

Proposal to create corruption focused Chapter Nine institution

Former Justice of the Constitutional Court Judge, Albie Sachs, says the formation of an independent body or commission with powers akin to those of a Chapter Nine institution, should be considered in the fight against corruption.



Image source: Tan Kian Yong – [123RF.com](https://www.123RF.com)

Sachs was speaking during a celebration of the 25th anniversary of the signing of the Constitution.

Chapter Nine institutions like the Public Protector, Auditor General, the SA Human Rights Commission and others, are geared towards supporting the implementation of democratic processes in the country and are independent, subject only to the Constitution and the law but do account to the National Assembly.

Sachs – who himself helped to write the Constitution – said in hindsight, the drafters of South Africa’s highest laws should have considered a special commission to protect the country from corruption.

“There were two things that turned out to be very important to South Africa that we didn’t really envisage when we started

drafting the Constitution and we didn't create special provisions in the Constitution to deal with them.

"The one was HIV and the impact of the pandemic was enormous. But the Constitutional Court said... [discrimination was] to be unconstitutional. When it came to corruption, it wasn't mentioned in any of the themes of the Bill of Rights and there were no institutions to protect democracy solidified around people having a special role to deal with corruption," he said.

According to Sachs, the current Chapter Nine institutions – although working hard to protect democratic gains – do not have the specific focus required to deal with the scourge.

"[It] is something that maybe should be considered for an amendment – a constitutional amendment. To create a body with the same independence that the other Chapter Nine institutions have, devoted to dealing with corruption, protecting whistle blowers, ensuring that there are prosecutions, creating information and understanding."

Sachs added that if not curbed, corruption will undercut all of the other rights guaranteed in the Bill of Rights and other gains of South Africa's Constitutional democracy.

"Corruption threatens the achievement of all the other rights. It undermines it. It allows people in power – who should be upholding fundamental rights – to take kickbacks and have interests outside. It is not just a deviation of money, it's the destruction of virtue, integrity and honesty," he said.

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