=b7eahs-HMqY> at 2minutes 28 seconds and 19min 50 seconds respectively.
2. <https://www.news24.com/SouthAfrica/News/fighters-be-ready-malema-gets-ready-to-go-to-war-with-pravin-gordhan-20181120>
3. <https://www.cnbcAfrica.com/videos/2018/11/20/eff-leader-julius-malema-speaks-out-against-minister-gordhan/>
4. <https://www.iol.co.za/news/politics/julius-malema-tears-into-gordhan-tiso-blackstar-18198792>
5. <http://www.floydsviews.com/2018/10/pravin-gordhan-runs-cabal-and-operates.html>


Relief sought: (Please indicate what assistance you require. The court may make an interim order, declaratory order, an order for the payment of damages, an order that an unconditional apology be made etc.)

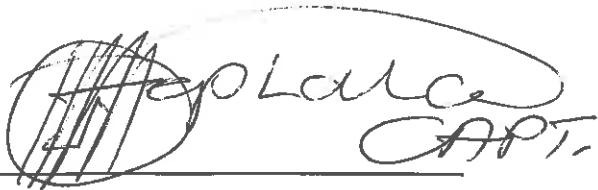
1. Payment of an amount of R 150 000.00 as damages to be paid to a charitable cause identified by the me.
2. An unconditional apology and publication of the apology to all media and on the social media platforms regularly used by the EFF leadership.
3. Payment of costs.



DEPONENT:

I hereby certify that the deponent has acknowledged that he/she knows and understands the contents of this affidavit, which was signed and sworn to before me at Brackville on the 26 day of NOVEMBER 2018, the regulations contained in Government Notice No R1268 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.




CAPT.

COMMISSIONER OF OATHS

Full Names: *NTATOLENG JOHANNES MAPHALA*

Business Address: *119 DUXBURY ROAD*

Office: *HILLCREST.*

