

Press Release



**South African
Institute of
Race Relations**

South Africa's Leading Research and Policy Organisation

For immediate release

5 May 2011

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“Imperative to root out arms deal corruption”, says Institute

“President Jacob Zuma has a constitutional obligation to take effective action against corruption. This includes the corruption which appears to have accompanied the 1999 arms deal,” says the South African Institute of Race Relations (the Institute), which has been admitted as an *amicus curiae* (friend of the court) in a case before the Constitutional Court today.

In March 2011, in the *Glenister* case on the Scorpions and the Hawks, the Constitutional Court identified corruption as a scourge which ‘must be rooted out of our society’ as it poses a real danger to democracy, accountability, the rule of law, and guaranteed human rights.

According to the Court, the Constitution requires ‘the Government to establish effective mechanisms for battling corruption’ and ‘to prevent and root out corruption’.

“Yet no effective action has been taken to expose and root out the corruption that many people suspect accompanied the arms deal,” says Institute CEO John Kane-Berman.

Instead, the Government has repeatedly interfered with investigations into the arms deal. It also closed down the independent Scorpions who were busy probing possible malfeasance in the arms deal and replaced them with the Hawks. Yet the Hawks, as the Constitutional Court found in the *Glenister* case, lack the independence to confront corruption in high places.

In September 2010 the Hawks also terminated their ineffective one-man probe into some 5m documents concerning corruption in the arms deal. No police investigation is now in train, while the Government has refused or ignored repeated requests from civil society for an independent judicial commission of inquiry into the arms deal.

Mr Terry Crawford-Browne is now seeking a Constitutional Court order compelling the holding of such an inquiry. The Institute has intervened in the case, as a friend of the court (*amicus curiae*), to raise relevant points of law and help curb corruption.

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Says Kane-Berman: “President Jacob Zuma argues that he has discretion in deciding whether to appoint a judicial commission of inquiry or not. He also suggests a commission of inquiry would mean little in practice, as he would not be bound by its recommendations.

“Such arguments are misconceived and suggest a contempt for the Constitution, which the president is legally obliged to uphold at all times. In addition, in South Africa’s democratic system, the president must act reasonably and rationally in exercising his constitutional powers.

“It is not reasonable for the president to rely on the Hawks to probe corruption in the arms deal when the Hawks lack both the capacity and the autonomy to do so.

“Time is now of the essence, while the documentary trail is still intact. Failure to root out malfeasance in the arms deal encourages a culture of impunity. This gives fresh impetus to the scourge of corruption which, as the Constitutional Court warned in *Glenister*, threatens to ‘fell at the knee...everything we hold dear and precious in our hard-won constitutional order’.”

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