

## **ACCOUNTABILITY, RESPONSIVENESS AND OPENNESS AS THE ORDER OF THE DAY: THE SECRET BALLOT DECISION**

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The Centre for Constitutional Rights (CFCR) welcomes the decision handed down yesterday by the Constitutional Court (the Court) in *UDM v Speaker of the National Assembly and Others*, in which the Court made apparent that the Rules of Parliament, in line with the Constitution, allow for a secret ballot in motions of no confidence in the President.

Importantly, the Court made apparent the meaning of South Africa as a constitutional democracy - that "...governance structures [are] created to breathe life into our collective aspirations." Pertinently the decision underscores that members of the National Assembly, as well as the President, swear an oath of office, which oath is a grave commitment to upholding the Constitution on behalf of the people of South Africa. Public office comes with responsibility - and should not be used for the advancement of personal or sectarian interests. Despite the enormous power which public office wields it is *always* subject to checks and balances. Accordingly, a motion of no confidence in the President is one such means of holding accountable the head of the nation's Executive branch of government.

In due deference to the principle of separation of powers and not prescribing to the National Assembly how to conduct its business, the Court did not order that the Speaker of the National Assembly hold a secret ballot vote. Nonetheless, given that the Speaker had conceded that she was not averse to holding a secret ballot vote - it would then be irrational of her to then refuse the same when so requested by opposition parties. The adverse costs order, directed at the President and the Speaker, is an indication of how the Speaker should receive any requests for a secret ballot in a motion of no confidence. Above all, the decision makes clear - in the event of conflict between upholding constitutional values and party loyalty - the duty to serve the nation and act in the best interests of the nation should always prevail.