



EXHIBIT E 4

REVEREND FRANK CHIKANE



**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

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INDEX: EXHIBIT E 4

#	Description	Pages
1.1	Submission by Reverend Frank Chikane	01 to 19
1.2	Annexure 1	20 to 22
1.3	Eight Days In September	23 to 49
1.4	The Things That Could Not Be Said	50 to 63

**SUBMISSION BY REVEREND FRANK CHIKANE TO THE JUDICIAL
COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS
OF STATE**

I, the undersigned,

FRANK CHIKANE

an adult male, aged sixty-eight (68) – born on 3 January 1951 – and resident at 21/1 African Wattle Drive, Carlswald Estate, Walton Road, Midrand, Johannesburg, hereby declare:

BACKGROUND AND EXPERIENCE

- 1 I am currently the International President of my Church, The Apostolic Faith Mission (AFM) which has a presence in about thirty-four (34) countries in six (6) continents of the world; a Presiding Pastor of the AFM of South Africa at the Naledi Assembly, Soweto; Vice-President of the South African Council of Churches (SACC); a member of the All Africa Conference of Churches (AACC) Advisory Committee on Peace and Security on the African continent; and, a Moderator of the Churches Commission on International Affairs (CCIA) of the World Council of Churches (WCC).



- 2 I am a former Special Advisor to the Deputy President of the Republic of South Africa, Deputy President Thabo Mbeki (1995-1996); Director General in the Deputy President's Office (1996-1999); Deputy Secretary of the Cabinet of the Republic of South Africa (1998-1999); Director-General in the Presidency, and Secretary of the Cabinet (1999 - June 2009), and the last nine months or so were managed as a transitional period based on a special contract providing for a phase out programme as the Director-General and Secretary of the Cabinet, leaving me on a short term contract to manage the transitional processes leading to the April 2009 national elections and inauguration of the President so-elected in May 2009.
- 3 I am a former pastor of the AFM in Kagiso, Mogale City (then, Krugersdorp) (1976-1981); Technical Assistant at the Nuclear Physics Research Unit (NPRU) at the University of Witwatersrand (1976-1979); a Director of the Kagiso Self Help Project (1980-1981); Coordinator and then Director: Institute for Contextual Theology (ICT) (1981-1987); Deputy President of the Soweto Civic Association (SCA) (1983-1985); Vice-President of the United Democratic Front (UDF) (1983-1985); General Secretary of the South African Council of Churches (SACC) (1987-1994); and a Commissioner of the Independent Electoral Commission (IEC) which was responsible for the first April 1994 democratic elections in South Africa.



QUALIFICATIONS

- 4 About academic qualifications: Besides my Diploma in Theology (Pan-African Bible College, AFM) and an Executive Course for Senior Managers in Government Programme (Kennedy School of Government, Harvard University, 2004), I hold two Masters' Degrees. One on Religious Studies (1992, Natal University, now KZN University), and the other is in Public Administration (1995, Kennedy School of Government, Harvard University). The rest are honorary degrees.

MY SUBMISSION

- 5 My submission is primarily going to be based on my personal knowledge and experience about matters I have been asked to deal with.
- 6 I have also decided to rely on published material which I penned whilst my memory was still relatively fresh about the matters or events related to the interest of the Commission.
- 7 On the Themba, James Maseko matter, I have gone through the Statement I made to the Hawks when they were investigating the matter. The Statement is herein attached as Annexure 1. I have no idea as to where this case ended.



PUBLISHED MATERIAL ON THE SUBJECT OF THE COMMISSION

- 8 There are three Chapters in the two books I published after leaving Government which deal with some of the aspects that concern this Commission. This was based on my thirteen and a half years of experience in Government, including chairing the National Security Committee (of senior security and intelligence officials) of the National Security Council (executive level).
- 9 One Chapter is in *Eight Days in September: The Removal of Thabo Mbeki* (Picador Africa, 2012) entitled "Conflating State and Party: A National Security Threat", and, two are in *The Things that Could Not be Said: From A(ids) to Z(imbabwe)* (Picador Africa, 2013) entitled "Colonialism in a New Guise" and the "The Scourge of Corruption".
- 10 At the beginning of the latter title, that is, *Things that Could Not be Said*, I deal with the dilemma about things one could not say whilst in Government, and the things I cannot say even now which are still classified in terms of the relevant legislation. My submission to this Commission will also have the same limitation.
- 11 I shall refer to some of the aspects I deal with in these chapters and others in these books.



SIGNS AND SEEDS OF 'STATE CAPTURE' DURING MY TIME IN GOVERNMENT

- 12 The first indicator for me about the risk of capture of the State is contained in my Chapter on “Conflating State and Party: A National Security Threat” in *Eight Days in September*, found in pages 166-190.
- 13 The first challenge I noted was that, notwithstanding the fact that a non-racial democratic South Africa was established in terms of our new Constitution, intelligence officers continued to report to their former commanders during the apartheid days, and this affected both officers from the Apartheid system and those from the liberation movements (pages 166-179). This laid the seeds for a parallel intelligence service that ended up serving the interests of individual leaders or sectarian groups – which is illegal and against the Constitution of the country - rather than serving the State and the people of the country in terms of the law.
- 14 The second indicator for me was the belief (and even the thought) that the President of the country could “use his powers to prevent or stop the prosecution (of) or quash” cases (page 180), notwithstanding or irrespective of or outside the law and the Constitution.
- 15 The third for me relates to the decision by Cabinet to appeal against the Nicholson judgement on the matter which affected the former Deputy



President (Mr Jacob Zuma). Lawyers needed the decision of Cabinet to make this appeal, but Minutes of Cabinet are classified and could not be used in court. The practice to resolve this matter was for the Secretary of the Cabinet to depose an Affidavit to confirm the decision of Cabinet without releasing the classified Minutes. To my shock there were some who suggested I change the Minutes of Cabinet! My advice was that "only Cabinet could rescind the decision" (page 182). Second, there was also an appeal to me not to depose such an Affidavit, and my response was that as long as the decision of Cabinet stood in the Cabinet Minutes I was obliged to execute it" (page 182). I deposed the Affidavit after consulting the President who was President Motlanthe then. His response was 'do what is right Moruti' and what you are expected to do as the Secretary of Cabinet.

- 16 For me what mattered was the law and the Constitution. "Anything else would border on corruption of the law to serve the interests of some members of the party" (page 183). My compliance with the law cost me dearly within the party, that is, the ANC, and as regards my future thereafter.
- 17 I say in the book that "If this level of corruption of the system had been achieved, it would mean that the integrity of the state would have been totally compromised and a faction in a party or another entity would effectively have **taken control of the state**. This would be the birth of a

dictatorship or a **country controlled by a mafia**" (page 183) (my own emphasis). I continue in the book to say that "The Italian Mafia, which ended up **corrupting or compromising the police, prosecutors, the judges and the political leadership** to have their way or avoid being brought to justice, comes into mind ..." (page 183) (my emphasis).

- 18 In the worst-case scenario **"the whole of the cabinet and its president are compromised, and syndicates operate without any fear. At this point the citizens ... have lost their government, since the government now serves the interests of a particular syndicate or mafia and not those of the people."** (page 185) (my own emphasis). I continue to say that **"Business too**, may compromise key political players to ensure that the government serves their interests at the expense of the people" (page 185).(my own emphasis).
- 19 In my Chapter on "Warning Lights" in *The Things that Could Not Be Said*, I make a point that **"Corruption is devastating. It can compromise leaders to such an extent that they abandon their mission to serve the people and instead serve their own interests or the interests of those who have compromised them or those who know that they have been compromised"** (page 144) (my own emphasis).



20 A rereading of my Chapter on "The Scourge of Corruption" in *The Things that Could Not Be Said*, makes it clear that **we understood the challenge the country was facing before the worst happened**. In page 224 I indicated that "private sector players were always ready with bags of money to compromise one or other of the bureaucrats or political office bearers if it served their interests". In fact, whilst I was in government we found that **"there were a set of wealthy, highly placed international and national business people who targeted the leadership or potential future leaders ... to befriend them ... corrupt them in preparation for future deals."** In this regard "The involvement of **strategically placed senior comrades gave members of these networks a sense of invincibility**, and the practice, a certain credibility." (page 225) (own emphasis).

21 Pages 234-239 sum up the nature of the crisis we are facing. I refer here to a warning I gave to the governing party based on my experience as a deployee of the National Executive Committee (NEC) of the ANC in the North West Province then. It was all about political control and/or business influence for access to tenders, contracts and other deals. They even had paratroopers, apparently with a budget to finance their violent and disruptive activities (page 235).



22 I conclude by advancing a view about what is called **political corruption** which I say is more toxic than the traditional understanding of **bureaucratic corruption**. I then submitted that political corruption “leads to the worst forms of bureaucratic corruption” (page 237). I make the case that ‘it is intense’ and that it ‘can break the system’. Corruption, I say, “causes leaders to define themselves as being above and beyond the law. They easily throw away the regulatory framework when it comes to self-interest. At this high level of corruption, no stone is left unturned until the corrupt elements control all the organs of the state to ensure that they serve their interests. This involves influencing judges, prosecutors and the police.” I sight cases that show as to “how close we came to making the institutions of the state part of the corruption project”, resulting in what I call a ‘mafia state’. (pages 236-237).

23 At the “highest levels of corruption involving syndicated forms of organized crime and mafia-style criminal activity, systems and institutions of law enforcement agencies can be captured by a syndicate and manipulated in a way that serves their interests”. (page 237).


THE INTERFASSE BETWEEN PARTY AND GOVERNMENT



- 24 My Chapter on "Conflating State and Party: A National Security Threat", in *Eight Days in September* deals effectively with this subject and the challenges we face or faced.
- 25 Our Constitution for me is very clear about the separation of powers between the legislature, the judiciary and the executive. There is also a clear separation between party political activity and Government.
- 26 Regarding the appointment of Cabinet, the Constitution is very clear that the President appoints the Deputy President, cabinet ministers and deputy ministers (Sections 91 and 93 of the Constitution).
- 27 Although I was not part of the processes of identification and selection of Cabinet members as a member of the National Executive Committee (NEC) of the ANC then, a Secretary of Cabinet, and Director-General in the Presidency, I was aware that the President appointed Cabinet members after consultation with the Secretary-General of the Governing party. The consultations here did not take away the powers of the President in terms of the Constitution. Appointments were 'after consultation with' and not 'in consultation with'. At no stage, during my tenure as Director-General in the Presidency, did I have a feeling that the President (that is, President Mandela and Mbeki) appointed Cabinet ministers to advance other interests other than those of the Government and the people of South Africa.



- 28 My only concern was the **power dynamics** within a party which could influence the appointment of Cabinet ministers and other officials of Government. There was also the tension between the **deployment policy** of the Governing party and the appointment of able and qualified officials of Government in terms of the prescribed rules and regulations governing the appointment of such officials. During my time as Director-General and Secretary of the Cabinet we were able to manage this dynamic and tension within the framework of the law and the Constitution.
- 29 During the thirteen and a half years of my service in Government we 'grappled' with the "subtle difference between the role of the president as head of state and that of head of government" (page 172). There were times when the President acted as the Head of State. Another time as Head of Government. And, at other times as Head of the governing party. I say in this Chapter that "In this regard the presidents I served under – Mandela, Mbeki and Motlanthe – had great respect for the Constitution and also respected the subtle differences between party and government activity and between the state and the (ruling) party" (page 172).
- 30 The challenge in our governance system is managing these different 'centers' of power in a manner that respect their roles and responsibilities. An emphasis of one against the other outside the national constitutional construct of the country can result in disastrously consequences. This includes deployment of staff within Government.



31 One example for me among many others would be the way the 'War of Poverty' (WOP) programme was developed and handled. In the transition from President Motlanthe and President Zuma the design and restructuring of the new Government was done at Luthuli House (Headquarters of the ANC) without consulting or getting advice from those who were in Government.

32 Ten years or so after the democratic government came into being a group of women concluded that the policies and programmes of the democratic government were not achieving the objective of eradicating poverty (especially abject poverty) in the country as was expected. They undertook a research project in the country and internationally, and, based on this research they reached a conclusion that one could not eradicate poverty with general policies on poverty. The only way they said was to focus on 'one family at a time' until that family came out of poverty. A programme was developed in this regard which was based on collaborative strategies between the families, communities/civil society, and local/provincial/national governments focusing on 'one family at a time'. It was also agreed that this would bring all sectors and departments of government coordinated from the apex of Government, that is, the Presidency. This Programme which got to be known as 'War on Poverty' (WOP) was launched in August 2008.



- 33 After retiring from Government, I facilitated a War on Poverty (WOP) pilot programme in Region D1 of Soweto, within the Johannesburg municipality as I had come to believe that this was the only way to deal with abject poverty in the country. This brought the national government (Deputy President's Office), the Gauteng Provincial Government and the Johannesburg municipality together with the churches and civil society entities in the Region, and affected families to deal with poverty in the Region (D1).
- 34 Unlike the transition from Presidents Mandela and Mbeki in 1999 which was managed well between Government and the governing party, the transition from Presidents Motlanthe to Zuma was managed from the party headquarters without an input from Government or use of the wealth of experience within Government. As a result, and not withstanding available information that poverty had become deeper in some of the major cities in the country, the 'War on Poverty' Programme was moved to the Department of Rural Development. This cut off the Urban Renewal and Development part of the Programme.
- 35 Given the 'War on Poverty' pilot programme my Church (The AFM of South Africa - Naledi Assembly) was pursuing together with other churches and civil society groups in Region D1 of Soweto, we followed the Programme to the Rural Development Department (whilst being Urban). As we did so it became clear to us that the Department really did not know



as to what to do with this programme as it did not fit in within their strategic plans, philosophic perspectives and systems. Within a short space of time the WOP staff was redeployed within the programmes of the Rural Development Programme and the Soweto Programme fell of the radar screen. As a result, poverty has become deeper in some of the communities that would have benefited from the Programme.

ON THE GUPTAS MATTER

- 36 Until the 2013 Waterkloof scandal many of us would not have known the Gupta family in the way we have come to know it. Earlier interactions with them would have been considered as 'innocent' and 'normal' interactions.
- 37 One of these would have been my encounter with them, particularly their mother, per invitation of one of my family members who said that they wanted to introduce me to their mother who had an extra-ordinary project of supporting the Sahara Computers staff in terms of their social responsibility as a company. This happened without any suspicion of what their interests would have been in terms of their long-term interests.
- 38 My recollection is that my first direct encounter with the Guptas within Government is when I saw their names in the list of confirmed guests for a State Banquet where the number of invitees was normally very tight with limited space. I checked with the Protocol Officers as it was strange for



me to have more than two family members in a State Banquet sitting together. I was told that they were invited by one of the Ministers. I expressed a concern about this matter as we could not even have both the Chair and the CEO of the large State-Owned Enterprises (SOEs) in one State Banquet. Again, there was no suspicion about what their intentions would have been except that they were guests of a Minister.

39 I have come to know as well that Ajay Gupta served as a member of the International Marketing Council of South Africa (IMC) since 2006. Again, no alarm was raised about this appointment during my term in Government. One of course would not have known about the happenings within the business of the IMC.

40 Another event was the world premiere of the movie 'Gandhi My Father' (produced by Anil Kapoor) in July 2007 where President Mbeki was a speaker. It also did not raise an alarm about the Guptas and their intentions.

41 I would like to state that **during my tenure as Director-General in the Presidency I do not remember any activity that would have suggested that the Guptas had any influence in relation to the Government and appointments of people into influential Government positions.**



THE JAMES MASEKO MATTER

- 42 I have known James Maseko, first as a comrade in the struggle for the liberation of our people and the country; second as a member of Parliament; third, as the Superintendent general of the Gauteng Department of Education; fourth as the Director-General of the Department of Public Works; and then as CEO of Government Communication and Information Systems (GCIS).
- 43 I worked with him like all Directors-General during the time when he was Director-General at the national level as I was the leader and Chair of the Forum of Directors-General of South Africa (FOSAD), which includes Directors-General of national departments and Provincial Governments. It is within this Forum that we integrated and coordinated the work of Government together.
- 44 As the Secretary of Cabinet, the Director-General in the Presidency and head of FOSAD I assisted the President in dealing with matters affecting DGs, particularly the relationships between DGs, Ministers and Deputy Ministers. In this regard I was not surprised when Themba Maseko consulted with me and sought advice when he was confronted by a situation that could put him at loggerheads with the President.



45 When Themba Maseko was asked by the President (Zuma) to visit the Guptas at their home and assist them on matters they had an interest in, Maseko consulted me and asked for advice as to how he should handle this situation as he expected that he may be asked to do something irregular and unlawful. My advice to him was that he could not countermand the President until he is asked to do anything that is irregular or unlawful. He went to the Guptas' home. After the meeting, he contacted me again to say that what he suspected would happen had just happened. At that stage I advised that he had the right not to comply with any illegal or unlawful command by the President or any official of Government, using Section 199(6) of the Constitution which is used within the context of the Security Services. We agreed that this was a risky position as he could lose his job, but that he had no option unless if he compromised his integrity.

46 Sometime later he contacted me again and said that the Guptas had told him that if he did not comply or deliver on what they were asking him to do he would not be DG by Wednesday that week. Indeed, after the Wednesday Cabinet meeting he informed me that he was indeed removed as DG or CEO of GCIS. **That call from Themba Maseko that day convinced me beyond any doubt that the Guptas dictated as to what happened in Government.** From my experience action to remove a DG in the manner it was done would have normally involved the President



and at least the Minister responsible for the Department where the DG is removed from. The third Cabinet member in this regard would be the Minister for Public Service and Administration.

47 With evidence that has come to the attention of this Commission and the public I am now convinced that the Gupta family was not an accident of history. The effort to reach out to me and many others directly or through family members suggest that there was a more intelligent operation to reach out to leaders who were strategically placed or had the potential to occupy strategic positions in the future or their relatives, including children; and create relationships, or corrupt them in preparation for a larger project to capture the state and use it for personal gain or for the benefit of those who collaborated with them.

48 If such an intelligent operation was in place I would have been surprised if our national intelligence services would have missed it. If they did I would say that we had no intelligence service and thus very vulnerable as a country. My expectation is that the intelligence agencies must have had this information except that it would be within the realm of classified information. Public information we have now is that two key senior intelligence officers did report this matter to the President, but it did cost



them their jobs. For the purposes of this Commission there should be a legal way in which this could be confirmed.


DEPONENT

SIGNED AND SWORN TO BEFORE ME AT CENTURION ON
THIS 28TH DAY OF MAY 2019, THE DEPONENT HAVING
ACKNOWLEDGED IN MY PRESENCE THAT HE/SHE KNOWS AND
UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, THE PROVISIONS
OF GOVERNMENT GAZETTE R1478 OF 11 JULY 1980 AS AMENDED BY
GOVERNMENT GAZETTE R774 OF 20 APRIL 1982, CONCERNING THE
TAKING OF THE OATH, HAVING BEEN COMPLIED WITH.


COMMISSIONER OF OATHS

CAPACITY: GENERAL SECRETARY AFM OF SA

FULL NAMES: HENRI JACOBUS WEIDEMAN

PHYSICAL ADDRESS: CERTIFIED A TRUE COPY OF THE ORIGINAL


COMMISSIONER OF OATHS
DR. HENRI WEIDEMAN
BUILDING NO. 14, CENTRAL OFFICE PARK, 257 JEAN AVENUE,
CENTURION, GAUTENG, SOUTH AFRICA.
(012) 644 0490

DATE
28/5/2019

1



AFFIDAVIT

I, the undersigned

FRANK CHIKANE

do state under oath and say;

1

I am an adult male with identity number 510103 5611 087, residing at No 21/1 Carlswald Estate, Walton Road, Midrand, Johannesburg; Cellphone number 083 200 1900; email address: fchikane@gmail.com.

2

The facts deposed to herein are true and correct, save where the context indicate otherwise fall within my personal knowledge.

3

I remember that during 2010, I received a call from Mr Maseko requesting a meeting seeking an advice. I know Mr Maseko as a Director General ("DG") at the Department of Government Communication and information Systems ("GCIS") He came to me and told me that he received a call from our President and he ("the President") requested him to go meet with the Gupta's at their house. I advised as requested that if the President is asking him to meet a person he cannot say no, as that would be like defiance. He went to meet with the Gupta's.

4

Subsequent to his meeting with the Gupta's he came back to me and told me that they asked him that as a Director General in Government Communication they wanted some business deals within his portfolio. He told me that they wanted him to

 Y.S

do something irregular. I then advised that this is when he can take a stand. Later he told me that the Gupta family had informed him that if he did not comply with their request by a certain date he (Mr. Maseko) will not be the DG.


5

I can also recall when he told me that he was no longer a DG. I then advised Mr. Maseko that he had enough proof to take a stand on the action taken against him (Maseko). In addition to my recollection of the events told by him, he never told me exactly who was present at the meeting with the Gupta family.

I know and understand the content of this statement;

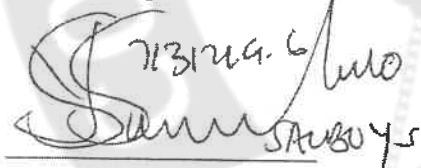
I have no objection to taking the prescribed oath;

I consider the prescribed oath to be binding on my conscience



Signature Deponent

I certify that the deponent has acknowledged that he knows and understand the contents thereof. The deponent's signature was placed in my present in Johannesburg on the 24 of November 2017



Commissioner of Oath

Name: SANB0 Yal

Address: 83 Steve Biko street AREADIN

Rank: WARRANT OFFICER

EIGHT DAYS IN SEPTEMBER



PICADOR AFRICA HERITAGE SERIES



Eight Days in September

The Removal of Thabo Mbeki

Frank Chikane

**PICADOR
AFRICA**

CHAPTER 9

Conflating State and Party

A National Security Threat

One of the challenges we had to deal with in the new democratic government, which played itself fully during the crisis related to the removal of Mbeki, was the relationship between the state and the ruling party. The apparently natural tendency to want to conflate the two presented us with various challenges, including the risk of compromising the integrity of our democracy and the threat to the security of the state and its people.

The nature of the apartheid state, on the one hand, and the liberation movement's historical relationship with the state, on the other, were at the root of this challenge.

The apartheid state was a racially defined, white racist state designed to serve the interests of the white minority against those of the black majority and concerned itself with the security of the minority against that of the majority, who were excluded from the state. It was about a part of society and not about all the people of the country.

CONFLATING STATE AND PARTY: A NATIONAL SECURITY THREAT

During the 46 years of National Party rule, the apartheid state became an embodiment of a racist ideology that constitutionally excluded the black majority from the central government. The police, the defence force, the public service, the prosecution authority, the courts, parliament – everything constituting what is understood as the state – were designed to guarantee the interests of the white minority against those of the black majority. At the time of the first non-racial democratic elections in 1994 the apartheid state was synonymous with the National Party and the party was in control of the state.

The apartheid state was similar to colonial states, which were designed to serve the interests of the colonialists or colonial power against those of the colonised. The only difference was that the apartheid state was a 'neo-colonial state of a special type', as it became known in the course of our struggle for liberation.

In a colonial state the colonial rulers are the state and the state is the colonial rulers. In a sense colonial rule was like a one-party state which allowed no democracy. It is no wonder that once they gained their independence, these post-colonial states became one-party states, in line with the colonial example. So despite the fact that some of the former colonial powers adopted a 'holier-than-thou' attitude to these post-independence one-party states, in fact these new governments merely reflected what the colonial states had been about. Similarly, many of the new leaders were simply good students of the colonialists.

For this reason, democracy as practised in the former Western colonial powers did not appeal to the post-colonial leaders. It was like asking someone to remove a speck in your eye whilst he or she has a lock in his or her eye. In the apartheid state the colonial masters were the racist minority, who treated black people like colonial subjects.

The April 1994 elections ushered in a new democratic government

EIGHT DAYS IN SEPTEMBER

in a state to which the values of non-racialism, non-sexism, justice and democratic practice were foreign. It was like putting new wine into old wineskins – there was a risk that the skins would burst, the wine would spill and the wineskins be ruined. Accordingly, the state had to be transformed, and radically so.

Had there been a *coup d'état* the question of transformation would not have arisen – the apartheid state would simply have been replaced by an entirely new form of state. However, ours was a negotiated settlement and this dictated the route we took – that is, the transformation of the state as part of a transitional process from an apartheid society to a non-racial, non-sexist, just and democratic society.

Naturally, we expected that there would be resistance to this transformational process. Accordingly, we had to develop strategies and tactics to effect transformation rather than use unstrategic frontal attacks that would have elicited a potentially very violent response, costly in terms of human life. Among these strategies were regular critical assessments of the balance of forces within the country and internationally, which assisted us in determining the pace at which the transformation process could be carried out and the tactics to be used. The ultimate objective was to create a constitutional state where the rights of all South Africans were protected and guaranteed.

We had our own challenges as we did this. Our ideological perspectives of the state were a product of the nature of the struggle we had waged and of our historical experience. For almost half a century the white racist regime had ruled out any form of negotiations with the oppressed and exploited black majority. Peaceful protests and peaceful resistance were met with unbridled violence by the apartheid security forces. This forced the liberation movement to resort to the armed struggle as the only way to liberate the people from a brutal neo-colonial power.

CONFLATING STATE AND PARTY: A NATIONAL SECURITY THREAT

The armed struggle meant establishing an army in exile with all that goes with it – that is, military intelligence, civilian intelligence, and so forth. It required a change in the nature and character of the liberation movement which now had to set itself up as a government in exile with a president who was the commander-in-chief of the armed forces.

This did not mean that all the other strategies used by the liberation movement were abandoned. It simply meant that these strategies without the armed struggle would not succeed.

The December 1994 *Strategy and Tactics* policy document of the ANC considered the 'armed struggle' or the 'underground armed resistance' to have been one of the four pillars of struggle during the period from 1961 to 1990. The other pillars were 'mass mobilisation' of the people not only to resist the system but to replace 'apartheid structures with structures of mass resistance and popular governance'; the building of underground structures of the movement inside and outside the country when the movement was prohibited, banned or operated under conditions of illegality; and the mobilisation of the international community not only to isolate the apartheid regime, whose policy was declared a 'crime against humanity', but also to mobilise resources for the liberation movement and have official representatives (ambassadors) of the movement where it was recognised. The international work included a campaign for comprehensive sanctions against the regime. These four pillars were utilised in 'an integrated manner' to ensure 'mutual reinforcement of one another'.

The paradigm shift in the life of the liberation movement to include armed struggle conceptually moved the movement from struggling to force the regime to negotiate with the legitimate leaders of the people to actually forcing it out of power. This is where the concept or slogan of 'seizure of power' came from. The *Strategy and Tactics* document explicitly says that 'the formation of

EIGHT DAYS IN SEPTEMBER

Umkhonto we Sizwe in 1961 ... placed on the agenda the *seizure of power* by the people from the white minority regime' (my emphasis). This concept envisaged, in a sense, the collapse of the apartheid state and its replacement by a non-racial, non-sexist, democratic state. Accordingly, as we entered the politics of negotiations, 'seizure of power' lingered in our subconscious minds.

There was also the challenge of the popular view that the ANC was the 'parliament of the people'. Indeed, when the ANC was formed in 1912 it was considered to be the 'parliament of the people' as blacks were excluded from the Union government and its apartheid parliament, which had been constituted in 1910 after what was called the Anglo-Boer War.

There is an interesting legend about the Union Buildings – the seat of government in Pretoria, Tshwane. Unfortunately, I left government before I could establish its factual basis. The story is told that a third wing was designed but was never built. It is said that the architect of the Union Buildings, Herbert Baker, felt that it wasn't appropriate to build the third wing since it represented the missing African majority.

The painful aspect of this Union between the English and the Afrikaners, which excluded the black majority, was that it came after what was then called the Anglo-Boer War. This was not just a war between the English and the Afrikaners; it included blacks, many of whom died in combat or in supporting roles. Many more suffered and some died in the concentration camps established by the British army. This is why the new democratic government renamed it the South Africa War.

The representations by the African leadership to the British about their exclusion from the Union government fell on deaf ears, as might be expected of a colonial power. As a result the ANC became the only organisation that represented black interests. The movement included all Africans, irrespective of their areas of origin

CONFLATING STATE AND PARTY: A NATIONAL SECURITY THREAT

within the country, their language, traditions or culture. It is out of this reality that the concept of the 'parliament of the people' arose, especially because there were no rival groups at the time. This is where the demon of tribalism was buried in South Africa.

Following the overwhelming victory of the ANC in the 1994 elections, the concept of the 'parliament of the people' became a reality as all other contesting parties (apart from the National Party) were reduced to insignificant minorities. In the next ten years the ANC's support in elections grew from just less than two-thirds (62.65 per cent) of the vote to 70 per cent in 2004.

Although the Interim Constitution, which provided for a Government of National Unity, constrained the new government in terms of the possibility of radically transforming the apartheid state, it did not challenge the view of the ANC as a 'parliament of the people', especially among the party's older members.

The need to transform the state raised the question of what a state is about. In normal democratic countries an election might change the government but it would not change the state. As Matthew Arnold wrote, 'the State is properly ... the nation in its collective and corporate capacity'. Using this definition one might say the state is about the totality of the nation or country. In fact, the word 'state' is used interchangeably with the word 'country'.

The state is about its people and their welfare. And its people means all its people and not just a particular group or sector. The welfare of an entire people also includes that of foreigners within its borders. It is about the government and the services it offers its people. It is about parliament or the elected representatives of the people. It is about the judiciary and the justice system. A state is a sovereign, self-governing political entity that is the totality of all these elements and represents the people internationally. The capitalised form of State emphasises the authority, sovereignty, or official character of a nation, according to the *World Book Dictionary*.

EIGHT DAYS IN SEPTEMBER

In a constitutional state like South Africa the Constitution defines how the state is constituted and how it functions. The 'founding provisions' of the Constitution of South Africa describe 'The Republic of South Africa' as 'one, sovereign, democratic state founded' on 'values' outlined in Section 1(a)–(d) of the Constitution. It provides for a 'Head of State' and a 'Head of the National Executive' in the form of the president of the country who is responsible for promoting 'the unity of the nation and that which will advance the Republic' (s 83[c]). As head of the state the president is expected constitutionally to be an expression of the unity of the nation, rather than an expression of narrow political interests.

The president is also expected to 'advance' the interests of 'the Republic' rather than just those of the party or, worse, more a faction of a party. That is why our Constitution was designed in a way that anyone elected president cannot remain a member of parliament. Once elected as president, one has to resign from parliament.

During the thirteen and a half years that I was in government we grappled with the subtle difference between the role of the president as head of state and that of head of government. There were times when the president acted as head of state and there were times when he acted as head of government. There were also times when he acted as the president of his political party, the ANC. In this regard the presidents I served under – Mandela, Mbeki and Motlanthe – had great respect for the Constitution and also respected the subtle differences between party and government activity and between the state and the (ruling) party.

I also had the opportunity to serve under Zuma between 1999 and 2005, when he was deputy president of the country, and he, too, worked within this framework or construct. Mbeki, whom I served under all the time I was in government, was always ahead of us in differentiating between the different roles the president had to play. He had an extraordinary mind and the sensitivity to ensure that the

CONFLATING STATE AND PARTY: A NATIONAL SECURITY THREAT

different roles were never confused or conflated. There was a clear understanding that the party was not the state, just as the state was not the party. In fact it would be unconstitutional to conflate the two.

Another way of dealing with this complex concept is to say what the state is not. It is not about a particular government, although the government of a sovereign state is a part of the state and represents the state internationally. The state is also not the ruling party, although the ruling party is part of it through the government of the day. Not only does the Constitution differentiate clearly between the party and the state, it also draws a clear distinction between parliament, the executive and the judiciary. It was designed to avoid exactly what the National Party was in relation to the apartheid state and it was in this context that the apartheid state had to be transformed. The historical 1994 *Strategy and Tactics* document of the ANC considers the transformation and restructuring of the organs of 'state power' as constituting 'one of the most important tasks in the process of broadening and consolidating the national democratic settlement'.

The qualitative changes in this respect had to reflect the 'national character and social content' of our country; the affirmation of deprived social classes; the affirmation and promotion of gender equality; and the 'democratisation' of all 'organs of state power'. This involved restructuring and transforming the machinery of state at all levels, covering areas of the public service, the judiciary, the armed forces, the police and correctional services and the intelligence services in order to 'guarantee the defence of the constitution, protection of citizens of the country, protection of public and private property and the preservation of the *integrity of the state*' (my emphasis).

While many of these objectives were achieved within the first term of democratic governance, changes within the judiciary have taken longer to achieve. The qualitative changes referred to above are also still a subject of the national discourse.

EIGHT DAYS IN SEPTEMBER

Given the high level of understanding of the nature of the state and its transformation and the concern about its integrity, one would have thought it would be easier to preserve the constitutional design. In practice, or what I call 'in real life', this was not always the case. Firstly, the history of the liberation movement in exile is that of a government in exile, with its own army and intelligence services, which fought a war against the apartheid regime. The president of the liberation movement was the commander-in-chief of the armed forces, and the intelligence services reported to him via the relevant heads of intelligence and the head of the army (Umkhonto we Sizwe) or its intelligence chief.

We who worked underground in the country also considered ourselves subject to the command system of the movement and ultimately reported directly or indirectly to the president of the ANC, at the time Comrade O.R. Tambo. Those of us who had assumed public leadership roles in one form or another, or in one organisation or another, also considered ourselves as being under the command of the leadership of the movement to advance the course of the struggle.

One example, which may appear to be of no consequence but had the potential to reach a crisis point and lead to loss of life, involved a courier who was caught between the internal underground and the external mission of the ANC. A courier was sent to Lusaka to collect money for a particular operation. The courier came back empty-handed as the source had said that there was no arrangement for such funds. No one believed the courier and there were suspicions that he might have embezzled the funds. The courier appealed to me to intervene, as he feared for his life. I contacted the Lusaka headquarters of the ANC via underground structures and established that the courier had indeed not received the funds, as the matter was being handled by a different arm of the ANC. This saved his life.

CONFLATING STATE AND PARTY: A NATIONAL SECURITY THREAT

Another, more dramatic event was the first direct call from Tambo asking me to help resolve the matter of members of the so-called Mandela United Football Club stationed at Comrade Winnie Madikizela-Mandela's house, who were alleged to have disappeared or been killed. The case is well known and one does not need to elaborate, except to say that I had to go to the house to convey the message from the president of the ANC and, on his instructions, to remain there until I found the children or got leads to find them. This I did.

Many stories like this could be told, but these examples should suffice to make the point that during the liberation struggle cadres of the movement reported to one senior comrade or another and this chain of command continued beyond the April 1994 democratic elections. Even when new command structures were developed within government, or comrades were placed within specific command structures in government, the reporting lines to commanders within the liberation movement remained in place either because of a long-standing tradition or because there was uncertainty about whether or not the new political settlement would survive.

Operation Vula, meaning 'opening the way', was a classic example. This underground operation, initiated in the late 1980s to facilitate the process of infiltrating the leadership of the movement into the country, strengthened lines of communication between ANC in exile and the internal underground structures of the movement. It also strengthened communications between Oliver Tambo in Lusaka and Nelson Mandela, who was still in prison. After Mandela was released and the negotiations process started, Operation Vula continued.

It is history that the apartheid government chose a strategic moment at which it arrested the operatives of Operation Vula and its command structures, while we were in the middle of the negotiation process. This created tensions within the movement regarding

EIGHT DAYS IN SEPTEMBER

the way in which this matter was handled and some comrades still remain aggrieved.

There was also the project to transform the state, which was moving at its own pace, causing some comrades to maintain the old command structures until they were confident about the sustainability of the process. This tendency had to be phased out as confidence built in the new democratic order and comrades were expected to report within the structures of government, if they were deployed within the government.

But some never stopped, continuing without any feeling of guilt to report to one leader or another in the liberation movement, whether or not that was outside of government structures and institutions. This was their liberation movement, which superseded the state, and their loyalty was to the party and not to the state. No oath, law or regulatory framework to protect the secrets of the state will deter such people from passing information to their former commanders and comrades.

The same was happening on the part of the apartheid security forces, whose elaborate security management systems and structures continued operating into the new South Africa as insurance in case the negotiated arrangements did not hold. Some may even have believed that it would not hold. Many of the structures, systems and individuals involved were part of the covert operations of the apartheid regime. Since much of this was decentralised and delegated to individuals, the risk of some continuing outside the official command structures was very high.

Some retired, taking with them files to ensure that they could defend themselves if they were charged in the future. I would imagine that some of those who retired at a senior level had subordinates reporting to them for a while. One example of old-order forces participating in a project which could easily have destabilised the state and the country was the Meiring Report of February 1998.

CONFLATING STATE AND PARTY: A NATIONAL SECURITY THREAT

George Meiring, who was head of the SANDF, presented a report to President Nelson Mandela concerning an organisation calling itself Front African People's Liberation Army. According to the report there was a plot to assassinate the president, murder judges, occupy parliament and broadcasting stations, and cause chaos. On investigation the report proved to be fabricated.

South Africans must count themselves lucky to have gone through this period which was fraught with uncertainty and risk, without any major incidents occurring. Since the country is predominantly religious, many would attribute this to God's providence. Some would attribute it to a commitment on both sides to make things work and not to allow wayward characters to destabilise the peace process or the political settlement. Others would credit the desire of the majority of South Africans, tired of violence and conflict, for peace at any price. Whatever the case, we must count ourselves extremely fortunate.

We must also count ourselves lucky that South Africa – old or new – does not have a culture of coups; that professional members of the security forces have a respect for the law and the Constitution of the country. As a result everyone understood that no amount of agitation could move the disciplined armed forces to engage in acts of illegality. No commander of any security service could order any member of the services to obey a 'manifestly illegal order' (s 199[6]) as it would itself be 'manifestly illegal'.

Our Constitution was designed to produce this effect. That is why I had no concerns that our security forces would behave other than in terms of the Constitution during the time we were dealing with the crisis of the removal of Mbeki from office. At an appropriate time Mbeki interacted with the security forces, and at the appropriate time, when it became necessary, the acting chief of the SANDF called me for advice once the president had resigned.

This is the treasure of this country, of which no one should rob

EIGHT DAYS IN SEPTEMBER

us because of their own political or personal interests. No individual within the forces and no politician should be allowed to corrupt our professional forces. Constitutionally the security services are expected 'to act ... to teach and require their members to act, in accordance with the Constitution and the law' (s 199[5]).

Although we survived this risky period, the issue of divided loyalties between the party and the state lingered on among both the members of the apartheid regime and the cadres of the movement. Is one's loyalty to the state or to the party or individuals one reported to before 1994? For me the question was easy to answer because it is meaningless. The party I am loyal to was responsible for delivering the new democratic government, a democratic state with a new Constitution which should govern every citizen's behaviour. In this regard I have no difficulty in giving my loyalty to the government and my respect to the democratic Constitution which the party that I have loyalty to put in place and is responsible for. This I do and will continue doing for as long as the government continues also to act within the parameters of the Constitution.

I also do not have difficulty being loyal to the state I participated in transforming to ensure that it properly represented the South African nation 'in its collective and corporate capacity', in the words of Matthew Arnold. We also made sure that it was accountable, responsive and open to the needs of the people (s 1[d]). This I will do and continue doing as long as the values enshrined in the Constitution are not violated or compromised.

However, the party I am loyal to cannot require me to violate or compromise the Constitution or the integrity of the state, which represents the collective interests of all the people of South Africa. For this is what we struggled and many paid a price for, even unto death. In fact this is where one should once again take a stand and be ready to die in defence of the gains of our revolution. Like members of the security services, I am also required to resist any

CONFLATING STATE AND PARTY: A NATIONAL SECURITY THREAT

'manifestly illegal order' from anyone, including the president of the country or my party.

These are critical principles if we are to defend our revolution and ensure that the state and its government, parliament and the judiciary maintain their integrity and respect the values that are enshrined in our Constitution.

Between 2003 and 2010, the ANC entered the stormiest waters it had encountered since returning from exile and, like any ship battling for such a long time, it runs the risk of being wrecked. We are lucky we are still floating, and the sooner we get out of the storm the better: firstly, to be able to repair the ship; secondly, in order for the party of revolution to salvage the incomplete national democratic revolution and pursue it further; thirdly, for the sake of the people of South Africa, who desperately depend on it to ensure a better life for all; and fourthly, for the rest of the African continent, which has regarded the ANC and South Africa as beacons of hope for the future of the continent.

We all hope that the rescue strategies that have been put in place will enable the ANC to reconsolidate and repair the damage caused during these turbulent years. As I completed this book I had a serious concern that the strategies put in place by those who are in leadership were unravelling and were beginning to worry the people of this country.

During this period (2003–10) the principles referred to above were tested to the limit. Once the prosecuting authorities decided to charge Schabir Shaik with corruption, which could implicate the deputy president, albeit remotely, we knew (at least I did) that we were entering stormy waters with all their attendant risks.

I visited the president to indicate my anxiety about this development and how it would affect not only the presidency and the government but the ANC itself. I also wanted him to know that I intended to discuss the matter with the deputy president to work

EIGHT DAYS IN SEPTEMBER

out strategies for handling the situation.

What followed is a long story but what was important was the way I, as director-general in the presidency and secretary of cabinet, would be expected to handle this new development. Firstly, it was agreed that the matter arising out of the Schabir Shaik case was unrelated to the presidency, as it concerned the period before the deputy president was appointed. But we also agreed that although the case was not about the presidency and did not relate to any work in the presidency, it would still affect the presidency in the public eye and thus communications strategies had to be devised.

The more challenging aspects of this development, though, were at party level and in the realm of public perceptions. To the general public it would appear that the president, as head of state and head of the national executive, might have been involved in making the decision to charge Shaik in a case that could affect his own deputy president. Some ANC cadres who understood these matters better were of the view that even if the president was not responsible for preferring the charges against Shaik, he could have used his powers to prevent or stop the prosecution or quash the case. At the extreme end, some believed the president was directly responsible.

Although Mbeki and Zuma were adamant that there was no problem between them, one could sense undeclared tension which was building up and began, gradually, to affect our work in the presidency. As the director-general I asked for two things from both principals. The first was that as they were long-term friends and comrades, they should agree on how they would deal with this situation. I also recommended that their normal weekly meetings should be kept in their diaries without fail.

My second request was that in the midst of all this my loyalty to both of them and to the state should never be questioned. As long as they were still president and deputy president I would be obliged to remain loyal to them in all circumstances, as long as it was within

CONFLATING STATE AND PARTY: A NATIONAL SECURITY THREAT

the law and according to the Constitution. I asked that I should not be expected to take sides, as I would not be able to execute my responsibilities if I did so and I would have to resign.

Fortunately, both of them agreed. In fact, the deputy president said I could not serve the president and be disloyal to him. He (the deputy president) expected me to continue being loyal to the president as a matter of principle.

The second challenge was that the DSO, comprising the Scorpions, and the NPA wanted original copies of the disclosure documents of the deputy president, in terms of the Executive Ethics Act in the Shaik case. I indicated to them that I was not empowered by the law to release the confidential side of the disclosure documents of any member of the executive. In any case, we did not have the original copies. Unfortunately, media reports about this short affidavit would suggest to the ordinary member of the ANC that I was involved in the case in some way. But one had to do one's job as long as one remained secretary of the cabinet.

The next challenge was a letter Zuma had sent to parliament in his capacity as leader of government business in the National Assembly (s 91[4] of the Constitution) about government's Arms Procurement Programme (which the media calls the 'arms deal'), of which I had to confirm the authenticity. For some unknown reason, the court chose to disregard the fact that the letter was from the presidency, representing government's position on the Arms Procurement Programme, instead assuming that the letter was a personal one from Zuma. Unfortunately, this has been used to suggest that the presidency had compromised the deputy president by making him sign that letter. This is far from the truth, as the presidency has always owned up to that letter; that it came from government and expressed the views of government, and that Zuma signed it on behalf of government and not on his own behalf.

Then there was the matter of payments for the defence costs in

EIGHT DAYS IN SEPTEMBER

the Zuma case. We had to decide whether or not the case deserved the support of the presidency in terms of the law and, as advised by the state attorneys, decided that it did. The accounts were managed by the state attorneys and all queries were handled by them, but whenever there was a disagreement about accounting and payment it was reported as though the presidency was refusing to pay. There is a responsibility to account for taxpayers' monies and the state attorneys had to do that on our behalf with reports that met the requirements of the accounting officer in the presidency and ultimately the auditor-general.

One matter which occasioned serious differences in approach was the question of an appeal against the Nicholson judgment, which had drawn what were considered to be unfounded conclusions about people who had been given no opportunity to defend themselves. These included members of President Mbeki's cabinet and myself, secretary of cabinet. Cabinet decided to appeal despite the fact that the ANC-related committee appointed to deal with the case believed it should not do so. The logic, I imagine, was that the judgment was good for Zuma and the ANC (as they understood it) and should thus not be overturned. The problem with this position was that the judgment was bad for the president of the country and his cabinet, who were members of the ANC as well.

In any case, the more appropriate response was that every citizen, including members of the ANC, had the constitutional right to appeal against a judgment if they felt that justice had not been done, and it was on this basis that the cabinet had made its decision, which angered some within the ANC. When I was asked about this matter as secretary of the cabinet, I advised that only cabinet could rescind the decision and that as long as it stood in the cabinet minutes I was obliged to execute it. And indeed, when the attorneys acting for the government asked for an affidavit to confirm cabinet's decision I had to give it, notwithstanding the wishes of some in my party.

CONFLATING STATE AND PARTY: A NATIONAL SECURITY THREAT

An emotional meeting was held to discuss this matter and again to try to persuade me to withdraw my affidavit, but there was no basis for me to do so. If a court wanted to confirm whether cabinet had made the decision, it was the secretary of cabinet who was duty-bound to depose an affidavit. This was not a question of loyalty to one or other official of the ANC or a question of a choice between the party I am loyal to and the cabinet I am legally required to serve to the best of my ability within the law and in terms of the Constitution. The only issue was about what the law and what the Constitution required me to do. Anything else would border on corruption of the law to serve the interests of some members of the party.

If this level of corruption of the system had been achieved, it would mean that the integrity of the state would have been totally compromised and a faction in a party or another entity would effectively have taken control of the state. This would be the birth of a dictatorship or a country controlled by a mafia. The Italian Mafia, which ended up corrupting or compromising the police, the prosecutors, the judges and the political leadership to have their way or avoid being brought to justice, comes into mind in this regard.

The Constitution is very clear about where our loyalty should be. One of the key values and principles governing public administration is that 'a high standard of professional ethics must be promoted and maintained' (s 195[a]) and that 'services must be provided impartially, fairly, equitably and without bias' (s 195[d]). Any party interest would have to be 'legitimate in terms of the Constitution' in order to be considered.

As I worked with comrades during these difficult times, it became clear to me that some of them really had no respect for the law, being prepared, in pursuit of their own interests, to break the law or violate the Constitution. This attitude applied, too, to sharing classified information with comrades who did not have legitimate

EIGHT DAYS IN SEPTEMBER

access to such information. These comrades believe that the laws of secrecy apply only to those outside their faction or party. It felt as though they were still operating in exile against an apartheid regime and were therefore entitled to defy or violate the law.

Such an attitude threatens the security and integrity of the state. Once officials in sensitive areas such as the police, the military and the intelligence services feel that they are at liberty to violate the laws of secrecy and share information with unauthorised people, the state and its people are at great risk, especially where party factions are involved.

In an ordinary criminal case it is easier to understand the threat occasioned by such behaviour. The investigating officer cannot pass information directly or indirectly to the targets of the investigation. To do so would be 'defeating the ends of justice', which is a criminal offence. If I am placed in a position of responsibility within the security system of the state and I come across information that my own brother or sister is about to be arrested for criminal activity, I cannot, by law, tell them in order for them to remove evidence or make sure they are out of reach. If I do so I will not only have broken the law or defeated the ends of justice, I will be involved in corrupting and compromising the justice system and thereby the state.

This is even worse in the case of organised crime, which thrives by compromising targets who are likely to interfere with their criminal activities. If the perpetrators succeed in compromising senior enough people, they may put themselves in a position to determine who will investigate a particular case to make sure that it is quashed or does not succeed in court. The 1988 bombing of Khotso House, the headquarters of the SACC, was a classic example, with the security police officer who instigated the bombing acting as investigating officer for the case. The outcome was the arrest and torture of innocent comrades such as Shirley Gunn, while

CONFLATING STATE AND PARTY: A NATIONAL SECURITY THREAT

the actual perpetrators continued to be part of the law enforcement agencies.

At the highest levels organised crime syndicates also buy or compromise prosecutors, magistrates and judges. They have such developed intelligence systems that they infiltrate the police, the justice system and political principals to ensure that their projects succeed. In governments where the military is active in the internal affairs of the country, they, too, are compromised.

In the worst-case scenario the whole of the cabinet and its president are compromised and syndicates operate without any fear. At this point the citizens of that country have lost their government, since the government now serves the interests of a particular syndicate or mafia and not those of the people. Businesses, too, may compromise key political players to ensure that the government serves their interests at the expense of the people.

The same strategies are used by foreign countries with interests in a particular country. Where they have a long-term plan, foreign intelligence services compromise or recruit up-and-coming leaders to ensure that by the time they take the reins of power they are already at their service. In some instances they even invest money, intelligence support, and so on to ensure that their candidate wins a perfectly democratic election. The result is proxy governments that serve the interest of other forces or countries and not their own people. This is what happened in some independent countries where post-colonial powers became proxy governments to their former colonisers.

Corrupt intelligence services are the most dangerous threat to the security and integrity of the state, the country and its people. In South Africa complex factors made it particularly challenging to get a handle on corrupt systems of intelligence. After the 1994 elections some members of the old-order intelligence community retired, some to start security companies, others to establish

EIGHT DAYS IN SEPTEMBER

specialised consultancy or advisory companies focusing on security advisory services, or risk analysis or assessment.

Some of these companies offered their services to the new democratic government, while others offered them to foreign governments, business entities or multinationals. Although some of these were legitimate business concerns, others operated as disguised intelligence organisations or intelligence-gathering entities, which fell outside the provisions of section 209(1) of the Constitution. In terms of this section 'any intelligence service ... may be established *only* by the President ... and *only* in terms of national legislation' (my emphasis). This means that even the president cannot have his or her own intelligence service that is not established in terms of the national legislation, which effectively prohibits personal militias.

Many of these people were still in contact with their colleagues in the official intelligence services and exchanged intelligence information with them. Some were still handlers of some of the sources used by the intelligence-collection systems, and still others had members of the intelligence community reporting to them outside the legal and constitutional framework of the country.

We also had historically compromised members of the liberation movement who were obliged to work with the old-order intelligence operatives who were their handlers. Once these cadres were strategically placed in the new government, the old handlers returned and, using blackmail and other means, caused them to serve their interests in one form or another. One former MK cadre, for instance, was given a job at a critical level of government where he used an official vehicle. His old handlers asked him to help them 'clean up' stolen vehicles by securing official documents and he obliged, using the cover of the official vehicle. In some cases the handlers became the handled and the handled became the handlers.

Some were compromised during or after the negotiated settlement which led to the 1994 democratic elections. Yet others

CONFLATING STATE AND PARTY: A NATIONAL SECURITY THREAT

compromised themselves by engaging in criminal activities or acts of corruption which made them susceptible to blackmail. In a strange way, after the April 1994 democratic elections we began to have corrupt old-order and corrupt new-order operatives who worked together to further mutual interests which either had criminal intent or, at worst, a political intent which became a threat to the security of the state.

The most worrying of these operations were those which also worked with foreign governments and foreign intelligence agencies. It was not surprising that false intelligence information was fed into the system to destabilise either government or the ruling party. Innocent people with integrity were framed to neutralise them and create space for further criminal activities both within and outside of government. The Browse Mole Report, a top-secret report, produced by elements within the DSO, which claimed that Jacob Zuma was involved in a conspiracy to topple President Thabo Mbeki's government, was a classic case of destabilisation of government and the ruling party and clearly involved both old-and new-order functionaries. Strangely, a copy of this document was sent to COSATU from whence it surfaced in public. Time will tell how all this happened.

A reading of this document left one with no doubt that the reasons for its production and for leaking it to the media were, firstly, to intensify the divisions within the ANC that were playing themselves out at the time and, secondly, to create an atmosphere of suspicion within government, thus destabilising its activities.

The dramatic story which purportedly implicated businessmen Cyril Ramaphosa and Tokyo Sexwale and the then premier of Mpumalanga, Mathews Phosa, in a supposed conspiracy is one of those mysteries which, for me, formed part of the disinformation projects intended to destabilise government and the ruling party. Both the ANC and government were forced to respond to the

EIGHT DAYS IN SEPTEMBER

story, and there is no doubt in my mind that the first seeds of the debilitating tensions within the ANC stemmed from this time.

The most devastating of the projects run by corrupted old- and new-order intelligence operatives were the fake e-mails the details of which have been dealt with in an earlier chapter. It was a well-planned project with the clear intention of discrediting a selected set of leaders of the ANC, both within and outside government, and influencing and changing the views of targeted leaders about specific events of the time to achieve specific political objectives. They were clearly meant not only to sow distrust and the seeds of dissension among the leaders of the movement but to destabilise the remaining pillars of the movement to be able to bring it down.

I personally pursued this matter to get to the roots of it. I engaged the president of the country, who was also then president of the party, to find out where this material had come from. I interacted with the police and the intelligence services and, at a party level, I held a number of meetings with Motlanthe, then secretary-general of the ANC, to find out who was responsible for these fake e-mails. My attempts included a formal letter of protest addressed to the six officials of the ANC (that is, the president, the deputy president, the national chairperson, the secretary-general, the deputy secretary-general and the treasurer-general) and a plea to the leadership to deal with this matter. To date I have not received a response or even acknowledgement from them, except for Mbeki, who I was able to talk to directly at the Union Buildings.

It is a matter of record that both the government and the ANC investigated the matter and that the investigations led to a number of court cases. To date, however, we are no wiser about the origins of the e-mails or how they found their way into the hands of the organisation. The only thing we were told was that an 'unknown person' dropped 'a brown envelope' at Luthuli House which contained the e-mails. One would have thought that no one would

CONFLATING STATE AND PARTY: A NATIONAL SECURITY THREAT

act on information that was brought by faceless people, but the information was used and it had a devastating impact on the party. Unfortunately, for now we have to accept that only time will tell who was responsible.

The reality, though, is that whoever conceived this intelligence project and recruited the agents to carry it out from the early part of 2005 achieved his or her objective – broken relationships and a fragmented party. What is more worrying to me is that this was clearly a joint project between the old- and new-order intelligence services. Their intentions were different but were sufficiently compromised to allow them to collaborate. Some worked with some of the leadership or were commanded by people at a leadership level.

The risk to the security of the state occasioned by comrades who believed there was nothing illegal about reporting to outside entities was compounded by divisions within the movement, since information of that nature might be used by ANC factions to advance sectarian interests. If this tendency is not checked, it is a dangerous recipe for development of a culture of coups, which we should not allow to take root.

At a criminal level, corrupted and corrupt intelligence operatives have used strategies of diversion and decoys to ensure that the real criminals are never caught. In some cases corrupt elements from crime intelligence have run their own car-theft syndicates while successfully breaking other such syndicates. Through their successes they convinced their seniors that they were effective, thus creating a cover for their own criminal activities. An investigation of car-theft syndicates in Soweto revealed two or more levels within the syndicates, one of them run by corrupt crime intelligence operatives and police.

The Brett Kebble murder case is for me the best case study on how syndicates operate to ensure that at the end everyone who was involved goes home scot-free. At worst, it is the innocent who

EIGHT DAYS IN SEPTEMBER

ultimately go to jail. Money also creates different classes of criminals, with the poorer going to jail and the richer going scot-free. The case of Zola Roberts Tongo in the Anni Dewani murder case matter is an example. A plea-bargain agreement was reached and Tongo is serving eighteen years in jail, while the Kebble killers and their accomplices did not only do the same, but were accused of more serious crimes and they walked!

The experiences detailed above indicate the level of vulnerability of countries and their people where state organs are compromised to serve the interests of individuals, interest groups or factions. An extensive cleaning-up operation is required to protect the people against such deviant behaviour. In addition, the international governance system is as vulnerable as its various constituent countries. Because crime syndicates have a global reach, a global strategy is required to deal with them.

Eight Days in September is a riveting, behind-the-scenes account of the turbulent eight-day period in September 2008 that led to the removal of Thabo Mbeki as president of South Africa.

As secretary of the cabinet and head (director-general) of the presidency at the time, Frank Chikane was directly responsible for managing the transition from Mbeki to Kgalema Motlanthe, and then on to Jacob Zuma, and was one of only a few who had a front-row seat to the unfolding drama.

Eight Days in September builds substantially on the so-called Chikane Files, a series of controversial articles Chikane published with Independent Newspapers in July 2010, to provide an insider's perspective on this key period in South Africa's recent history, and to explore Thabo Mbeki's legacy.

FRANK CHIKANE is currently a moderator of the Churches Commission on International Affairs (CCIA) of the World Council of Churches (WCC) and a pastor of the Apostolic Faith Mission of South Africa (AFM) in Naledi, Soweto, as well as the president of AFM International. He is the visiting adjunct professor at the Graduate School of Public & Development Management at the University of the Witwatersrand and serves on a number of non-governmental organisations and company boards.

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THE THINGS THAT COULD NOT BE SAID

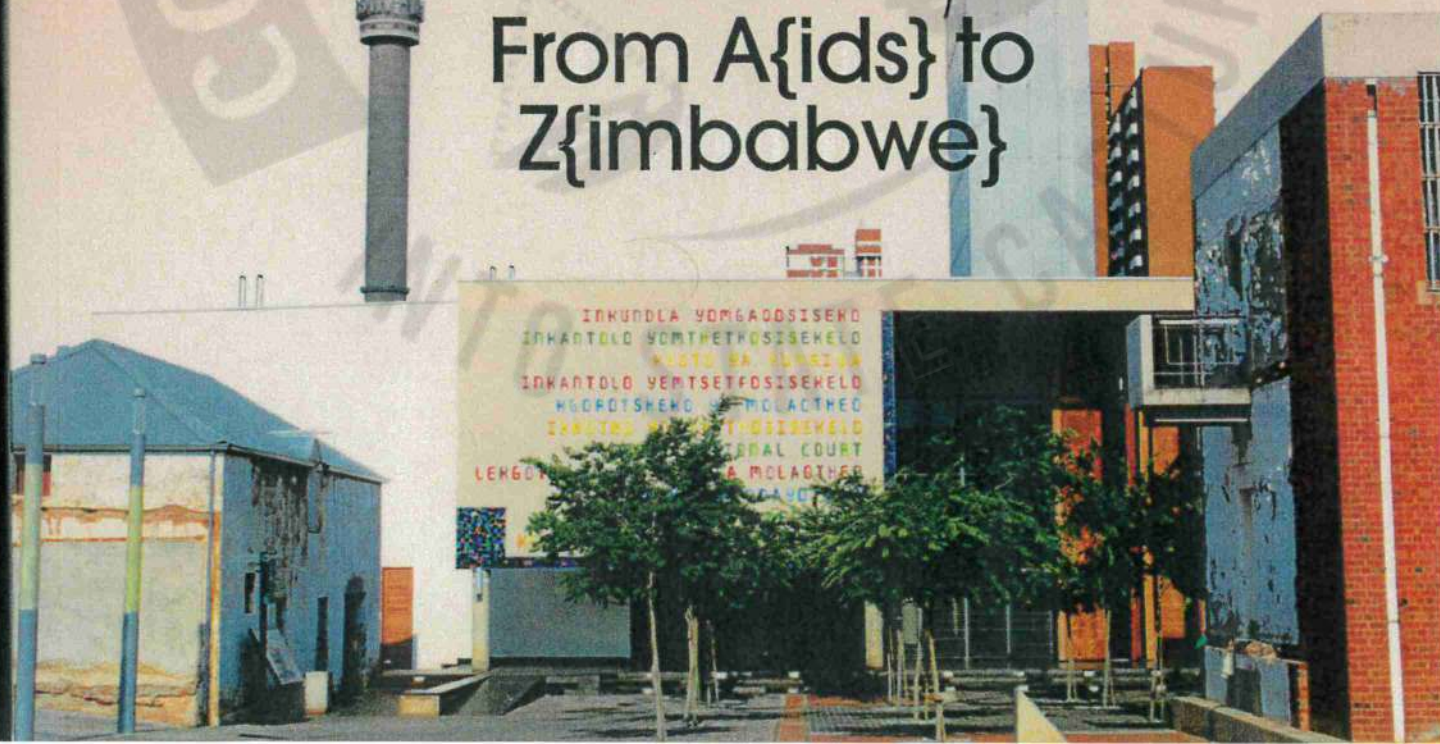


Frank Chikane

'Frank Chikane delivers his perspective with honesty and passion. You might not agree with him, but this book is an interesting tour of the mind of the presidency in the early years of our democracy.' – **Mzukisi Qobo**

The Things that Could Not be Said

From A{ids} to
Z{imbabwe}



were prepared to die. However, others joined it because they were part of the dynasty of the movement but had no commitment to justice. Some went into exile because they had committed a crime and were not prepared to go to jail. Yet others got involved simply because they hated being treated like a lesser being or were not allowed participating fully in the economy because of the apartheid system. Others hated the racist apartheid system and wanted it gone.

Apart from the first reason for joining the struggle, the other motives do not necessarily lead to a commitment to the course of justice. Some people really wanted a chance to participate in the game rather than change without being disadvantaged by the colour of their skin.

Another of my discoveries was that the 'old' was corrupting the 'new', which did not make sense in the beginning. My expectation was that the players from the 'old order', that is the apartheid system, would watch the 'new' incumbents from the liberation movement like hawks and expose them for corruption and other ills. But the opposite was true. The security for those who were corrupt or those who wanted to loot lay in corrupting the new; because once the newcomers were corrupted, they could not act against the old.

Corruption is devastating. It can compromise leaders to such an extent that they abandon their mission to serve the people and instead serve their own interests or the interests of those who have compromised them or those who know that they have been compromised.

Having grasped the strategy of the 'old' corrupting the 'new', I rushed for the panic button. As I was then in the office of the deputy president and because of the seriousness with which I took this matter my concern took the form of a letter to President Nelson Mandela, and I copied it to Deputy President Thabo Mbeki. And, the message was as clear as an alarm bell: THE 'OLD' IS CORRUPTING

of the 'comrade' was empty radical slogans. In the place of militancy against the evil apartheid system came militancy against one's own comrades and the intimidation of those with different views. In place of military camouflage was the concealment of corrupt intentions.

What really troubled me was that some of those who were corrupt in the old order (apartheid system) were beginning to corrupt or lure the new 'comrade' civil servant into corruption. It was almost like a decoy to make sure that they were not caught. Even if they were found out there would be a 'comrade' of a significant political weight involved who would make it difficult for the new order to prosecute. Corrupted comrades began to do the same: draw in others who were strategically placed to make sure that they could never be touched. The private sector players were always ready with bags of money to compromise one or other of the bureaucrats or political office bearers if it served their interests. The more they got of them the easier it was for them to secure their interests.

At a political level there was another worrying trend: there were old-order people and business people who were visiting political office bearers and making all sorts of offers to do one thing or another which could compromise them. In fact, it was found that there were a set of wealthy, highly placed international and national business people who targeted the leadership or potential future leaders of the movement to befriend them, make offers to help them in one form or another, and in some cases corrupt them in preparation for future deals. These characters had no ideological interests or preferences for one party or another. What they were interested in was influence over leaders who were either strategically placed to serve their interest or may be strategically placed in future to do so. An analysis of these high flying people shows that some of them were active during the time of the apartheid government. When it became clear that the apartheid regime's life was

THE THINGS THAT COULD NOT BE SAID

limited, they began to visit Lusaka and other centres to reach out to the leadership of the ANC. They also did the same internally.

Corruption, it seemed, was a highly contagious disease. What worried me was the extent to which new public servants were drawn into corruption networks by more experienced people. The involvement of strategically placed senior comrades gave members of the network a sense of invincibility, and the practice, a certain credibility.

When the exiles returned in the early 1990s some of these high flyers hovered around the offices of the liberation movement or homes of leaders to make offers to assist in one way or another. These offers looked innocent and were indeed very helpful in a situation of great need. The first prize for a high flyer was to be able to reach the leader directly without going through secretaries and private offices. The second prize was to be able to call a secretary and the secretary would know that this was a person who should be given unrestricted access to the principal. The third prize was to be able to reach out to the leadership through third parties. During the 2005 to 2007 period, when it became clear that there might be changes in the leadership of government, this activity intensified again.

Within two years of joining the presidency I wrote to then President Nelson Mandela and copied to his deputy at the time, Mbeki, to raise my concerns about corruption of ANC members. It was unusual for a highly placed official in the presidency to communicate with the principals by letter. One could have used other opportunities one had to raise the concern. But I took this matter so seriously that I felt that if the leadership received my written letter in advance it would help to make the discussion more serious and considered. The letter was delivered by hand and it was treated as 'highly confidential' at that time.

I wrote the letter in my personal capacity as one of the leaders

THE THINGS THAT COULD NOT BE SAID

understanding of bureaucratic corruption. The most toxic forms of corruption start with corruption in our party politics. If our party political activity or practice is corrupted, that corrupt culture will be carried over into government. If the self or self-interest is the driving force in our party political practice then self or self-interest will be the determining factor in our management of government. If a comrade is elected to advance the interests of 'self' and his or her group (clique/faction) we should then not be surprised when they do the same in government.

This is what is called 'political corruption' as opposed to 'bureaucratic corruption'. I want to submit that political corruption leads to the worst forms of bureaucratic corruption. It is intense and can break the system. Corruption causes leaders to define themselves as being above or beyond the law. They easily throw away the regulatory framework when it comes to self-interest. At this highest level of corruption no stone is left unturned until the corrupt elements control all the organs of state to ensure that they serve their interests. This involves influencing judges, prosecutors and the police. The cases involving allegations against the NDPP, the Scorpions, Judge Hlophe and the Constitutional Court judges, the release of classified intelligence information to the public, etc., are indicators of how close we came to making the institutions of the state part of the corruption project. In fact the worst situation in the corruption stakes is when the judges, prosecutors and the police are bought to produce particular outcomes. At this stage the country gets turned into an overt mafia and corruption is in your face.

Having worked in government, I have learnt that as one deals with corruption one needs to remember that at the highest levels of corruption involving syndicated forms of organised crime and mafia-style criminal activity, systems and institutions of law enforcement agencies can be captured by a syndicate and manipulated in a way that serves their interests. In this regard innocent people

from a system that met their basic needs (however inadequate) to one in which you had to fend for yourself was a major challenge. Yesterday you were a collective that shared whatever you had. The following day you were on your own.

The third factor we neglected was that after many years of sacrifice comrades would want to now live normal lives. The younger ones were better off here than the older comrades. If you were 40 or 50 years old you had very little chance to return to a normal life. The truth was that our comrades were human. Their extraordinariness was a product of the conditions of struggle rather than some intrinsic element contained within them. In recognition of these issues, the 2000 Port Elizabeth National General Council of the ANC dedicated much of its time to discussions about 'the cadre of the movement'. Ten years after the unbanning of the ANC and the South African Communist Party (SACP), followed by the establishment of a non-racial, non-sexist, democratic government in 1994, the 'cadre of the movement' was failing the movement! But no amount of resolutions taken at that National General Council could turn the tide. The comrade had become an ordinary human being who was susceptible to corruption like any other.

The language of *bo 'phuma singene'* (time to go so we can come in) has become prevalent. For some, government has become an 'eating place'. They go there to 'eat' (*baya Mmusong go ja*) rather than to serve the people. We were in danger of becoming like a country whose president, I was told, had a high turnover in his cabinet to give as many of his people a chance to enrich themselves and their families. If you did not do so it was your fault. You had no one to blame. This made corruption part of the lives of the people.

This '*phuma singene*' phenomenon has translated itself to the politics of the organisation. If I want to be a member of the executive of the local council I campaign for the person in the party who is likely to appoint me into that position. At times the person

involved is paid in advance to produce that result. If I want to be a MEC of a provincial government I mobilise and vote for the chairperson of the party who will make sure that I am appointed to that position. The same would happen as well at a national level. But it does not stop there. It also goes to tenders, contracts and other deals. Candidates are not promoted because they are the best amongst the leaders available at the time. They are promoted to facilitate lucrative deals. Private sector entities have entered the fray. They buy people or bribe them to campaign for specific candidates who will make sure that tenders and deals are reserved for them without any consideration of the legal framework that governs these processes.

At one place where I was deployed as an NEC member I dealt with a situation where comrades were at odds with each other. One regional council was voted out of power. And when the other group got its chance, it also voted them out. For me each one of these two groups – call them factions – operated like a party within a party. Each group had its own leadership, its own caucus meetings before official meetings and its own structures. It also seemed like they had their own troopers some of them in military gear to look like Umkhonto we Sizwe or assume the legitimacy of Umkhonto we Sizwe. Apparently the military gear was meant to present them as radical revolutionaries. Their job was to disrupt meetings violently. It also seemed that there was a budget to finance their disruptive activities, including drowning them with strong drinks (liquor) and in some cases drugs to enable them to do the dirty work for the leaders in a bold way without any conscience. In one of the meetings there were NEC members in attendance. The NEC members were insulted and ruffled up. The atmosphere was so threatening that some of the regional and provincial leaders had to help the NEC members to leave by using a side door.

In one of the meetings where I was present these drunkards comrades arrived in an open *bakkie* at the stadium with bottles

of strong liquor in their hands and music at its highest volume to make sure that members of the ANC who had come to the meeting were not able to hear each other, even with a public address system. Once the *bakkie* had stopped next to the stage they began to swear at the leadership. They paced up and down in front of the stage before they went up the terraces of the stadium. Once at the highest point of the stadium they smashed their bottles, sending pieces of glass flying and splashing liquor on the people. I remember old women and men running down the stairs, some tripping and others holding on to each other, afraid of comrades who had turned into beasts because of tenders and business interests. The police were called but did not intervene as they felt it was a party matter. I reported formally to the leadership and directed a written letter to the NEC to warn them about this new trend that was threatening to destroy the ANC. I urged that it be nipped on the bud before it got out of control.

The conflict was not ideological. It was not about a vision for the future of the region. It was not about whether or not one of the groups (call it a faction) would deliver services better than the other. It was all about tenders and benefits for themselves and not about the people. When one group (call it a faction) takes power it victimises the other, including any person who would have been associated with the other. Here, losing power means total exclusion and the loss of jobs (civil service jobs). It also means exclusion from private sector activities, which have nothing to do with government. In this situation people resort to violence to stay in power or gain power. The recent killings of mayors and deputy mayors suggest that we might be on a dangerous road that does not bode well for the future of the country. This, I submit, is the stuff that breeds dictatorships.

This emerging trend I have described shows very clearly that the seeds of the most toxic forms of corruption do not lie in a traditional

THE THINGS THAT COULD NOT BE SAID

understanding of bureaucratic corruption. The most toxic forms of corruption start with corruption in our party politics. If our party political activity or practice is corrupted, that corrupt culture will be carried over into government. If the self or self-interest is the driving force in our party political practice then self or self-interest will be the determining factor in our management of government. If a comrade is elected to advance the interests of 'self' and his or her group (clique/faction) we should then not be surprised when they do the same in government.

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Having worked in government, I have learnt that as one deals with corruption one needs to remember that at the highest levels of corruption involving syndicated forms of organised crime and mafia-style criminal activity, systems and institutions of law enforcement agencies can be captured by a syndicate and manipulated in a way that serves their interests. In this regard innocent people

can be sent to jail while the real criminals maintain their freedom to continue with their criminal activities without hindrance. I have also learnt that where there are competitors in a bid for a tender the losers always run a campaign to discredit the winners in the hope of the tender being re-opened to give them a second bite.

The Arms Procurement Programme or so-called Arms Deal is the highest profile case on corruption that needs to be documented in the form of a case study for students of politics, law and public administration. It has all the elements that can help such students to understand the complexities of corruption and the challenges of ending it.

Like all multibillion rand government projects the offer for companies to tender attracts both national and international entities that compete against each other. Each of these companies sets up systems to conduct commercial intelligence against each and some are assisted by their governments or private intelligence entities. This is done not just to be able to present the best bid but also to run campaigns to discredit their competitors. Corruption stories then get written, which are in the main decoys to cover the real story that might be happening at other levels. In many instances bribes in all disguises are paid to influence the decision-making process. The bribes are at times like a shot in the dark. They start from the decision makers to the peripheral players who are believed to be able to influence the decision makers.

There are number of challenges that make an investigation of this type of corruption very difficult. First, one has to cut through the machinations of the interested parties, including a possible disinformation campaign. In this regard the state has to use all the information and intelligence capacity that it has to isolate truth from falsehood. The challenge here is that where there is doubt about the credibility of the state this approach gets rubbished. Secondly, opposition parties in parliament tend to focus more intently on

THE THINGS THAT COULD NOT BE SAID

discrediting the ruling party rather than getting to the bottom of cases. In response the ruling party simply digs its feet in and fight back rather than focuses on how to root out corruption. The third challenge is about dynamics within the ruling party that could constrain the pursuance of cases that affect senior members of the party. The fourth is that the corrupted and the corruptor have a common interest: to ensure that none of them gets caught unless the police have overwhelming information about one or the other. The fifth is the media, which tend to focus more on controversy than the substance of the case.

I would argue that the best way to deal with corruption is to de-politicise the cases and focus on the evidence available to prepare a case that can stand the scrutiny of our courts. We need to engage one another about how we can turn the tide of corruption to ensure that the country does not slide further into a situation in which corruption becomes an intractable part of our lives.

'Revd Chikane writes as an observer of events usually hidden in the corridors of power, inviting the reader to sit alongside as a witness to our fraught and fascinating history.' – **Laurence Piper**

Following on from the vigorous debate generated by the best-selling *Eight Days in September: The Removal of Thabo Mbeki*, Frank Chikane turns his attention to a range of issues that the presidency was criticised for under President Thabo Mbeki.

In *The Things that Could Not be Said*, Chikane, who was director-general in the presidency from 1999 to June 2009, uses his insider knowledge to expose what was going on behind the scenes with regard to various issues, including: local and international intelligence projects; the Zimbabwe facilitation process; the international governance system and diplomacy manoeuvrings; the 'warning lights' ignored by the African National Congress; the Vusi Pikoli and Jackie Selebi matters; the scourge of corruption; drugs, pharmaceutical companies and the poor; Thabo Mbeki and HIV and AIDS; as well as Chikane's own experiences in the presidency, in dealing with his poisoning and his efforts to correct the error in the Truth and Reconciliation Commission's initial report.

This is a front-row seat to South Africa's recent history that makes for thought-provoking reading.

FRANK CHIKANE's former appointments include deputy president of the United Democratic Front, member of the National Executive Committee of the African National Congress, commissioner of the Independent Electoral Commission, director-general in the presidency and general secretary of the South African Council of Churches. He is currently a pastor of the Apostolic Faith Mission of SA (AFM) in Naledi, Soweto, the president of the AFM International, and is involved in business, including offering an advisory service to companies that operate on the African continent. Chikane is also the Visiting Adjunct Professor at the Graduate School of Public & Development Management at the University of the Witwatersrand and serves on a number of Boards, including City Power (Johannesburg), Kagiso Trust, Sci-Bono Discovery Centre, Amarick Mining Resources (Pty) Ltd and Suntrace Africa (Pty) Ltd.

The Things that Could Not
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