V3

FIKILE MBALULA

COMMISSION OF INQUIRY INTO STATE CAPTURE

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

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V3(a)

1

STATEMENT & ANNEXURES

Fikile Mbalula

COMMISSION OF INQUIRY INTO STATE CAPTURE

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

BEFORE THE HONOURABLE DEPUTY CHIEF JUSTICE OF THE REPUBLIC OF SOUTH AFRICA: MR RRM ZONDO

AFFIDAVIT

I, the undersigned,

FIKILE MBALULA

do hereby make an oath and state the following:

1.

I am an adult male person, currently employed by the African National Congress ("**ANC**"), a political party, as the National Head of Elections for the party. The ANC's principal place of business is situated at Chief Albert Luthuli House, 54 Sauer Street, Johannesburg.

F.M.

L.M.

2.

The facts contained herein are, save where I state the contrary or the contrary otherwise appears from the context, within my own personal knowledge. To the best of my belief, they are both true and correct. To the extent that I make submissions of a legal nature in this affidavit, I do so upon the advice of my legal representatives, which advice I believe to be true and correct.

3.

NATURE AND PURPOSE OF THIS AFFIDAVIT:

This affidavit is intended to serve before the Judicial Commission of Inquiry into allegations of State Capture and corruption in the public sector (**"Commission"**). I am advised that the Commission's mandate, so far as is relevant to the contents of this affidavit, is to investigate and assess, *inter alia*, the following:

> *"1.3. whether the appointment of any member of the National Executive, functionary and/ or office bearer was disclosed to the Gupta family or any other unauthorised person before such appointments were formally made and/ or announced and if so, whether the President or any member of the National Executive is responsible for such conduct".*

F.A. L.M.

4.

I depose to this affidavit at The Commission's request. So far as I am aware, the reasons why I have been invited to depose to this affidavit may be summarised as follows:

4.1. On or about October 2018, I understand that a notice in terms of rule 3.3 of the Commission Rules was sent in order to invite me to attend at the proceedings before the Commission on the 27th of November 2018. I pause to point out that I did not receive this notice on or around the date that it was sent. The reason for this appears to be that it was sent to an incorrect address: I no longer reside at the address to which the correspondence was sent. I last resided there in 2009.

4.2. The reasons for my invitation to attend at the proceedings before the Commission were twofold:

4.2.1. to answer to certain allegations made by Retired General Siphiwe Nyanda ("**General Nyanda**"); and

4.2.2. to answer to certain allegations made by Mr Trevor Andrew Manuel ("**Mr Manuel**"), in both oral testimony before the Commission on 28 February 2019, and in a written affidavit.

F.A. L.M.

4.3. I have had the opportunity to peruse and consider the allegations I refer to above. The allegations pertain to me and to my conduct, particularly as it relates to the Gupta family. I am advised that, if they were permitted to go unanswered, they have the potential of implicating me unfairly and adversely. I am therefore grateful for the opportunity to respond.

4.4. My response to the allegations is set out below. It will be apparent from my response that there are certain allegations made by Mr Manuel which conflict with the version of General Nyanda, and which are in fact not correct. I shall elaborate upon the specific errors in the paragraphs that follow. To this end, I shall organise the remainder of this affidavit as follows:

4.4.1. First, I shall set out the correct version of the events that are relevant to the allegations I have referred to above;

4.4.2. Secondly, I shall address the allegations of General Nyanda; and

4.4.3. Thirdly, I shall address the allegations made by Mr Manuel, and I shall specify those of Mr Manuel's allegations that are incorrect.

5.

F.A. LM.

THE CORRECT VERSION OF EVENTS:

5.1. At the NEC meeting of August 2011, I informed the members of the NEC of an incident in which I had received a call from Ajay Gupta congratulating me for being appointed as the Minister of Sports before the appointment had taken place or at least before it had been communicated to me by the President;

5.2. Although, I had appreciated the subsequent appointment as Minister I felt angered and perturbed by the fact that such news of my appointment had been leaked to Ajay Gupta, or were otherwise known by him, in a way which seemed to suggest that there were persons who were improperly privy to knowing the appointment of other persons in cabinet posts, before such appointments had been formally announced even to those persons, themselves.

5.3. This occurred at a time that the country, its security services and the media were focused on rumours or allegations concerning the influence of the Gupta family on government generally and, specifically, on the President.

5.4. At that time, the same debate was ongoing within the structures of the NEC, which is the highest decision-making body of the ANC. In light of the above and the values I hold as a member of the ANC, I felt an obligation to inform the other members of the NEC about my undesirable experience, and I did so.

5.5. I was extremely troubled that Ajay Gupta had acted as he did, and I was emotionally distraught that my appointment to my position, which I considered

P.A.

L.M.

a great honour, might be tainted by circumstances that were beyond my control. The reason for me doing the above was to express my anguish and distaste at the conduct of Ajay Gupta.

5.6. My purpose in doing the above was to alert the other members and promote consciousness about such issues. I also did this in the interests of transparency, and to seek a political intervention from the NEC, which seemed to me to be the appropriate body to address the issue.

5.7. I address the versions advanced by General Nyanda and Mr Manuel on the above basis.

THE VERSION OF GENERAL NYANDA

5.8. General Nyanda's version of events is contained in an affidavit dated 2 November 2018 which has been furnished to me. In summary, General Nyanda avers as follows:

5.8.1. He confirms that the NEC meeting to which I have referred took place, and that he attended the meeting.

5.8.2. He confirms that I told the meeting that I "*had been told by the Gupta brothers or one of them before my actual appointment that I would be elevated from the position of Minister of Sports*".

FA.

C.M.

5.8.3. He confirms that, given that I was subsequently so appointed, I "*made the conclusion that the Gupta brothers had prior knowledge of the cabinet reshuffle*" that led to my appointment; and

5.8.4. He states that, "*[remarkably], President Zuma did not address this important input by Fikile Mbalula, which touched on the astounding claim*".

5.9. It is apparent from my summary of the correct version of events that General Nyanda's version of events accords with my own factual version. I confirm that it is correct. The version of Mr Manuel stands on a different footing. I shall explain why in more detail below.

6.

THE VERSION OF MR MANUEL:

6.1. In Mr Manuel's testimony, he appears to make the following relevant assertions:

6.1.1. I had been called or summoned to the Gupta family's Saxonwold home to be congratulated on my appointment as a Minister of Sport;

FA

C.M.

6.1.2. I had met with the Gupta brothers at their home in Saxonwold;

6.1.3. I had a pre-existing relationship with the Guptas prior to my informing the NEC of the call I received from Ajay at the meeting of August 2011;

6.1.4. My appointment as Minister of Sport was suspicious, because I did not have the requisite skills and experience to be appointed as a Sports Minister;

6.1.5. I have never publicly denied the allegations made by Mr. Manuel in letters he wrote to me which were published in the media; and

6.1.6. My outburst and reporting on the conduct of Ajay Gupta was triggered by the intense discussions with regard to the influence of the Gupta family on the Government.

7.

I wish to state on record that none of the allegations I have set out above are correct. I address each of them specifically, as follows:

7.1. In regard to the allegations of being summoned to the Gupta family house:

F.A.

L.M.

7.1.1. I never said (during the meeting in question) that I was summoned or invited to the Gupta family house.

7.1.2. What I said was that I received a call from Ajay Gupta congratulating me for being appointed a minister approximately 24 hours before the president advised me of the appointment;

7.2. In regard to the allegation that I had been informed by Atul Gupta about my appointment as Minister:

7.2.1. This is factually incorrect.

7.2.2. The person whom I said he called me was Ajay Gupta.

7.3. In regard to the allegation that I never publicly denied Mr Manuel's account of what I informed the NEC meeting in August 2011:

7.3.1. I have indeed denied Mr Manuel's allegations in the letters which we exchanged. These letters were published in the Daily Maverick, as one example. I attach a copy of the relevant Daily Maverick article hereto marked **"FM1"**.

COMMISSION OF INQUIRY INTO STATE CAPTURE

F.A.

L.M.

7.3.2. In the letter of the 17 June 2019, I stated that *"Manuel decided not to deal with the substantive issues I raised in my opinion but carry on at tangent…"*.

7.3.3. In the same letter, I stated that *"Manuel did not understand what my tears were about"*. My pain and anguish, as I have explained above, concerned in particular the manner in which the Guptas were perceived to be conducting themselves.

7.4. In regard to the allegation that my appointment as Minister of Sport was suspicious because, in the view of Mr Manuel, I did not possess the necessary skills and experience for the post:

7.4.1. Mr Manuel should himself appreciate that prior experience in a post is not a necessary condition for an appointee to be successful.

7.4.2. Mr Manuel has for instance praised Mr Pravin Gordan, who had a pharmaceutical qualification but succeeded at SARS. Mr Manuel himself had no qualification in Finance when he was appointed as Finance Minister.

7.5. In regard to the allegation that my outburst was triggered by the intense discussion of the influence of the Gupta family:

F.A.

L.M.

7.6. There was no intense discussion at the NEC meeting in regard to the Guptas. General Nyanda's summary of the meeting bears this out.

7.7. The true reason for my outburst was due to my anguish against the conduct of the Gupta member for phoning to congratulate me for an appointment as Minister before the president announced it formally which gave an impression he had access to the information prior to it being formally announced. I felt it necessary to inform the other members of the NEC. In fact, I was the first to denounce the actions of the Guptas in an NEC meeting.

8.

CONCLUSION

8.1. Even in his statements and record Mr. Manuel does not confidently assert that he has a full recollection of what I said at the NEC meeting of August 2011. I do not know the reason for his erroneous recollections, and I do not wish to speculate as to why the errors I have set out above were made.

8.2. I would, however, be happy to make any further clarifications that the Commission may deem necessary at the presentation of my evidence.

F.A.

L.M.

DEPONENT

SIGNED and SWORN to before me at SANDTON on this the 18th day of MARCH 2019, the deponent having acknowledged that he/she knows and understands the contents of this Affidavit which was deposed to in accordance with the regulations governing the administration of an oath as more fully set out in Government Notice No. R1258 of July 1972 as amended by Government Notice R1648 dated 19th August 1977.

COMMISSIONER OF OATHS

LEAGO NOZUKO MATHABATHE
Commissioner of Oaths
Practising Attorney
135 Daisy Street
Sandton
2146

COMMISSION OF INQUIRY INTO STATE CAPTURE

FM 1

Opinionista • Trevor Manuel • 9 June 2017

Fikile, do you remember the tears you shed over the Guptas?

2043 Reactions

I have tried, unsuccessfully, to understand the purpose of the article that was first published in your name in the Daily Maverick. You clearly did not understand what I said in the recent panel discussion about Nelson Mandela's economic legacy.

Follow Save Save

Dear Fikile,

The drafters of your letter to me try, unsuccessfully, to weave a story that drifts from Andre Odendaal, Moeletsi Mbeki, Anton Lembede and Martin Luther King, to lies about our household income. The only result is absolute confusion.

I stand by what I said at the Nelson Mandela Foundation: the term "White Monopoly Capital" was conjured up by Bell Pottinger on behalf of the Guptas, and filtered into the political discourse to serve their agenda. Since then I have become aware of the specificity of the facts. As Ranjeni Munusamy reminds us, the term was developed by Bell Pottinger's Victoria Geoghegan, who in an email to Duduzane Zuma styled "White Monopoly Capital" as a narrative and filtered it into the discourse via Collen Maine, Andile Mngxitama and Mzwanele Manyi.

FA.

L.M.

The idea of 'White Monopoly Capital' (WMC) is a ruse to draw attention away from our pressing policy priorities. It is for this reason that I asked what the alternative is:

"Is it Indian Monopoly Capture out of Saxonwold?"

In case you haven't understood my initial statement, this is a specific reference to the wheeling and dealing of the Guptas. It goes without saying that the scandalous conduct of this particular family must be separated from the significant contributions to the liberation struggle of many thousands of people of Indian origin.

To recast for your benefit, WMC is an instrument of propaganda that draws attention to one issue in a manner that ignores the realities confronting us. I must assume from your implacable belief in its existence that you have consumed the idea – hook, line and sinker.

I agree with the views of the SACP, as expressed in their recent statement following the Central Committee meeting of 2-4 June, that one of the "features of the Gupta parasitic-patronage network" is "a diversionary populist ideological platform". Amongst other insightful points the SACP makes, which you would do well to read carefully, it says:

"In the face of growing public exposure of their misdeeds, there have been a number of ideological interventions from the parasitic-patronage faction."

If you also took the trouble to read the Economics Resolutions of each ANC Conference since the 49th in 1994, you will not find the language of 'White Monopoly Capital' in any of them. This is because WMC is not part of the lexicon of terms used in ANC policy. It was conjured up as a red herring to obscure the misdeeds of the Guptas and those who benefit from their patronage network.

Words are important, and in the political economy terms such as monopoly have a distinct meaning. The tasks at hand remain enormous. I would welcome a rational policy discussion with you but that depends on your getting facts right. To use terms such as "neoliberal sleeper" to describe me obfuscates the real issues. Extensive research, including by international economists, has established that South Africa has the most redistributive

PA-

C.M

income tax system in the world, and that its social expenditure is largely progressive. But our ongoing challenge is of course economic growth to sustain this, the creation of jobs to improve the standards of living for our people, and the dramatic reduction of inequality by improving public education, and changing the apartheid landscape of our cities.

The National Development Plan placed its central focus on how to eliminate poverty and reduce inequality. These remain cornerstone challenges. They will not disappear simply because some new nefarious slogan has been dreamt up by Bell Pottinger and the Guptas. Our problem is that too many people are left behind, excluded from access to good quality education, better quality public service and an investment in skills. Of course, 23 years on, the exclusion of so many still bears all of the dimensions of race, class, gender and geography. These challenges are not wished away; we need action, measurement and communication with all South Africans.

You would recall that the ANC's 53rd national conference in 2012 adopted the National Development Plan as a policy of the governing party. The NDP also makes a series of recommendations about *policing* to deal with the realities of poverty, and I would advise you to scrupulously examine these. Unfortunately, it is as though the NDP has been abandoned as people who occupy senior positions of State appear more focused on demonstrating that it is their turn to eat.

It is odd, Fikile, that a mere five years ago you described President Zuma as a "politically bankrupt" leader who married "every week". Odd, because I have a clear memory of an incident that may be at the heart of why you have responded to me in the manner you have. That memory goes back to an ANC NEC meeting in August 2011. There, the Fikile Mbalula we once knew wept as he spoke. He explained he'd been called to Saxonwold by the Guptas in May 2009 and was told that he was being promoted from the position of Deputy Minister of Police to Minister of Sport. A few days later the President confirmed this change. The weeping was about the fact that he, Fikile, was happy that he'd made it into Cabinet but that it was wrong to have learnt this from Atul Gupta. That weeping was then, and this is now. Perhaps there are still a few debts to be called in by Saxonwold.

On the questions of service to our country and people, I will leave history to

F.A.
L.M.

judge my contribution.

Regards,

Trevor **DM**

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Trevor Manuel

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COMMISSION OF INQUIRY INTO STATE CAPTURE

PA
L.M.

FM 1

Opinionista • Fikile Mbalula • 11 June 2017

Trevor, Ithi Awazi

1611 Reactions

The ANC policy of "the eye of the needle" seems to have been mostly needed on a few of those who joined the ANC in the mid-1980s from the glorious UDF, like Trevor Manuel. The ANC simply mopped up all sorts; that is why we have the Terror Lekotas who deny land was grabbed by whites and are now fervent supporters of black exploitation. Trevor Manuel has come out boldly from his sleeper cell group within the mov ment.

Follow Save

Amilcar Cabral in *Unity and Struggle* says, "Do not confuse the reality you live in with the ideas you have in your head".

This instructs us to avoid at all costs being unprincipled, ideologically dissonant and susceptible to turncoats. Painfully, the Congress Movement has seen a lot of this since 1912, indeed prior to 1912, many among our forefathers joined with one or the other Boer or English company against their own. This is particularly painful to see happen after our political liberation, as there is no valid survival reason why this ideological betrayal should occur.

In 2002 ANC Umrabulo – Colonialism of a Special Type, the ANC wrote that; "... because the concept of colonialism does not specify the nature of class relations it was important to move beyond the form of the social formation to its content. Colonialism of a special type was found to be perpetrated by a capitalist class. This class came to be known as "white monopoly capital".

FA

L.M

In my opinion piece, which the editors of *Daily Maverick* styled as a letter to Trevor Manuel, I pondered on the question of when exactly Manuel had turned against the poor masses to be a client of minority capital. Indeed, with proper analysis, we can easily track Manuel's sidetracking from his push for abandonment of the RDP for policies cemented on a neo-liberal framework that has left the masses in severe economic devastation and as pariahs with a vote. Manuel also caused the first wave of capital flight as he authorised many outside listings of South African companies without any usable conditions. This capital flight punished the rand value.

We continue to fail to call on those more powerful and remain extremely powerful like Manuel to stick to the truth of our realities. Cabral taught that only through principled study of prevailing realities can the theory of revolutionary change be integrated with practical solutions.

Our reality is that the economy of South Africa is owned and controlled by a monopolising class of capitalists who happen to be, in the main, white male Afrikaners. This is an undeniable principle and a first point of departure. The ANC lexicon as far back to its founding located this analysis as a central issue from the voyages to London led by president Langalibalele Dube up to the development of African Claims. Central to the Congress movement was the issue of white monopoly over our land; this monopoly exists today.

Nelson Mandela's own lips uttered the words "white monopoly capital" or "minority capital" more than I can count. Mandela embodied the ANC lexicon and Manuel has never been the authority on ANC policy; instead he was always a spoiler.

Do I find myself at all surprised that Manuel denies this lexicon today? No. Manuel shares this exact thought and exact phraseology with one Johann Rupert, the son of Antonj Rupert who amassed his wealth through apartheid corruption via the secret group Afrikaner Broerdebond that chose who presidents and ministers in the Nationalist Party governments would be. At a wine auction I attended years ago at one of Rupert's own grand farms, he came over to me and in the discussion he said, "White Monopoly Capital does not exist, Fikile." Hearing the exact words repeated by Manuel explains a lot.

FA.

L.M.

It was indeed not my intention to have a public back and forth with Manuel but to make the point that the ANC has always identified White Monopoly Capital as a key enemy of the people. Nelson Mandela spoke at length on this subject using exactly that phrase. Ben Turok and Oliver Tambo have used the words, or as Manuel says, "lexicon"; White Monopoly Capital.

Manuel decided not to deal with the substantive issues I raised in my opinion but carry on at a tangent about me crying after the Gupta family got to know possibly from someone close to the president that I was to be nominated to be Sport Minister, we can all make guesses as to how this information may have been leaked to them. Newspapers too usually get these sort of leaks and announce or speculate about them before the president does.

Manuel did not understand what my tears were about. He did not get the point then. I am on the record as stating that I have fundamental problems with the way capitalists operate and the Gupta family show us just how ugly capitalism is. Indeed, they abused privately learnt information to try to position themselves somehow. I was not about that, which is why I was the first to report this to the open NEC. I am still not part of that; I do not stand for that. On the other hand, Manuel was one of the people who at that NEC meeting did not agree with my stance on the Gupta family.

I do not have aversions to Manuel's criticism of the Gupta family or even President Jacob Zuma or any other ANC leader or member for that matter. My opinion is pointed on Manuel's White Monopoly Capitalism denialism, the ideological dissonance and betrayal.

As for the mud over the supposed utterances I made about the president's private life, I must take strong exception to this dirty trick. I am an African, I come from the veins of polygamy and I do not look down upon my people and myself. Any utterance attributed to me as disparaging over President Zuma's marital status is a lie and aims to only cause deliberate trouble or cast me above my own people's traditions. Indeed there is no way one can intellectually connect supposed marital status comments with the issue of whether White Monopoly Capital exists in South Africa or not. The mischief in bringing this up is naked as Manuel's selling out is.

F.A

L.M

It is a fact that the Manuel-Ramos clan has amassed great wealth. This family business clearly started at Treasury and has worked itself at the financial institutions of this country.

Perhaps we were supposed to raise moral and ethical issues when Manuel recommended his then mistress to be Director-General of the Treasury – this was a corrupt and gross abuse of one's power. Indeed, with hindsight, the nakedness of questionable dealings in particular in the deal approval of the Absa-Barclays transaction arises.

Manuel has fingerprints in our people's hunger and lack of fair economic participation. The issue of income and wealth inequality is located squarely in Manuel as the chief architect. Today he opines from the shadows as a person who has the answers. He has no answers but a further neoliberal agenda to fatten the Ruperts of the day. He boasts that the tax system is regarded as the best in the world in terms of redistribution. Yes, indeed we are providing free ARVs and social wages, free water and housing and so on. But why is this the case? Manuel controlled policy direction for over 15 years in government and his final years were left with him institutionalising the NDP. He is the course (sic) of all the economic malaise of our people. He has fattened his friends and family. They have thanked him with untold wealth gained through his access to power.

Manuel sold state assets to his friends and comrades; these friends were in turn given money to finance by Manuel himself through the public workers' pensions. Today, Telkom is a classic example of how Manuel instituted unethical conduct.

The government-owned tourism operator company sale was a similar disaster. Key to Manuel's design was to maintain a façade of stable fiscus management for credit ratings and impressive growth numbers. This ended up with growth that propped up Manuel's current employers and his wife Maria Ramos's. The growth and stable credit ratings Manuel chased led South Africa to have 17-million social wage earners as he devastated the manufacturing sector.

It is Manuel's legacy that we are dealing with. It is his personal doing, his ideas, that have trapped our people into poverty and today he fashions himself as the best thing since sliced bread. It is his devastating austerity programme that

FA

L.M

destroyed our hopes. He alone plunged South Africa into darkness and enabled his friends to collude and rob the state on various tenders including the FIFA 2010 build programme.

This current government found a mess plastered in beautiful wallpaper. Manuel's mess. We are taking all the blame and it is acceptable because we agreed when he forcefully made his points. Never again!

The devastation on our people did not end there. Infrastructure spending was about (sic) halted; neither power stations nor dams were being built. This led to South Africa missing riding the commodity boom cycle that saw countries like Brazil and Australia gaining great development while South Africa was plunged in the dark over load shedding. This all occurred under Manuel. As workers were stripped of their jobs, they were also not being taken care of in our hospitals as courts had to compel him to budget for the HIV pandemic, an issue he was against. Today, we are lectured by the same people that we are clueless and bad, all this while we are dealing with their legacy.

Rupert and bankers got wealthier. They have rewarded him and even crowned him our master himself, except it's all delusions of grandeur. A selected black elite alongside Manuel also enjoyed the good times. It took this current government to look at how far transformation laws have gone; we discovered only a small dent had been done.

From the construction industry to food production, from mining to manufacturing and tourism, white male Afrikaners have the monopoly and this cannot be denied. One company controls the alcohol market, a couple of construction firms control the built industry leading to corrupt collusion; today, there is not a black-owned bank in the top five banks, they are all owned by a small clique of white Afrikaner males or foreigners. Manuel designed all this and it is his legacy.

We have over 80% of our tax revenue dependent on whites; this is a monopoly itself. It talks to earnings and who earns what. Who earns what talks to income inequality. This inequality comes from an economy monopolised by white males. This is the ideological issue we cannot find agreement on. The Gupta family did not create the inequalities in South Africa but Manuel sold policies of appeasing the very white monopoly capital he today defends so passionately. Manuel has effectively sold out.

FA

LM

As Minister of Police, I am not interested in weighing in on issues; before public servants I am responsible, this is why I will not be drawn into the issues around the Gupta family except to reiterate that capitalists like them and Manuel do all sort of things we cannot agree with. This includes Manuel's wife's visit on (sic) the ANC in December 2015 to demand who their preferred Minister of Finance is. The Chamber of Mines does the same over the Minister of Mineral Resources. I have called for regulation of lobbyist like the Guptas, Manuel's wife, Chamber of Mines, Bankers, and others like them.

I have asked before, where were all these people when Trevor Manuel appointed or accepted Ajay Gupta as Cabinet Adviser on Economy and an "ambassador" of brand South Africa during his term? Where were they when millions were infected with HIV and not given proper medical care by their great Manuels? When what mattered was credit ratings and not human development?

Do people know that the nuclear build that we are castigated over is a Manuel brainchild? Does it matter that a part of the reason we run a high budget deficit is because we care for our people – students in higher education and civil servants' wages? Wealthy politicians like Manuel who in a very sophisticated manner enriched themselves in the most unethical and potentially corrupt ways ever imaginable must not fool South Africans.

Let us be clear, it is not our intention to replace one monopoly with another. The economy of the country must be equitably owned and the majority must participate in direct ownership. Manuel can discuss names; we will stick to discussing lived principles in their reality, as Cabral teaches.

The typical Manuel style of undermining fellow comrades and thinking that he alone knows best makes him think I cannot write what I always talk about. Well, the son of the capitalist class can always make these silly aversions but I will continue to "write what I like" and say what I like whether he and his mightier Stellenbosch best friends forever drink wine over it or not. **DM**

Fikile Mbalula is an ANC NEC member and Minister of Police

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F.A. L.M

Fikile Mbalula

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Fikile Mbalula is the Minister of Police. See his Wikipedia profile.

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COMMISSION OF INQUIRY INTO STATE CAPTURE

V3(a)

2

STATEMENT & ANNEXURES

Trevor Manuel

COMMISSION OF INQUIRY INTO STATE CAPTURE

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

AFFIDAVIT

I, the undersigned,

TREVOR ANDREW MANUEL

do hereby make oath and state that:

1. I am an adult male, living in Johannesburg.

2. The facts contained in this affidavit are within my personal knowledge, except where the context indicates otherwise, and are both true and correct.

3. I served as the Minister of Trade and Industry from 1994 until 1996 and subsequently as the Minister of Finance from 1996 until 2009, during the presidencies of Nelson Mandela, Thabo Mbeki and Kgalema Motlanthe. I was the Minister in the Presidency for the National Planning Commission from 2009 to 2014 under President Jacob Zuma. I am currently the Chairperson of Old Mutual Limited.

4. I have served on the National Executive Committee ("**NEC**") of the African National Congress ("**ANC**") for 21 years from 1991 to 2012.

5. On 1 October 2018, the Secretary of the Commission, Mr Khotso De Wee, contacted me to provide insight into statements made by Mr Fikile Mbalula ("**Mr Mbalula**") at an ANC NEC meeting in 2011.

6. I attended the ANC NEC meeting in 2011 at which we discussed the influence of the Gupta family on government affairs, amongst other matters.

B-TS

7. At this meeting, Mr Mbalula tearfully recounted that he had been summoned to the Gupta residence in Saxonwold, Johannesburg, where he was informed by Mr Atul Gupta that he would be promoted from Deputy Minister of Police to Minister of Sport and Recreation.

8. Mr Mbalula recounted that Mr Zuma's announcement of the Cabinet reshuffle and his appointment as Minister of Sport and Recreation was made after his meeting with Mr Atul Gupta at his Saxonwold residence. I recall that he was visibly disturbed that Mr Atul Gupta had been the person to inform him of the ministerial appointment.

9. In 2017, Mr Mbalula and I engaged in a robust exchange of correspondence. I wrote an open letter to Mr Mbalula, published in the *Daily Maverick* on 7 June 2017, in which I recounted his statements as:

"Odd, because I have a clear memory of an incident that may be at the heart of why you have responded to me in the manner you have. That memory goes back to an ANC NEC meeting in August 2011. There, the Fikile Mbalula we once knew wept as he spoke. He explained he'd been called to Saxonwold by the Guptas in May 2009 and was told that he was being promoted from the position of Deputy Minister of Police to Minister of Sport. A few days later the President confirmed this change. The weeping was about the fact that he, Fikile, was happy that he'd made it into Cabinet but that it was wrong to have learnt this from Atul Gupta. That weeping was then, and this is now. Perhaps there are still a few debts to be called in by Saxonwold."

I annex a copy of the open letter as **TM1**.

10. As far as I am aware, Mr Mbalula has never publicly denied my account of his tearful confession. On 17 June 2017, Mr Mbalula responded to my description of his contribution at the NEC meeting as follows:

"Manuel decided not to deal with the substantive issues I raised in my opinion but carry on at a tangent about me crying after the Gupta family got to know possibly from someone close to the president that I was to be nominated to be

B.TS

Sport Minister, we can all make guesses as to how this information may have been leaked to them. Newspapers too usually get these sort of leaks and announce or speculate about them before the president does.

Manuel did not understand what my tears were about. He did not get the point then. I am on the record as stating that I have fundamental problems with the way capitalists operate and the Gupta family show us just how ugly capitalism is. Indeed, they abused privately learnt information to try to position themselves somehow. I was not about that, which is why I was the first to report this to the open NEC. I am still not part of that; I do not stand for that. On the other hand, Manuel was one of the people who at that NEC meeting did not agree with my stance on the Gupta family."

11. I attach Mr Mbalula's full response, published as an open letter in the *Daily Maverick*, as **TM2**.

12. When consulting with my legal representatives in preparation of this affidavit, I noted in my open letter (TM1) that Mr Mbalula met Mr Atul Gupta in May 2009. However, having regard to the sequence of events, this was in error as the visit must have taken place in October 2010, shortly before Mr Mbalula's appointment as the Minister of Sport and Recreation on 1 November 2010.

13. I have nothing further to declare regarding Mr Mbalula's statements at the NEC meeting and confirm that I am available to assist the Commission when called upon to do so in future.

TREVOR ANDREW MANUEL

R.T.S

I HEREBY CERTIFY that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn before me at SANDTON on the 11th day of **OCTOBER** 2018, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

COMMISSIONER OF OATHS

BONGUMUSA TREVOR SIBIYA
11 ALICE LANE
SANDTON
EX OFFICIO
PRACTISING
ATTORNEY
R.S.A
COMMISSIONER OF OATHS

COMMISSION OF INQUIRY INTO STATE CAPTURE

TM1

Opinionista • Trevor Manuel • 9 June 2017

Fikile, do you remember the tears you shed over the Guptas?

2043 Reactions

I have tried, unsuccessfully, to understand the purpose of the article that was first published in your name in the Daily Maverick. You clearly did not understand what I said in the recent panel discussion about Nelson Mandela's economic legacy.

Follow Save

Dear Fikile,

The drafters of your letter to me try, unsuccessfully, to weave a story that drifts from Andre Odendaal, Moeletsi Mbeki, Anton Lembede and Martin Luther King, to lies about our household income. The only result is absolute confusion.

I stand by what I said at the Nelson Mandela Foundation: the term "White Monopoly Capital" was conjured up by Bell Pottinger on behalf of the Guptas, and filtered into the political discourse to serve their agenda. Since then I have become aware of the specificity of the facts. As Ranjeni Munusamy reminds us, the term was developed by Bell Pottinger's Victoria Geoghegan, who in an email to Duduzane Zuma styled "White Monopoly Capital" as a narrative and filtered it into the discourse via Collen Maine, Andile Mngxitama and Mzwanele Manyi.

The idea of 'White Monopoly Capital' (WMC) is a ruse to draw attention away from our pressing policy priorities. It is for this reason that I asked what the alternative is:

"Is it Indian Monopoly Capture out of Saxonwold?"

In case you haven't understood my initial statement, this is a specific reference to the wheeling and dealing of the Guptas. It goes without saying that the scandalous conduct of this particular family must be separated from the significant contributions to the liberation struggle of many thousands of people of Indian origin.

To recast for your benefit, WMC is an instrument of propaganda that draws attention to one issue in a manner that ignores the realities confronting us. I must assume from your implacable belief in its existence that you have consumed the idea – hook, line and sinker.

I agree with the views of the SACP, as expressed in their recent statement following the Central Committee meeting of 2-4 June, that one of the "features of the Gupta parasitic-patronage network" is "a diversionary populist ideological platform". Amongst other insightful points the SACP makes, which you would do well to read carefully, it says:

"In the face of growing public exposure of their misdeeds, there have been a number of ideological interventions from the parasitic-patronage faction."

If you also took the trouble to read the Economics Resolutions of each ANC Conference since the 49th in 1994, you will not find the language of 'White Monopoly Capital' in any of them. This is because WMC is not part of the lexicon of terms used in ANC policy. It was conjured up as a red herring to obscure the misdeeds of the Guptas and those who benefit from their patronage network.

Words are important, and in the political economy terms such as monopoly have a distinct meaning. The tasks at hand remain enormous. I would welcome a rational policy discussion with you but that depends on your getting facts right. To use terms such as "neoliberal sleeper" to describe me obfuscates the real issues. Extensive research, including by international economists, has established that South Africa has the most redistributive

R.T.S

income tax system in the world, and that its social expenditure is largely progressive. But our ongoing challenge is of course economic growth to sustain this, the creation of jobs to improve the standards of living for our people, and the dramatic reduction of inequality by improving public education, and changing the apartheid landscape of our cities.

The National Development Plan placed its central focus on how to eliminate poverty and reduce inequality. These remain cornerstone challenges. They will not disappear simply because some new nefarious slogan has been dreamt up by Bell Pottinger and the Guptas. Our problem is that too many people are left behind, excluded from access to good quality education, better quality public service and an investment in skills. Of course, 23 years on, the exclusion of so many still bears all of the dimensions of race, class, gender and geography. These challenges are not wished away; we need action, measurement and communication with all South Africans.

You would recall that the ANC's 53rd national conference in 2012 adopted the National Development Plan as a policy of the governing party. The NDP also makes a series of recommendations about *policing* to deal with the realities of poverty, and I would advise you to scrupulously examine these. Unfortunately, it is as though the NDP has been abandoned as people who occupy senior positions of State appear more focused on demonstrating that it is their turn to eat.

It is odd, Fikile, that a mere five years ago you described President Zuma as a "politically bankrupt" leader who married "every week". Odd, because I have a clear memory of an incident that may be at the heart of why you have responded to me in the manner you have. That memory goes back to an ANC NEC meeting in August 2011. There, the Fikile Mbalula we once knew wept as he spoke. He explained he'd been called to Saxonwold by the Guptas in May 2009 and was told that he was being promoted from the position of Deputy Minister of Police to Minister of Sport. A few days later the President confirmed this change. The weeping was about the fact that he, Fikile, was happy that he'd made it into Cabinet but that it was wrong to have learnt this from Atul Gupta. That weeping was then, and this is now. Perhaps there are still a few debts to be called in by Saxonwold.

BP

On the questions of service to our country and people, I will leave history to

judge my contribution.

Regards,

Trevor **DM**

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Trevor Manuel

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B.75

TM2

Opinionista • Fikile Mbalula • 11 June 2017

Trevor, Ithi Awazi

1611 Reactions

The ANC policy of "the eye of the needle" seems to have been mostly needed on a few of those who joined the ANC in the mid-1980s from the glorious UDF, like Trevor Manuel. The ANC simply mopped up all sorts; that is why we have the Terror Lekotas who deny land was grabbed by whites and are now fervent supporters of black exploitation. Trevor Manuel has come out boldly from his sleeper cell group within the movement.

Follow Save

Amilcar Cabral in *Unity and Struggle* says, "Do not confuse the reality you live in with the ideas you have in your head".

This instructs us to avoid at all costs being unprincipled, ideologically dissonant and susceptible to turncoats. Painfully, the Congress Movement has seen a lot of this since 1912, indeed prior to 1912, many among our forefathers joined with one or the other Boer or English company against their own. This is particularly painful to see happen after our political liberation, as there is no valid survival reason why this ideological betrayal should occur.

In 2002 ANC Umrabulo – Colonialism of a Special Type, the ANC wrote that; "... because the concept of colonialism does not specify the nature of class relations it was important to move beyond the form of the social formation to its content. Colonialism of a special type was found to be perpetrated by a capitalist class. This class came to be known as "white monopoly capital".

B.75

In my opinion piece, which the editors of *Daily Maverick* styled as a letter to Trevor Manuel, I pondered on the question of when exactly Manuel had turned against the poor masses to be a client of minority capital. Indeed, with proper analysis, we can easily track Manuel's sidetracking from his push for abandonment of the RDP for policies cemented on a neo-liberal framework that has left the masses in severe economic devastation and as pariahs with a vote. Manuel also caused the first wave of capital flight as he authorised many outside listings of South African companies without any usable conditions. This capital flight punished the rand value.

We continue to fail to call on those more powerful and remain extremely powerful like Manuel to stick to the truth of our realities. Cabral taught that only through principled study of prevailing realities can the theory of revolutionary change be integrated with practical solutions.

Our reality is that the economy of South Africa is owned and controlled by a monopolising class of capitalists who happen to be, in the main, white male Afrikaners. This is an undeniable principle and a first point of departure. The ANC lexicon as far back to its founding located this analysis as a central issue from the voyages to London led by president Langalibalele Dube up to the development of African Claims. Central to the Congress movement was the issue of white monopoly over our land; this monopoly exists today.

Nelson Mandela's own lips uttered the words "white monopoly capital" or "minority capital" more than I can count. Mandela embodied the ANC lexicon and Manuel has never been the authority on ANC policy; instead he was always a spoiler.

Do I find myself at all surprised that Manuel denies this lexicon today? No. Manuel shares this exact thought and exact phraseology with one Johann Rupert, the son of Antonj Rupert who amassed his wealth through apartheid corruption via the secret group Afrikaner Broerdebond that chose who presidents and ministers in the Nationalist Party governments would be. At a wine auction I attended years ago at one of Rupert's own grand farms, he came over to me and in the discussion he said, "White Monopoly Capital does not exist, Fikile." Hearing the exact words repeated by Manuel explains a lot.

R.P.

It was indeed not my intention to have a public back and forth with Manuel but to make the point that the ANC has always identified White Monopoly Capital as a key enemy of the people. Nelson Mandela spoke at length on this subject using exactly that phrase. Ben Turok and Oliver Tambo have used the words, or as Manuel says, "lexicon"; White Monopoly Capital.

Manuel decided not to deal with the substantive issues I raised in my opinion but carry on at a tangent about me crying after the Gupta family got to know possibly from someone close to the president that I was to be nominated to be Sport Minister, we can all make guesses as to how this information may have been leaked to them. Newspapers too usually get these sort of leaks and announce or speculate about them before the president does.

Manuel did not understand what my tears were about. He did not get the point then. I am on the record as stating that I have fundamental problems with the way capitalists operate and the Gupta family show us just how ugly capitalism is. Indeed, they abused privately learnt information to try to position themselves somehow. I was not about that, which is why I was the first to report this to the open NEC. I am still not part of that; I do not stand for that. On the other hand, Manuel was one of the people who at that NEC meeting did not agree with my stance on the Gupta family.

I do not have aversions to Manuel's criticism of the Gupta family or even President Jacob Zuma or any other ANC leader or member for that matter. My opinion is pointed on Manuel's White Monopoly Capitalism denialism, the ideological dissonance and betrayal.

As for the mud over the supposed utterances I made about the president's private life, I must take strong exception to this dirty trick. I am an African, I come from the veins of polygamy and I do not look down upon my people and myself. Any utterance attributed to me as disparaging over President Zuma's marital status is a lie and aims to only cause deliberate trouble or cast me above my own people's traditions. Indeed there is no way one can intellectually connect supposed marital status comments with the issue of whether White Monopoly Capital exists in South Africa or not. The mischief in bringing this up is naked as Manuel's selling out is.

B.T

It is a fact that the Manuel-Ramos clan has amassed great wealth. This family business clearly started at Treasury and has worked itself at the financial institutions of this country.

Perhaps we were supposed to raise moral and ethical issues when Manuel recommended his then mistress to be Director-General of the Treasury – this was a corrupt and gross abuse of one's power. Indeed, with hindsight, the nakedness of questionable dealings in particular in the deal approval of the Absa-Barclays transaction arises.

Manuel has fingerprints in our people's hunger and lack of fair economic participation. The issue of income and wealth inequality is located squarely in Manuel as the chief architect. Today he opines from the shadows as a person who has the answers. He has no answers but a further neoliberal agenda to fatten the Ruperts of the day. He boasts that the tax system is regarded as the best in the world in terms of redistribution. Yes, indeed we are providing free ARVs and social wages, free water and housing and so on. But why is this the case? Manuel controlled policy direction for over 15 years in government and his final years were left with him institutionalising the NDP. He is the course (sic) of all the economic malaise of our people. He has fattened his friends and family. They have thanked him with untold wealth gained through his access to power.

Manuel sold state assets to his friends and comrades; these friends were in turn given money to finance by Manuel himself through the public workers' pensions. Today, Telkom is a classic example of how Manuel instituted unethical conduct.

The government-owned tourism operator company sale was a similar disaster. Key to Manuel's design was to maintain a façade of stable fiscus management for credit ratings and impressive growth numbers. This ended up with growth that propped up Manuel's current employers and his wife Maria Ramos's. The growth and stable credit ratings Manuel chased led South Africa to have 17-million social wage earners as he devastated the manufacturing sector.

It is Manuel's legacy that we are dealing with. It is his personal doing, his ideas, that have trapped our people into poverty and today he fashions himself as the best thing since sliced bread. It is his devastating austerity programme that

destroyed our hopes. He alone plunged South Africa into darkness and enabled his friends to collude and rob the state on various tenders including the FIFA 2010 build programme.

This current government found a mess plastered in beautiful wallpaper. Manuel's mess. We are taking all the blame and it is acceptable because we agreed when he forcefully made his points. Never again!

The devastation on our people did not end there. Infrastructure spending was about (sic) halted; neither power stations nor dams were being built. This led to South Africa missing riding the commodity boom cycle that saw countries like Brazil and Australia gaining great development while South Africa was plunged in the dark over load shedding. This all occurred under Manuel. As workers were stripped of their jobs, they were also not being taken care of in our hospitals as courts had to compel him to budget for the HIV pandemic, an issue he was against. Today, we are lectured by the same people that we are clueless and bad, all this while we are dealing with their legacy.

Rupert and bankers got wealthier. They have rewarded him and even crowned him our master himself, except it's all delusions of grandeur. A selected black elite alongside Manuel also enjoyed the good times. It took this current government to look at how far transformation laws have gone; we discovered only a small dent had been done.

From the construction industry to food production, from mining to manufacturing and tourism, white male Afrikaners have the monopoly and this cannot be denied. One company controls the alcohol market, a couple of construction firms control the built industry leading to corrupt collusion; today, there is not a black-owned bank in the top five banks, they are all owned by a small clique of white Afrikaner males or foreigners. Manuel designed all this and it is his legacy.

We have over 80% of our tax revenue dependent on whites; this is a monopoly itself. It talks to earnings and who earns what. Who earns what talks to income inequality. This inequality comes from an economy monopolised by white males. This is the ideological issue we cannot find agreement on. The Gupta family did not create the inequalities in South Africa but Manuel sold policies of appeasing the very white monopoly capital he today defends so passionately. Manuel has effectively sold out.

B.75

As Minister of Police, I am not interested in weighing in on issues; before public servants I am responsible, this is why I will not be drawn into the issues around the Gupta family except to reiterate that capitalists like them and Manuel do all sort of things we cannot agree with. This includes Manuel's wife's visit on (sic) the ANC in December 2015 to demand who their preferred Minister of Finance is. The Chamber of Mines does the same over the Minister of Mineral Resources. I have called for regulation of lobbyist like the Guptas, Manuel's wife, Chamber of Mines, Bankers, and others like them.

I have asked before, where were all these people when Trevor Manuel appointed or accepted Ajay Gupta as Cabinet Adviser on Economy and an "ambassador" of brand South Africa during his term? Where were they when millions were infected with HIV and not given proper medical care by their great Manuels? When what mattered was credit ratings and not human development?

Do people know that the nuclear build that we are castigated over is a Manuel brainchild? Does it matter that a part of the reason we run a high budget deficit is because we care for our people – students in higher education and civil servants' wages? Wealthy politicians like Manuel who in a very sophisticated manner enriched themselves in the most unethical and potentially corrupt ways ever imaginable must not fool South Africans.

Let us be clear, it is not our intention to replace one monopoly with another. The economy of the country must be equitably owned and the majority must participate in direct ownership. Manuel can discuss names; we will stick to discussing lived principles in their reality, as Cabral teaches.

The typical Manuel style of undermining fellow comrades and thinking that he alone knows best makes him think I cannot write what I always talk about. Well, the son of the capitalist class can always make these silly aversions but I will continue to "write what I like" and say what I like whether he and his mightier Stellenbosch best friends forever drink wine over it or not. **DM**

Fikile Mbalula is an ANC NEC member and Minister of Police

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Fikile Mbalula

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Fikile Mbalula is the Minister of Police. See his Wikipedia profile.

DAILY MAVERICK

BB

COMMISSION OF INQUIRY INTO STATE CAPTURE

Refiloe R. Molefe

From:	Boipelo B. Ratshikana
Sent:	Tuesday, 19 February 2019 13:56
To:	Refiloe R. Molefe
Cc:	Ouma Thagane; Leah L. Gcabashe; Peter P. Pedlar; Zinhle Z. Buthelezi
Subject:	FW: Notice Letter
Attachments:	SKM_75819021414480.pdf

Dear Adv Refiloe Molefe

The Notice was sent as per below. Two of the three provided email addresses bounced back, only the fikilembalula71@gmail.com went through, but I haven't received any acknowledgement.

From: Boipelo B. Ratshikana
Sent: Thursday, 14 February 2019 15:09
To: 'fikilembalula71@gmail.com' <fikilembalula71@gmail.com>; 'inkholise@anc.org.za' <inkholise@anc.org.za>; 'legoganghatter@gmail.com' <legoganghatter@gmail.com>
Cc: Leah L. Gcabashe <LeahG@commissionsc.org.za>; Ouma Thagane <OumaT@commissionsc.org.za>; Peter P. Pedlar <PeterP@commissionsc.org.za>; Anelle Van Heerden <AnelleV@commissionsc.org.za>; Antoinette A. Griffiths <AntoinetteG@commissionsc.org.za>
Subject: Notice Letter

Dear Mr Fikile Mbalula

Please find attached letter .

Kind Regards,

Boipelo Ratshikana
Executive assistant to the Sectretary
COMMISSION OF INQUIRY INTO STATE CAPTURE
Hillside House, 2rd Floor, 17 Empire Road, Parktown, Johannesburg, 2193
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SUPPLEMENTARY STATEMENT

Trevor Manuel

COMMISSION OF INQUIRY INTO STATE CAPTURE

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

AFFIDAVIT

I, the undersigned,

TREVOR ANDREW MANUEL

do hereby make oath and say:

THE PURPOSE OF THIS AFFIDAVIT

1 On 12 October 2018, I submitted an affidavit to the Commission explaining my recollection of Mr Fikile Mbalula's confession at an ANC National Executive Committee ("**NEC**") meeting in August 2011, concerning the first time he heard of his appointment as the Minister of Sport and Recreation.

2 The Commission subsequently requested me to give an account of my recollection of the practices and procedures followed under the successive presidencies of Nelson Mandela, Thabo Mbeki, Kgalema Motlanthe and Jacob Zuma for the appointment of cabinet Ministers. I have always understood that the power of the president to appoint Cabinet ministers is a constitutionally protected prerogative. Accordingly, Cabinet ministers serve at the pleasure of a sitting president.

MT

3 I wish to emphasise that my knowledge of ministerial appointment practices and process is limited to my personal experience of having been appointed as a Minister on several occasions under successive presidencies. Because I was never dismissed as a Minister, I cannot comment on the practices of any of the presidents in this regard. I also cannot say whether my own experiences constituted the norm.

4 I begin by providing an overview of the positions I have held in government and in the ANC, before turning to my recollection of the appointment process followed by each President under whom I served.

THE POSITIONS I HAVE HELD IN GOVERNMENT AND IN THE ANC

5 I served as a Member of Parliament and as a cabinet Minister from 1994 to 2014.

5.1. From 1994 until 1996, I served as the Minister of Trade and Industry, during the presidency of Nelson Mandela.

5.2. From 1996 until 2009, I served as the Minister of Finance, during the presidencies of Nelson Mandela, Thabo Mbeki and Kgalema Motlanthe.

5.3. Thereafter, from 2009 to 2014, I served as a Minister in the Presidency for the National Planning Commission under Jacob Zuma.

6 With the exception of Kgalema Motlanthe, each of the aforementioned presidents was the President of the ANC and, upon election by Parliament, became the President of the Republic.

MT

7 I served on the ANC NEC from 1991 until 2012. The NEC is the highest decision-making body of the ANC.

8 From 1991 until 1994, I also served on the National Working Committee ("**NWC**"), a sub-committee of the NEC responsible for implementing the decisions of the NEC. It is the second highest decision-making body of the ANC. At any point in time the NWC can consist of up to 20 people, including the core leadership and representatives of the Veterans League, the Women's League and the Youth League, amongst other recognised ANC structures.

9 The top leadership of the ANC, commonly referred to as the "top six", comprises the President, Deputy President, National Chairperson, Secretary General, Deputy Secretary General and Treasurer General. I have never been a member of the top six.

10 I can confirm that, to the best of my recollection, for as long as I served on the ANC NEC, it was never consulted by a President prior to the appointment or dismissal of a member of his Cabinet. This is unsurprising. Many, if not all, of the approximately 80 NEC members would have aspired to serve government in a ministerial role. It would only have stirred controversy for a president to have raised such a matter with that body.

MY APPOINTMENT PROCESS UNDER EACH PRESIDENT

President Nelson Mandela

11 On 7 May 1994, four days prior to his inauguration, Nelson Mandela met with the NWC to discuss his choices for Cabinet. It was clear that Mandela had already decided on certain positions, and that others still required negotiation

MT

with the smaller political parties, which enjoyed support from more than 10 percent of the electorate.

12 Mandela informed the NWC that Thabo Mbeki would become the Deputy President alongside FW De Klerk. Among other ministerial appointments that I cannot recall, he also announced that I would take up the position as Minister of Trade and Industry.

13 Approximately six to eight weeks after Mandela was elected President, he phoned me to ask if we could meet at his Pretoria residence. Upon arrival, I was greeted by then Deputy President Mbeki, and fellow Cabinet Ministers, Mr Tito Mboweni (then Minister of Labour) and Mr Alec Erwin (then Deputy Minister of Finance).

14 Mandela informed us that Derek Keys, who had served as Minister of Finance from 1992, wanted to resign, and that a replacement was needed. Mandela advised that he thought that Chris Liebenberg should be the new Minister of Finance, because he was concerned that some sectors of business were not ready for an ANC appointment.

15 Liebenberg eventually took up the position of Minister of Finance on 16 September 1994.

16 In 1995, less than a year after Liebenberg was appointed, he tendered his resignation. Again, Mandela called me to a meeting with then Deputy President Mbeki and informed me that I was to succeed Liebenberg, after his resignation took effect on 4 April 1996.

MT

17 Mandela requested that I keep the news of my impending appointment confidential and advised that I use this time to acquaint myself with the Finance Ministry. Therefore, for approximately seven months, Liebenberg was the only other person who knew of my forthcoming appointment.

18 In March 1996, Mandela informed me that Gill Marcus would serve as my deputy, with Alec Erwin taking over as the Minister of Trade and Industry. Mandela gave me permission to speak to Marcus about the appointment.

19 After Liebenberg presented his 1996 budget speech, Mandela made a public announcement that I would succeed Liebenberg as the Minister of Finance, with Gill Marcus as my deputy. Mandela also announced that Alec Erwin would take over my former position as the Minister of Trade and Industry, with Phumzile Mlambo-Ngcuka serving as his deputy. I was not aware of the latter appointment until it was publicly announced.

President Thabo Mbeki

20 Shortly after the national elections in 1999, and the election of Thabo Mbeki as President, I was invited to the presidential guesthouse in Pretoria after a late evening gathering after a cultural event. The invited guests proceeded to the main lounge area, and, one by one, we were called into the President's private study in an adjacent room. I was one of the first to be called.

21 Upon entry into the study, I was greeted by President Mbeki and Kgalema Motlanthe – then the Secretary-General of the ANC. The discussion was very brief; Mbeki asked me if I would continue to serve as the Minister of Finance, and I readily accepted. Thereafter I was requested to depart for home immediately.

MT

22 When President Mbeki was re-elected in 2004, a similar procedure took place.

President Kgalema Motlanthe

23 Following the 2007 ANC elective conference in Polokwane, Jacob Zuma was elected as the new ANC President. Cyril Ramaphosa succeeded Kgalema Motlanthe as Deputy President of the ANC and Gwede Mantashe was elected as Secretary-General.

24 In the early hours of 20 September 2008, the NEC resolved to recall President Mbeki. In order to maintain stability in government, it also resolved that its Members of Parliament should nominate Kgalema Motlanthe as the interim President for the remainder of Mbeki's term.

25 On the same day that the NEC took this decision I submitted my resignation from Cabinet to President Mbeki before he agreed to step down. Having done that, I shared a copy of the letter with both Zuma, as President of the ANC and Motlanthe, who at the time was the Deputy President of the ANC.

26 Zuma reacted by requesting me to withdraw my letter of resignation. However, because I felt duty-bound to serve at the pleasure of the sitting President, I informed Motlanthe that I would be available to serve, in any capacity, if called upon to do so in a Cabinet of his choice.

27 On 21 September 2008, Mbeki resigned as President of the Republic, after being recalled by the NEC.

28 I was abroad when these events took place. I returned on 24 September 2008. That evening, Motlanthe phoned me and asked whether I would be available to serve as the Minister of Finance.

MT

29 On 25 September 2008, Parliament held a special session to elect Motlanthe as the Interim President of the Republic. Baleka Mbete was elected as the Deputy President. On the very same day, Motlanthe announced his Cabinet, in which I was appointed Minister of Finance.

President Jacob Zuma

30 I was nominated by the ANC to serve as a Member of Parliament. Nominees are expected to sign an acceptance form in the ANC. At the time, the ANC's practice was to elect MPs through an internal nomination and election.

31 I delayed signing in February 2009, which then resulted in a meeting at Luthuli House with Zuma and Mantashe to discuss my delay. The discussion led to my request to be relieved of the responsibility of Finance Minister. I declined the nomination because, having been the longest serving Minister of Finance, I felt that a change in the leadership of Finance ministry was necessary.

32 Zuma accepted my stance, but asked whether I would nevertheless avail myself for a different position in government. He explained that he had been considering a new portfolio, but that he could not say anything about it given the highly sensitive and political nature of Cabinet appointments.

33 On 10 May 2009, very soon after the national elections, I was invited to the presidential guest house in Pretoria. President Zuma was accompanied by the Secretary-General of the ANC, Gwede Mantashe. He asked whether I would serve in his Cabinet as a Minister in the Presidency. I agreed.

34 Those in attendance at the presidential guest house were asked to return the following day for a press conference, where Zuma announced his Cabinet.

35 I was officially sworn in on 11 May 2009 as Minister in the Presidency for the National Planning Commission, a role that I occupied until 2014.

TREVOR ANDREW MANUEL

I HEREBY CERTIFY that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn before me at SANDTON on the 14TH day of **FEBRUARY** 2019, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

COMMISSIONER OF OATHS

Max Taylor
EX OFFICIO
COMMISSIONER OF OATHS
PRACTISING ATTORNEY
REPUBLIC OF SOUTH AFRICA
11 ALICE LANE
SANDTON

COMMISSION OF INQUIRY INTO STATE CAPTURE

V3(a)

4

RULE 3.3 APPLICATION

Ajay Gupta

COMMISSION OF INQUIRY INTO STATE CAPTURE

IN THE JUDICIAL COMMISSION OF ENQUIRY TO ENQUIRE INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR IN ORGANS OF STATE

AJAY KUMAR GUPTA *Applicant*

NOTICE OF APPLICATION IN TERMS OF RULE 3.4 OF THE RULES OF THE COMMISSION

Take notice that the Applicant hereby makes application to the Commissioner for leave to cross-examine the witness, Mr. Trevor Andrew Manuel, in relation to the whole of the contents of his affidavit. The respects in which the witness's statement is disputed and denied and the grounds for the disputes and denials are self-evident from the annexed statement of Mr. Ajay Kumar Gupta.

In considering this request to cross-examine the witness, the Commissioner is asked to consider and indeed reconsider the following:–

1. The function of the Commission is to establish the truth in relation to the areas of enquiry referred to in terms of reference.

2. Although the Commission's work is that of an enquiry and the process of the Commission is not the same as a civil or criminal trial, it is nevertheless so that

cross-examination has historically been shown to be the best mechanism for testing the reliability and veracity of evidence tendered by a witness.

3. Without cross-examination, and more particularly adequate and effective cross-examination, of contentious evidence the Commission would be deprived of this essential tool for the testing of the reliability and veracity of evidence placed before it.

4. The statement of Ajar Kumar Gupta raises clear disputes of fact and underpinned by his own evidence and demonstrates the need to test the reliability of the witness that is to give evidence before the Commission.

Be pleased to find annexed the sworn statement of Ajay Kumar Gupta together with annexures which supports this application to cross-examine.

Dated at Johannesburg this 13th day of November 2018.

BDK Attorneys

David H Botha du Plessis & Kruger Incorporated

Applicant's Attorneys

Ground Floor, Oxford Terrace

3 on 9th Street

Houghton Estate
P O Box 8013
Docex 243
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Tel: 011 838 1214
Fax: 011 836 8740
Ref: Mr R C Krause/mv/Gupta

TO: **THE COMMISSION**
The Secretary
2nd Floor, Hillside House
17 Empire Road
Parktown
Johannesburg
C/o **Mabunda Incorporated**
2 Protea Road
Bedfordview
Tel: 011 450 2284
Fax: 011 450 1565
Email: busani @mbundainc.co.za
Ref: Mr. P. B. Mabunda

COMMISSION OF INQUIRY INTO STATE CAPTURE

STATEMENT BY AJAY KUMAR GUPTA

1. As will be seen from the contents of this statement I hotly dispute the accuracy of the contents of Mr Manuel's statement, even though the contents are to a large extent hearsay as to the core events in any event.

2. I must point out that there appears to be an error in the notice in terms of Rule 3.3 addressed to my brother, Mr. Atul Kumar Gupta, in that in paragraph 3 thereof it is said that the allegations set out in the evidence of Mr. Manuel implicates or may implicate him in that he is alleged unlawfully to have interfered in the appoint of Mr. Fikile Mbalula as the Minister of the Police. Even on a reading of Mr. Manuel's affidavit he mentions Mr. Mbalula as being made the Minister of Sport and Recreation. I believe this simply is an error and I do not seek to take advantage of that error. I will respond to the contents of Mr. Manuel's affidavit in its terms.

3. At the outset let me state categorically that my brother, Mr Atul Gupta, has never met Mr Fikile Mbalula and has never had any discussion with him whatsoever, never mind one in which the possibility of him becoming a Minister of State was discussed. At best, they may have greeted on another in passing.

4. It is indeed I, Ajay Gupta, that had a discussion with him about his potentially becoming a Minister. I refer to a few annexures hereto which are newspaper articles from the time in October 2010 when Mr. Fikile Mbalula became a Cabinet

SOUTH AFRICA DUBAI

reshuffle by the then President Jacob Zuma was made the Minister for Sport and Recreation. I recall reading in the press articles leading up to President Jacob Zuma's cabinet reshuffle and picking up from the press the likelihood that Mr Mbalula would become a full minister. In this regard I refer for example to an article published on the 24th October 2010 in the publication Fin 24 which date naturally occurs prior to the 31st October 2010 when President Zuma reshuffled his cabinet. I quote from the Fin 24 article annexed hereto marked **"AG1"**. *"The weekend Argus reported that deputy Police Minister Fikile Mbalula was set to take up a full cabinet post as a reward for leading the campaign that saw Zuma elected ANC President in 2007".* I think I read of this in a Sunday newspaper but I am not entirely certain which newspaper carried the article.

5. I annex a further extract from ~~IOL.co.za~~, marked **"AG2"**, in which that publication reports the weekend Argus newspaper having reported on possible key changes to the cabinet of President Zuma and where in that publication reports the weekend Argus' having reported that *"Deputy Police Minister Fikile Mbalula was set to take up a full cabinet post as a reward for the leading the campaign that saw Zuma elected ANC President in 2007."*

6. I annex a further article marked **"AG3"** from the publication, IOL, which in turn also quotes the weekend Argus newspaper as saying that there was several "possible key changes" to the cabinet and in which the newspaper is reported that Deputy Minister Fikile Mbalula was set to take up a full cabinet post as a reward for leading the campaign that saw Zuma elected ANC President in 2007.

SOUTH AFRICAN CONSULATE GENERAL DUBAI

7. I did indeed meet with and have a conversation with Mr. Mbalula, but it was not at my house in Saxonwold and it did not involve my brother Atul. In fact it took place at my office at Sahara Computers when Mr. Mbalula paid me a visit. Having picked up from the newspapers that he was highly likely to be appointed a full Minister I jokingly congratulated him on his apparently imminent appointment as a full Minister. I did not know this as a fact. I also did not know which Ministry he might be appointed to.

8. If the Commission takes the trouble to trawl through the newspapers and other journalistic work of the time it will find that an imminent cabinet reshuffle was very much debated in the newspapers and my experience is that in this regard there is very often no smoke without a fire.

9. I do not know what Mr. Mbalula may have said at a National Executive Committee Meeting but it would have been wrong and inaccurate of him to have said that I had congratulated him on becoming or being about to become the Minister of Sport and Recreation. The newspapers did not report at that time. The newspapers carried only a report of the possible elevation of Mr. Mbalula to a full ministerial post.

10. There is further speculation in the newspapers, post the announcement, where somehow erroneously it is reported that this joking congratulation of mine to Mr. Mbalula which took place prior to the 31st October 2010 was done by Atul Gupta. This is not correct.

SOUTH AFRICAN CONSULATE GENERAL DUBAI

11. I believe that Mr. Trevor Manuel has become completely confused and that his memory seems to be linked to and been affected by some spat which he has had historically and politically with Mr. Mbalula.

12. I would suggest that the Commission hear from Mr. Mbalula himself as to whether I in fact congratulated him on the fact or told him that he would be a Minister or indeed the Minister of Sport and Recreation. I am sure he will confirm my version in this regard. Indications are that he will. In this regard I refer to an article which appeared in the Business Day of 9 November 2018, marked "**AG4**".

13. In conclusion I must observe that the Notice in terms of Rule 3.3 given to my brother indicates in paragraph 3.1 thereof that he unlawfully interfered in the appointment of Mr. Fikile Mbalula as the Minister of Police. As I say I am sure it is a mistake to have referred to the appointment of Mr. Mbalula as the Minister of Police but there is an even greater point and that is nothing in that which Mr. Trevor Manuel has to say amounts to an allegation that I "*unlawfully interfered in the appointment of Mr. Mbalula*". Nothing in that affidavit comes anywhere near close to making that averment.

THUS DONE AND SIGNED at DUBAI, UNITED ARAB EMIRATES, on this the 13th day of November 2018.

AJAY KUMAR GUPTA

SOUTH AFRICAN CONSULATE DUBAI

COMMISSION OF INQUIRY INTO STATE CAPTURE

I certify that this affidavit was signed and sworn to before me at DUBAI, UNITED ARAB EMIRATES, on this the 13th day of November 2018 by the deponent who acknowledged that he knows and understands the contents of this affidavit, has no objection to taking this oath, considers this oath to be binding on his conscience and uttered the following words: *'I swear that the contents of this affidavit are both true and correct, so help me God.'*

COMMISSIONER OF OATHS

Ex Officio

Name: ENOCH MATHAMBOLE
(Vice Consul Administration)

SOUTH AFRICAN CONSULATE GENERAL
Khalid Bin Al Waleed Rd.
New Sharaf Bldg. 3rd. Floor
BUR DUBAI U.A.E.

Commissioner of Oath
South African Consulate General
Dubai, United Arab Emirates

Address:

Date: 13 NOV 2018
DUBAI

Capacity

SOUTH AFRICAN CONSULATE GENERAL
DUBAI

COMMISSION OF INQUIRY INTO STATE CAPTURE

fin24 archives

Trevor Manuel gets new role

2010-10-24 22:23

Fin24, Reuters and Sapa

Johannesburg – Government announced on Sunday night that Minister in the Presidency responsible for the National Planning Commission, Trevor Manuel, will take on a new role assisting President Jacob Zuma with a Pan-African infrastructure development programme.

While a spokesperson denied media reports that the pro-business Manuel might leave his job, no indication was given whether Zuma is preparing a cabinet reshuffle.

The Weekend Argus newspaper reported on Sunday that Zuma was set to make several "possible key changes" to his cabinet, which was holding a special meeting on Monday on a new economic growth strategy.

The Sunday Independent newspaper also reported that Zuma was poised to rearrange his cabinet, and that Manuel might be among those to depart.

"Only the president knows whether or not there will be a reshuffle," cabinet spokesperson Themba Maseko said in an emailed statement.

Government spokesperson Dumisa Jele said Manuel would stay in his current position while also taking on the new role.

"It's not to replace his job," Jele said of Manuel's new role. "He still is head of the National Planning Commission."

Speculation

Manuel, a former finance minister, has publicly disagreed with the left-leaning allies of the ruling ANC. His departure could have dented investor confidence in the ANC.

Government said in a statement that Manuel will assist Zuma "to fulfil his new responsibility as the African Union champion of the North-South infrastructure development corridor in the continent".

The African Union has designated Zuma as a "political champion" of road and rail links between the continent.

"We have the enormous task of promoting tangible action, and have to mobilise resources for the development of infrastructure in the continent. The time has come to move beyond conceptualisation to concrete projects. We trust that we will be able to mobilise the private sector to work with us on this massive but very important project," Zuma said in a statement.

Newspapers speculated on Sunday that Manuel could take up up a senior position either at the World Bank or in the New Partnership for Africa's Development.

Another rumour was the replacement of State Security Minister Siyabonga Cwele, whose wife Cheryl is on trial on drug trafficking charges, with Defence and Military Veterans Minister Lindiwe Sisulu.

Deputy Arts and Culture Minister Paul Mashatile was set for a full cabinet post, possibly replacing Arts and Culture Minister Lulu Xingwana.

The Weekend Argus reported that Deputy Police Minister Fikile Mbalula was set to take up a full cabinet post as a reward for leading the campaign that saw Zuma elected ANC president in 2007.

Other ministers in precarious positions included Correctional Services Minister Nosiviwe Mapisa-Nqakula and Water and Environmental Affairs Minister Buyelwa Sonjica and Mining Minister Susan Shabangu.

Unfair

Minister in the Presidency Collins Chabane has stayed mum on reports that President Jacob Zuma is set to reshuffle his cabinet.

Chabane told journalists at a press conference in Pretoria that ministers were continuing to do their work as usual and that a question on the reshuffle was "unfair".

"The question is unfair," Chabane said. "We are used to it. Rumours about a Cabinet reshuffle have been around since the Cabinet was formed.

"Ministers are doing their work as usual."

Comments

chris - 2010-10-24 23:40
....The African Union has designated Zuma as a "political champion" of road and rail links between the continent. Isn't that interesting? With the road conditions in SA deteriorating rapidly and Transnet shutting down rail services across the cou what skill does Spyker (JZ) bring to the provision of this infrastructure across the continent?

jorg - 2010-10-24 23:55
nice, sounds like something positive here, better roads for africa. mr manuel is a wise guy lets hope him and JZ get onl something good here

wayne - 2010-10-25 01:38
Sorry.... Chabane ? What work is that...??? corruption...nepotism...cronyism ??? or just plain lack or of service delivery ?

SOUTH AFRICAN CONSULATE GENERAL DUBAI

IOL

Cabinet reshuffle 'just rumours'

POLITICS / 24 OCTOBER 2010, 2:13PM /

Performance Monitoring and Evaluation Minister Collins Chabane pledged his support to Jimmy Manyi as calls mounted for the beleaguered government spokesman's head. Photo: Independent Newspapers

Minister in the Presidency Collins Chabane has stayed mum on reports that President Jacob Zuma is set to reshuffle his Cabinet.

Chabane told journalists at a press conference in Pretoria that ministers were continuing to do their work as usual and that a question on the reshuffle was "unfair".

"The question is unfair," Chabane said. "We are used to it. Rumours about a Cabinet reshuffle have been around since the Cabinet was formed.

"Ministers are doing their work as usual."

The Weekend Argus newspaper reported on Sunday that Zuma was set to make several "possible key changes" to his Cabinet, which was holding a special meeting on Monday on a new economic growth strategy.

One possible change was the departure of Minister in the Presidency for Planning, Trevor Manuel, to take up a senior position either at the World Bank or in the New Partnership for Africa's Development.

Another was the replacement of State Security Minister Siyabonga Cwele, whose wife Cheryl is on trial on drug trafficking charges, with Defence and Military Veterans Minister Lindiwe Sisulu.

Deputy Arts and Culture Minister Paul Mashatile was set for a full Cabinet post, possibly replacing Arts and Culture Minister Lulu Xingwana.

SOUTH AFRICAN CONSULATE GENERAL HAVANA CUBA

The newspaper reported that Deputy Police Minister Fikile Mbalula was set to take up a full Cabinet post as a reward for leading the campaign that saw Zuma elected ANC president in 2007.

Other Ministers in precarious positions included Correctional Services Minister Nosiviwe Mapisa-Nqaku;a and Water and Environmental Affairs Minister Buyelwa Sonjica and Mining Minister Susan Shabangu. - Sapa

COMMISSION OF INQUIRY INTO STATE CAPTURE

SOUTH AFRICAN CONSULATE GENERAL DUBAI

IOL

Reshuffle rumours rife for Zuma's cabinet

KWAZULU-NATAL / 24 OCTOBER 2010, 08:06AM / CHRISTELLE TERREBLANCHE, GAYE DAVIS AND CARIEN DU PLESSIS

Minister in the Presidency, Planning Commission, Trevor Manuel, Photo: Phill Magakoe

In a week that could turn out to be a watershed moment for South Africa, the cabinet is set to adopt a New Growth Path strategy – aimed at setting the stage for the creation of a developmental state and conditions that will allow the ANC to make good on its promises of jobs and closing the equality gap.

It is understood that President Jacob Zuma is poised to reshuffle his cabinet, despite emphatic denials from the Presidency.

Sources say Minister in the Presidency for Planning Trevor Manuel "threw a tantrum" when the cabinet committee on economic affairs was finalising the draft policy on Wednesday for adoption at a special cabinet meeting tomorrow.

He apparently suggested the new strategy would ensure that South Africa's economic resilience and stability would "go down the drain". The plan is understood to include the extent to which macro-economic policy should be amended.

Manuel as finance minister presided over the years when Gear ruled, fuelling resentment in the labour movement and the left due to jobless economic growth.

The cabinet's adoption of the new policy could see the "left shift" demanded at the ANC's Polokwane conference.

Manuel is rumoured to be planning an exit from the government, with sources various indicating he could take up a position at the World Bank in the long term, or be involve in the New Partnership for Africa's Development (Nepad) in the short term.

SOUTH AFRICAN CONSULATE GENERAL DUBAI

He is steering the National Planning Commission, which has until next November to produce a long-term strategic plan for the country. Yesterday, Manuel – through chief government spokesman Themba Maseko – said reports about his departure were "nothing but a fishing expedition".

"There is no truth to any rumour that he has resigned or intends to resign," Maseko said.

Manuel would not respond to queries about losing his temper during discussions on the New Economic Growth Path strategy.

A week ago, before his state visit to Egypt, and last week on his return, he was engaged in meeting ministers one on one to discuss delivery agreements.

These meetings involved checking to see that corresponding agreements had been signed between ministers and top department officials, and to find out what was needed to get the job done.

Zuma hinted during his Egypt state visit last week at a potential reshuffle – and also that Manuel was up for a Nepad job.

It is understood this involves setting up an agency to co-ordinate Africa's infrastructure investments, and does not mean he would have to relinquish his duties as minister for planning.

However, there were also strong suggestions last week that a top post at the World Bank looms in Manuel's future.

Before he made way for Pravin Gordhan last year, Manuel was the world's longest reigning finance minister, having held the position for 13 years from 1996. He is highly respected in international finance and banking circles.

Some suggested an announcement as soon as last week, but Finance Minister Pravin Gordhan is due to make a major budget policy announcement when he delivers his medium term budget policy statement in Parliament on Wednesday.

Presidential spokesman Zizi Kodwa said yesterday he was not aware of any minister bowing out.

He reiterated that Zuma's consultations with ministers on delivery agreements – the targets and outputs that need to be reached in key areas such as housing, health, and education – had "nothing to do with a cabinet reshuffle".

"Reshuffling (the cabinet) is occasioned by specific reasons, and it is not on the cards or plans of the president," Kodwa said.

There was talk that if Manuel were to leave, his planning position would go to National Assembly Speaker Max Sisulu, who was less than enthusiastic about being deployed to the legislature in the first place.

Sisulu, who is on a week-long official visit to China, has headed the ruling party's national executive committee's subcommittee on economic transformation for a decade.

SOUTH AFRICAN CONSULATE DUBAI

AG 4

Global Solutions for
South African investors
Schroders

National

Trevor Manuel expected to testify about Mbalula's Gupta confession

Former finance minister, in an open letter in 2018, said Fikile Mbalula told the ANC NEC that Atul Gupta informed him he would be appointed sports minister

09 November 2018 - 05:09 Karyn Maughan

Former sports minister Fikile Mbalula. Picture: GCIS/ ELMOND JIYANE

Former finance minister Trevor Manuel is expected to implicate Atul Gupta at the state capture inquiry with testimony that suggests the middle Gupta brother played a role in the appointment of Fikile Mbalula as sports minister.

But on Thursday, Mbalula told Business Day that it was not Atul Gupta who appeared to have foreknowledge of his 2010 appointment, but rather his brother Ajay.

"It was not Atul who congratulated me about getting the position of sports minister. It was Ajay. The commission has asked me about this, but I haven't given it a statement. I'm not running away from this inquiry. I've answered all their questions to the best of my ability and I'm willing to testify," Mbalula said.

The Guptas, who have close relations with former president Jacob Zuma and his son Duduzane, have come under scrutiny at the Zondo commission, where several witnesses have testified about their attempts at political influence for their commercial benefit.

The Guptas' lawyers, meanwhile, have reiterated that Atul "has never met Mr Fikile Mbalula" — and say that Ajay had congratulated Mbalula as a result of "positive and public media speculation" that he would be appointed as sports minister.

Manuel, who is expected to testify at the Zondo commission on November 27, detailed in an open letter published by Daily Maverick in June 2017 how Mbalula had made a tearful confession to the ANC's national executive committee (NEC) at a meeting in 2011 about his interaction with Atul Gupta.

The influence of the Gupta family on government affairs were discussed at the meeting, where Mbalula recounted being summoned to the Gupta compound in Saxonwold. According to Manuel, Mbalula told the NEC members th Atul Gupta told him ahead of time that he would be appointed minister of sport and recreation. At the time, Mbal was the deputy minister of police.

Mbalula reiterated to Business Day that he would not deny what he had said at the ANC NEC meeting, "which w as witnessed by 80 people, including [then] president Jacob Zuma".

SOUTH AFRICAN CONSULATE GENERAL
DUBAI

"I was the first one in the ANC to raise concern about the Guptas, Mine was a principled statement that I made to the ANC as a warning."

Mbalula said he had met with Ajay Gupta over his statement to the meeting, as "Ajay said I misunderstood him". He said he would detail this meeting fully if and when he was called on to testify.

It is unclear whether the Guptas will apply to cross-examine Manuel, given that they have been refused the right to cross-examine other witnesses unless they agree to return to SA to give evidence.

GO LAMPLESS!
No replacement bulbs, 24/7 runtime, low maintenance, instant on/off, up to 10 years of life.

COMMISSION OF INQUIRY INTO STATE CAPTURE

SOUTH AFRICAN CONSULATE GENERAL DUBAI 2/2

V3(a)

5

STATEMENT & ANNEXURES

Siphiwe Nyanda

COMMISSION OF INQUIRY INTO STATE CAPTURE

To The Commission of Inquiry into State Capture (02/11/2018)

I General (ret) Siphiwe Nyanda, ID#5005225680085, swear under oath that I was a member of the African National Congress National Executive Committee from December 2007 until December 2012, and that in a meeting of the above mentioned committee in early 2011 or there about, following a cabinet reshuffle of October 31, 2010, in which reshuffle Fikile Mbalula was appointed as Minister of Sport, the said Fikile Mbalula told the meeting the following:

1. That he had been told by the Gupta brothers or one of them before his actual appointment, that he would be elevated from a deputy minister to Minister of Sport.
2. That he was indeed subsequently appointed by President Zuma to the same post to which the Gupta brother(s) said he would be elevated to.
3. That he therefore had made the conclusion that the Gupta brothers had prior knowledge of the cabinet reshuffle.

I also want to state that at these meetings of the NEC, the president of the ANC (then President Jacob Zuma) customarily made concluding remarks touching on the salient points made in the contributions by members of the NEC during the discussions. Remarkably, President Zuma did not address this important input by Fikile Mbalula, which touched on the astounding claim made by the latter.

This omission or avoidance to respond to this serious claim left me in no doubt as to the veracity of the claim that Mbalula had made.

General (ret) Siphiwe Nyanda

COMMISSION OF INQUIRY INTO STATE CAPTURE

SN02

Si Piwe N Yanda

From: Moe Shaik <moeshaik@global.co.za>
Sent: Friday, March 18, 2016 5:35 PM
To: NYANDA Siphiwe
Subject: Memorandum from Senior Commanders and Commissars of

Memorandum from Senior Commanders and Commissars of the former military wing of the ANC, Umkhonto we Sizwe.

1. We, the undersigned, are all committed cadres of the African National Congress, having served our glorious movement for many decades. Throughout our lives, and whenever the need arose, we did not hesitate to raise our hands to be counted among those who could be deployed by the ANC in the service of our country. Whatever the challenges we faced, whatever the risks we had to endure, we gave our all. In responding to the call of duty, we never strove for personal benefit, status or power. We executed our tasks as commanded to us by the leadership of the ANC, comfortable in the knowledge that the decisions of the leadership were based solely on the selfless pursuit of the well-being of our people. As such, we did not hesitate to shed our quota of blood.

2. We responded to the call of duty, because we correctly believed, as we still do, in the centrality of the ANC in the people's struggle against apartheid, and in the democratic transformation of our society to achieve a better life for the people of our country.

3. As disciplined cadres of the movement, we sought always to interpret the actions of the leadership of the ANC, through the policies, strategies and tactics of our organisation.

4. Recent events in our beloved country have both saddened and outraged us. The removal of Comrade Nene from the post of Minister of Finance and his proposed re-deployment to a junior post in the New Development Bank leaves much to be desired and communicates the singular message that all is not well with our movement and in the State. What objective was served by the removal of Comrade Nene at such a fragile time of the country's economy? How do we justify his redeployment to a junior post as a decisive promotion directed at serving the national interest?

5. We welcomed the intervention that led to the appointment of Comrade Pravin Gordhan as Minister of Finance. This was a critical and necessary corrective step in order to prevent massive irreparable damage to the economy.

6. We are concerned by the manner in which the Hawks is conducting their investigation of so called SARS "rogue unit". This investigation is been conducted in a far too public and antagonistic manner that would suggest the abuse of state institutions for ulterior motives. A more responsible approach is needed, in keeping with the rule of law and sensitive to the challenges that the country is currently facing.

7. The recent revelations by Comrade Mcebisi Jonas that he was offered the post of Minister of Finance by the Gupta family is shocking and most embarrassing to the integrity of the ANC and the State. We salute this most

courageous of acts by Comrade Mcebisi Jonas, and believe he has acted in the interest of the truth and in the defence of the the prestige ANC. We reject with contempt efforts to malign his integrity and good standing, and specifically call on Cde Kebby Maphatsoe to desist from further maligning the good name of Comrade Jonas Mcebisi.

8. In the light of these revelations, we demand to know what role, if any, do the Gupta family play in influencing the appointment of Ministers and to what end? Which other Ministers have been approached by them in this manner? What private arrangements, if any, have been made with the Gupta family? What is their role in the appointment of Boards members of State Owned Enterprises? Is the the leadership of the ANC aware of these arrangements ? On whose authority does the Gupta Family act ?

9. In the absence of any coherent explanation to all of the above we are forced to speculate that important decisions of the State are subject to outside influence and unilateralism without any regard to the well-being of the country or our people;

10. As a direct consequence of these actions our country has been plunged into an uncertain and perilous future.

11. Further, over the years we have witnessed, amongst other things, the rise of factions and slates, the diminishing quality of ANC cadreship, the rise of antagonisms within the Alliance, the breakaway of Unions from Cosatu, the break-up of the ANC youth League, the marginalization of committed ANC comrades, the rise of vulgar and unsophisticated politics within the ANC, the silencing of critical but necessary voices within the ANC, the wanton destabilization of critical state institutions, the wasteful expenditure of state resources, the devaluing of the critical institution of Parliament, the erosion of trust within the various arms of the State, the unprecedented rise of patronage and cronyism, the Juniorization of the State and the ANC and most alarming of them all, the use of the State machinery for the private interest of the few.

12. The country as a whole has been subjected to one crisis after another. As a result, the nation building project so necessary for the prosperity of our country, is been compromised before our eyes and the national psyche is characterized by helplessness and the fear of what the future may hold.

13. Whilst the challenges that face the ANC are many and complex, we are most concerned about the increasing tendency of state capture. We can no longer remain silent in the face of this most undemocratic and dangerous of developments.

14. There are many, many accounts of undue influence on the decisions of the State. We need to establish the veracity and the validity of all of these claims.

15. If indeed these claims are true, then we call on the leadership of the ANC to act against this tendency and reclaim its integrity. We must free the ANC and the State from such influence and expose all those who are in cahoots with this tendency.

16. Accordingly, we call on the leadership of the ANC to establish an independent commission of enquiry composed of eminent persons within the ANC and civil society to investigate all claims of undue influence, especially by the Gupta family on the ANC and on the State.

17. In the light of the many challenges facing the ANC and the State we further call on the leadership of the ANC to urgently convene a special National Conference to assess these challenges and chart a way forward to

restore the prestige of our glorious movement and the State. The membership of the ANC and the country as a whole, have entrusted them with this responsibility.

The undersigned were all senior commanders and commissars of uMkhonto we Sizwe. We are all satisfied that we speak for the majority of former MK cadres and many of those still deployed in state institutions who we do not desire to draw into this memorandum and its demands. We are certain that many of those who fought for our democracy under the banner of the ANC who are pained by the degeneration of the standing of the ANC will find resonance with the sentiments we have expressed.

Long Live the ANC

Signed by General Siphiwe Nyanda

on behalf of the following

Brig Gen Damian de Lange
Mongezi India
Mavuso Msimang
Jabu Moleketi
Sindiso Mfenyana
Bob Mhlanga
Dipuo Mvelase
Amb George Nene
Amb Welile Nhlapo
Greg Ntha
Gen Nhlanhla Ngwenya
James Ngculu
Gibson Njenje
Brig Gen Ngqose
Dr. Ayanda Ntsaluba
Zukile Nomvete
Commissioner George Rasegatla
Johnny Sexwale
Brig gen Sejake
Ka Shabangu
Amb Moe Shaik
Sipho Twala
Mike Thusi
Dr. Snuki Zikalala

COMMISSION OF INQUIRY INTO STATE CAPTURE

Siphiwe Nyanda

From: Moe Shaik <moeshaik@global.co.za>
Sent: Sunday, April 3, 2016 9:42 PM
To: NYANDA Siphiwe
Subject: Follow up.

Dear comrades,

I trust that you would have received the report of the meeting that was held with the officials of the ANC. If not, I apologize and would send a copy to you on your indication of your not having received it.

Our memorandum has been very well received amongst many many comrades of MK, the ANC and in broader society. However, I write to you of another serious issue that require our attention and consideration.

As you would know, in the sorry Nkandla saga that has plagued that nation for many years, the Constitutional Court, the highest court of the land has spoken. It's ruling was unanimous and its words were unambiguous. It ruled that the President has failed to uphold, defend and respect the Constitution as the supreme law of the land. It further ruled that the National Assembly also failed in its Constitutional obligation to hold the Executive accountable for its actions. The court made the important finding that irrespective of whether the President or the National Assembly acted on bad legal advice or in good faith in not implementing the remedial action proposed by the Public Protector, they acted unlawfully.

Following this ruling, Comrade Ahmed Kathrada, recipient of the Isitwalandwe / Seaparankwe Award, wrote an open heart-felt letter to President J Zuma, appealing to him to consider resigning from office. Many other senior comrades of the ANC are of a similar view, so too are wide sectors of civil society.

I too have agonized with this view, and am of the conclusion that it is the right thing for President ZUMA to do, given the challenges that face us, as the ANC and the country. A violation of the Constitution of the country, is not a simple matter than can be resolved by an apology or defection of blame. In any democracy worth its salt, in the context of such a judgement, the President is obliged to tender his resignation.

Violations of the Constitution, by no other than the President, the very embodiment of the Constitution itself, demands at the very least, his full acceptance of responsibility and culpability. Refusal to do the honorable thing, establishes a terrible precedent that erodes the very foundation of our hard fought democracy. It is the slippery slope to the gates of hell.

Following the press conference of the ANC on this matter, I have engaged with Comrade Gwede on my views that in the interest of the ANC and the country, the President should resign. I disagree with the perspective that argues, that the ANC will be torn apart if the President is forced to resign. This is nothing short of blackmail that surrenders to the false consciousness that our glorious movement is but a coalition of dominant factions that seek the pursuit of their narrow interests at all costs.

I have been invited to engage directly with the President on this matter. It is my intention to do so. In this regard, I write to you to share your views with me, and if you are in agreement with my approach to consider joining me in such a meeting with the President.

Comrades, as you would know, our last memorandum was leaked to the media by one of us. We were correctly criticized for this reckless action. I appeal to you, to please keep this communication confidential and ensure that no leak occurs.

SN-06

I await your views.

COMMISSION OF INQUIRY INTO STATE CAPTURE

18/04/2016 SN-07

President,

Thank you for agreeing to see us

Congratulations on your birthday

We really appreciate the time and wish we could have interacted long before matters reached this state. Some of us have made such attempts to reach you.

You will surely know most of us. We are all long serving disciplined members of the ANC and uMkhonto we Sizwe

We grew up in this organisation and were natured and schooled in it politically and in other ways as well.

We are here in all humility and respect. Many of us knew and respected you as one of the foremost leaders of the ANC and were inspired by you. Perhaps there are some here who would even have been recruited by you or the structures you ran from the underground. So we come with no malice or bad intentions.

We come here rather with pained heavy hearts, believing that our organisation is on a slippery slope. This is not only from our own observation but from what we also heard you say at the NGC last year. There are other people who believe it is beyond remedy. Some of us think it is still possible to cure its ills and nature it back to health in spite of that being a monumental challenge. We are prepared to be part of such an effort. That will, however require a complete detour from the practices of the past decade, and a will from the leadership to unite with its best cadres and drive such an agenda.

If we do not change, if we persist in slates when electing our leadership; if we continue to side-line those who are not in our slates but can offer leadership to the organisation; if we continue with vesting authority in the branches that are owned by others who use them as voting cattle, then our organisation is certainly going to perish. And you, President will be judged by history as the incumbent in whose hands it died. We reiterate that we are willing to offer our services to the organisation to find remedies to these ills.

President, last month after the statement by the Deputy Minister of Finance Mcebisi Jonas we addressed a memorandum to the leadership on that issue. We believe that the issue of the Guptas and the attendant corruption involving the state machinery, which was central to that memo has evoked such resentment from many in our ranks and the wider society that the ANC is in danger of paying a huge price in future elections. We have since interacted with the SG and some officials and NEC members explaining the memo and signalling our intention to participate in the process that the NEC has decided on in order to give our own evidence about what we know on the matter. We do not wish to rehash some of the issues we raised in that memo save to say that it among other things called for a special conference.

We are not even sure that a special conference can resolve some of the many challenges we face, but were shocked by the assertion by the SG that forcing the president to relinquish office would tear the ANC apart. We however wonder whose interest it would serve to tear the movement apart.

We do not want to believe that you, President would act in such a way as to deliberately wreck the movement in order to stay in power. That would be so un-ANC! But that is the impression we get when such statements are made.

Things moved quickly since then. The constitutional court has now found that the President violated the constitution for which he has since rightly apologised. That may be okay with us but that cannot be enough for the country's future.

The ANC through the SG came out in support of the president and the SG repeated the same assertion he had made to us in the discussion of the memo.

All findings by the Constitutional court set precedents. So too do the actions of those fingered in relation to those findings. Are we saying that all future adverse findings against incumbents will be satisfied only by an apology? Are we not in so doing setting precedents for similar future conduct which incumbents will expect to be satisfied by a mere apology? Are these the standards by which we want our hard won democracy to be measured? Is it not a better response to take full responsibility and set an example that such adverse findings in the future have more serious consequences?

We are therefore of the opinion that more drastic decisions should have followed on the constitutional court ruling on the Nkandla matter. We agree with Isithwalandwe comrade Kathrada that our country would be better served were the President to relinquish office as an example for those who follow. This would put the country on a high moral pedestal and be an example on all future leaders that there is a price to pay for such breaches. The president would set a good example for the ANC and the country. The opposite is the case were this not to happen: It would open the door to impunity. And we do not believe that the president would want that to result from his actions. We do not view this as punishment for the president, but as a rich example of respect he would live for governance and the rule of law.

There are several things that the President would have to do even were he to voluntarily relinquish leadership. It would still be incumbent on him to try to right the wrongs that occurred during his tenure: many of those who felt they were doing his bidding in undermining the core values of the movement would have to be brought into line. ...

It would be the President's responsibility and duty to reign in those who threaten to destroy the ANC should the President resign or leave office. The legacy of Jacob Zuma would not be served by another break-away by reactionary forces. It would be incumbent upon the President to call for unity in the ANC no matter the circumstances of his departure. The ANC will however be best served by a voluntary resignation.

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MET
Manuel to testify about the Gupta-Mbalula connection ▲

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Sunday Tribune
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4
English
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Former finance minister **Trevor Manuel** is expected to testify at the **Commission of Inquiry** into **State Capture** about the Guptas' involvement in **Fikile Mbalula**'s appointment as sports minister. Manuel has written, in an op-ed for Daily Maverick, that Mbalula tearfully shared during an ANC national executive committee meeting, that Atul Gupta had prior knowledge of his appointment. Last month, commission chair Deputy Chief Justice Raymond Zondo denied Ajay Gupta's application to cross-examine Manuel.
| Zintle Mahlati

Document SUNDTB0020190303ef330000g

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State Capture

Ex-minister Nyanda details run-ins with Guptas, Duduzane Zuma; When he asked the reason for being fired, as his department was doing well, 'president Zuma mumbled something about the SABC'.

ANA
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Former cabinet minister Siphiwe Nyanda on Thursday told the **Commission of Inquiry** into **State Capture** that he once met with the Gupta brothers while they were with Duduzane Zuma, the son of former president Jacob Zuma.

Nyanda said the Guptas came to his office to introduce themselves and their tech company, Sahara Computers.

He said that the brothers indicated a desire to see him again but not in his office. They then sent representatives to request another meeting.

The Guptas are suspected to have wielded significant influence in the appointment and dismissal of ministers who could further their business interests.

Under his portfolio as communications minister, Nyanda had oversight over the SABC, Icasa, Films and Publications Board and Brand SA, among others.

"I met one of them who came to my office with Duduzane Zuma, and they introduced their company Sahara Computers. I didn't suspect anything because there were many people who wanted to see me privately, but I always insisted on [meeting in] my office," Nyanda said.

Nyanda's meeting with the Guptas fell through because he was fired by Zuma during one of the former president's cabinet reshuffles in 2010.

Earlier in the day, former finance minister **Trevor Manuel** testified that the reshuffle was aimed at replacing reluctant ministers with pliable ones who would work to further the business interests of the Gupta family within government.

Nyanda said he had heard rumours that he would be removed but did not believe them because he thought he was performing well, had received credit for changes and there was general stability in the portfolios he oversaw.

"I was in Durban and got called by someone in the presidency to go to Mahlamba Ndlopfu (The official presidential residence in Pretoria). I told them I was still in Durban and then got another call from president Zuma. He told me that I was being redeployed as ambassador to Germany," Nyanda said.

"He told me the officials had redeployed me to Germany, but I couldn't go and I elected to go to the back benches of parliament. I tried to see the officials, one knew nothing about this. When I asked for reasons for my removal, president Zuma mumbled something about the SABC."

Nyanda also confirmed that **Fikile Mbalula** was informed by the Guptas of his pending appointment as minister of sports in 2010.

Manuel testified that Mbalula had made an emotional confession during an African National Congress (ANC) national executive committee (NEC) meeting in August 2011, saying that the Guptas had called him to their Saxonwold mansion to congratulate him on the promotion. This allegedly took place before Zuma informed him about the shift to the new post. Mbalula was deputy minister of police at the time.

Said Manuel: "Mbalula made this stunning revelation which I think was a criticism of the way in which he was informed of the pending appointment, he was disturbed by it. He said they told him he would be minister and later on he was appointed minister."

"I think he was doing so because he was upset by being approached by people who had no business knowing he was to be a minister."

Nyanda said the matter was never discussed in ANC structures after the NEC meeting. He said he did not recall Zuma reacting to the allegation raised by Mbalula.

"I couldn't understand why Mbalula would allege such a serious thing and not get any response to it. It was dangerous for the ANC," he said.

Nyanda concluded his testimony by relaying events that led to the so-called 101 stalwarts writing a letter to the ANC in 2016. This took place after former deputy finance minister Mcebisi Jonas disclosed that the Guptas had offered him a finance ministry job and a R600 million bribe.

Nyanda said Zuma was very unhappy about their calls for him to step down, saying that he would serve until the end of his term because he was not voted for by them but by the branches of the party.

On Friday, the inquiry will continue hearing testimony about alleged corruption at Eskom as the power utility's treasurer, Andre Frank Pillay, takes the stand.

- African News Agency (ANA)

General Siphiwe Nyanda is pictured at the **Commission of Inquiry** into **State Capture** in Parktown, 28 February 2019. Picture: Refilwe Modise

Document CZEN000020190303ef2s0001p

COMMISSION OF INQUIRY INTO STATE CAPTURE

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State Capture

'The truth will set us free,' says Mbalula as he confirms Gupta allegations; Mbalula said what came out of the Zondo-led commission today was the truth, and that he would soon appear to testify.

ANA
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28 February 2019
The Citizen
CZEN
English
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African National Congress (ANC) head of elections **Fikile Mbalula** has confirmed ex-minister **Trevor Manuel**'s testimony before the **state capture commission of inquiry** that he first heard of his appointment as sports minister from the Gupta family ahead of a cabinet reshuffle more than 10 years ago.

Mbalula said what came out of the Zondo-led commission today was the truth, and that he would soon appear to testify.

"That commission is important in unravelling the **state capture** allegations. **Trevor Manuel** should be saluted for saying the truth on events that unfolded in that [ANC national executive committee (NEC)] meeting," Mbalula told reporters at a briefing at Luthuli House.

"I will go to the commission and present my statement...our lawyers had written to the judge on what our lawyers needed from Manuel. Now that I am no longer in government, people seem to find it difficult to find me as I am no longer minister...now that things have been raised [at the commission] I will appear. The truth will set us free."

He said what Manuel told the commission was true, adding that he will appear and "amplify the truth", and explain why he raised the concerns at a 2011 ANC NEC meeting.

The commission today heard that Mbalula failed to respond to a notice e-mailed to him in October last year regarding Manuel's testimony about him.

Evidence leader Advocate Leah Gcabashe told the inquiry that Mbalula had not acknowledged receipt or responded to that notice, drawing the ire of commission chair Deputy Chief Justice Raymond Zondo.

Zondo said not only should witnesses be notified in time, they should not wait to be called to come forward and assist the commission.

Manuel testified that an emotional Mbalula rose to his feet during an ANC NEC meeting in 2011, and confessed before the ANC top dogs that he had been informed by one of the Gupta brothers that former president Jacob Zuma would soon appoint him as sports minister.

Gupta went further to congratulate Mbalula. He was appointed minister of sports and recreation from being a deputy minister of police on November 1, 2010, and only made the alleged confession almost a year later. Manuel said Zuma was present during this confession but did not have any reaction to the news.

"There was intense discussion about influence of the Guptas in response to what started out as political overview. When it came to opportunity for Mbalula to speak, he became very emotional. I'm not saying that he cried because I'm trying to humiliate him but it was exceedingly emotional," Manuel said.

The former finance minister had written an open letter in 2017 in which he detailed Mbalula's statement at the NEC meeting. Next on the stand at the commission was former South African National Defence Force (SANDF) chief and ANC NEC member Siphiwe Nyanda who corroborated Manuel's testimony.

Following his 2009 appointment as communications minister, Nyanda said the Guptas requested meetings with him at their Saxonwold compound, sending emissaries to him. He testified that he told them he can only meet them in his office.

Soon one of the Gupta brothers arrived at his office accompanied by Zuma's son, Duduzane, said Nyanda.

"They introduced their company Sahara computers. There were other officials in that board room meeting, and after that introduction they left."

- African News Agency (ANA)

ANC head of elections **Fikile Mbalula**, centre. Picture: Siphephile Sibanyoni/ African News agency/ ANA
Document CZEN000020190303ef2s0001q

COMMISSION OF INQUIRY INTO STATE CAPTURE

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State Capture

Mbalula 'was upset by Guptas telling him of ministerial appointment'; Former SANDF chief General Siphiwe Nyanda says he has also met the Guptas during his time as a minister but that the meeting was inconsequential.

Makhosandile Zulu
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English
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Former South African National Defence Force (SANDF) chief General Siphiwe Nyanda, who has served in the ANC NEC, told the **commission of inquiry** into **state capture** today that in his view former minister of sports and recreation **Fikile Mbalula** made the declaration about his interaction with the Guptas because he had been upset.

Nyanda, who has also served as a minister of communications, said though he cannot accurately recall when the ANC NEC meeting was held in which Mbalula made the declaration about his interaction with one of the Gupta brothers, he recalls that the meeting was held after the cabinet reshuffle of October 2010 "but it was certainly in 2011".

"I remember there were elections in 2011 for local government," Nyanda said.

Nyanda explained that at the time former state and ANC president Jacob Zuma would open and close the NEC meetings, with the president giving a summary of the salient points discussed during the sitting.

"Mbalula told the meeting, I can't remember the context ... that he was approached by the Guptas and told that he would become the minister of sports and recreation before he was informed by the president, and indeed he was appointed to that position," Nyanda told the commission.

Nyanga added that Mbalula was upset because he was informed about his promotion by people who had no business knowing such information.

Nyanda, however, said he has no recollection of Mbalula shedding tears during his declaration at the meeting, a matter which former finance minister **Trevor Manuel** testified to earlier today.

"My recollection is that [Mbalula] knew exactly where he was going ... that is what he told the meeting," Nyanda said, disputing a statement by one of the Gupta brothers that when he had congratulated Mbalula on his promotion he had not mentioned which portfolio he would serve in.

Mbalula was appointed as minister of sports and recreation during the cabinet reshuffle of October 31, 2010, which saw Nyanda sacked as minister of communications, a position he had held since 2009.

Nyanda said he had heard "whispers" that he would be removed from cabinet.

Following his axing, Nyanda tried to engage members of the governing ANC and the president to question the reasons behind the reshuffle but did not "get a satisfactory answer", he told the commission.

Nyanda said he has no recollection of the context in which Mbalula had made the declaration of his interaction with the Guptas.

"To me, it was a confirmation that the talk of the influence of the Guptas in government affairs was actually correct," Nyanda said of Mbalula's revelation at the ANC NEC meeting.

Nyanda said at the time Mbalula made the declaration, he did not know of Mbalula having a relationship with the Guptas.

"I thought it was a genuine disclosure," Nyanda said, adding that in his view, Mbalula wanted the party to address the matter because he had been upset by it.

Neither the president of the party nor its top six officials present at the ANC NEC meeting of August 2011, according to Manuel's evidence, made any comments about Mbalula's declaration, Nyanda said.

He said he expected that Zuma would make comments about the issue as he had the responsibility to appoint ministers and since he was tasked with closing the NEC meetings.

The chairperson of the commission, Deputy Chief Justice Raymond Zondo said it was concerning that the president and the party's top six had not reacted to Mbalula's claim because such a revelation should have been shocking.

"I am concerned about whether people who were at the NEC meeting regarded or would have regarded what Mbalula complained about as something that is wrong," Zondo said, adding that the expectation would have been for those present at the meeting would have sought for the president's comments and for solutions to address the issue.

Nyanda said neither the office of the ANC secretary general nor the working committee pursued Mbalula's revelation and that it was not raised in subsequent NEC meetings.

Nyanda said at the time there were rumours that many of the changes in cabinet had been influenced by what was going on at the Gupta compound in Saxonwold or what the controversial family wanted.

Nyanda further told the commission that soon after his ministerial appointment in 2009 he met one of the Gupta brothers who came to his office with Zuma's son, Duduzane, for an introduction and to introduce the family's company, Sahara Computers.

He said later several "emissaries" would be sent to him to extend an invitation by the Guptas for a further meeting.

Nyanda said these "emissaries" were people he was "sort of close to", however, though their identities are known to him, he said he would not reveal their names.

Nyanda's testimony continues:

South Africa - Johannesburg, Parktown - 28 February 2019 - **Commission of Inquiry** into **State Capture**. Former communications minister and Former uMkhonto weSizwe General Siphiwe Nyanda at the Zondo Commission during the morning session. Picture: Karen Sandison/African News Agency(ANA)

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State Capture

ANC NEC tension triggered Mbalula's emotional Gupta outburst - Trevor Manuel; He says the other former minister was the first to make the declaration about interacting with one of the Guptas.

Makhosandile Zulu
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28 February 2019
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English
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Former finance minister **Trevor Manuel** told the **commission of inquiry** into **state capture** on Thursday that "a tense discussion about the influence of the Guptas" triggered former minister of sports and recreation **Fikile Mbalula**'s "emotional outburst" at an ANC NEC meeting about his interaction with one of the controversial Gupta brothers.

Manuel conceded that he may not accurately recall the events of the ANC NEC meeting of August 2011 due to a lapse in time.

Mbalula's "emotional outburst" was in response to what started as a political overview by former ANC and state president Jacob Zuma and an issue emerging from the floor about the Guptas' influence on Zuma, Manuel said.

The former finance minister said an emotional Mbalula told the NEC that he had been advised by one of the Gupta brothers that he would be promoted from deputy minister of police to minister of sports and recreation, a promotion which occurred in 2010.

"My recollection of it is that when it came to the opportunity for Mr Mbalula to speak in that meeting, he became very emotional," Manuel said.

Manuel added that in the exchange of the open letters between himself and Mbalula over the matter, he referred to Mbalula as "weeping" during the meeting, adding that he did not intend to embarrass Mbalula with the use of this word.

"It was an exceedingly difficult, emotional situation [for him]," Manuel said.

Manuel said what Mbalula said in the NEC meeting was that he was called to Saxonwold to be told by one of the Gupta brothers about the promotion, adding that he was aware there was confusion in whether it had been Ajay or Atul Gupta with whom Mbalula had interacted.

Manuel says according to his recollection, Mbalula said he was called to Saxonwold, not at Sahara Offices in Midrand. #StateCaptureInquiry

— **State Capture** Commission (@StateCaptureCom) February 28, 2019

Evidence leader at the commission advocate Leah Gcabashe said Ajay Gupta had since claimed it was he who had had the discussion with Mbalula and not Atul as Manuel stated in his statement before the inquiry.

Gcabashe said Ajay Gupta has submitted to the commission that he simply wanted to congratulate Mbalula on him becoming "a full minister".

Manuel say Mbalula said he was called to Saxonwold by the Guptas and one the brothers informed him that he will became a full minister in the Sports Portfolio. Gcabashe - Ajay Gupta is the one who talked to Mbalula not Atul. #StateCaptureInquiry

— **State Capture** Commission (@StateCaptureCom) February 28, 2019

Manuel said what was concerning about the interaction is that the president's constitutionally protected prerogative to appoint ministers was violated when the Guptas were informed about Mbalula's promotion.

Manuel added that at the time, certain individuals were invited to Saxonwold, "but he [Mbalula] was the first to make that declaration about how he was appointed".

"It confirmed that these things were actually happening," Manuel said.

Manuel says he doesn't think Mbalula triggered the discussion but there were talks about the President failing to exercise his power. #StateCaptureInquiry

— **State Capture** Commission (@StateCaptureCom) February 28, 2019

The former finance minister said the admission by Ajay Gupta that he had in fact interacted with Mbalula and not his brother Atul, "confirms there was a sense of abdication" by Zuma to carry out his constitutionally protected prerogative to appoint ministers.

Manuel adds that in the NEC meeting in Aug 2011, Zuma was there but he doesn't recall any reaction from the former President. #StateCaptureInquiry

— **State Capture** Commission (@StateCaptureCom) February 28, 2019

Gcabashe said Ajay Gupta has disputed some of the evidence in Manuel's statement at the commission, with the Gupta brother saying that he had simply read media articles which tipped that Mbalula would be due for a promotion and so wanted to congratulate him and that when he did this, he, Ajay Gupta, did not mention the portfolio in which Mbalula would serve as minister.

Gcabashe reading from the response of Ajay Gupta who said he read media reports that suggested Mbalula was being promoted and simply congratulated him. Manuel then said why call Mbalula Saxonwold to tell him about speculations from the media. #StateCaptureInquiry

— **State Capture** Commission (@StateCaptureCom) February 28, 2019

Manuel said the fact that Mbalula had been called to the Gupta compound in Saxonwold signalled to "a sense of authority" from the controversial family and a sense of "expectation".

Gcabashe questioned Manuel whether during the ANC NEC meeting reported speculations that the plan had been to promote Mbalula to full minister of police were raised, to which Manuel said it was not.

Fikile Mbalula rubs his head during a media briefing about the results of the ANC's Strategy and Tactics panel at the party's 54th National Elective Conference at Nasrec, Johannesburg on 20 December 2017. Nathi Mthethwa and Mbalula spoke about changes in the panel's policy, the importance of gender equity and the need to institute an inquiry on **state capture**. Picture: Yeshiel Panchia

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State Capture

State capture commission gives Mbalula 'deadline' to submit testimony; The former minister has disputed that he received a notice from the commission asking for his version of events.

Charles Cilliers
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The **commission of inquiry** into **state capture** on Thursday began with a discussion about how ANC head of elections **Fikile Mbalula**, and others, may be wasting their time. He was, however, given the benefit of the doubt, along with a deadline of Monday morning at the latest to submit his version of events in response to former minister **Trevor Manuel**'s testimony about him.

The commission also considered the fact that it has the power to summon witnesses, which may be invoked in Mbalula's case.

Chair of the commission Deputy Chief Justice Raymond Zondo was told that Mbalula and Atul Gupta were both notified that they had been implicated by testimony from the former finance minister, who is testifying for the first time today.

Evidence leader Advocate Leah Gcabashe told Zondo that Mbalula's notice was emailed to him last year on 1 October, and he was asked to respond, which he has still not done.

Ajay Gupta attempted to respond on behalf of his brother, which was rejected because he did not want to appear at the commission in person, but instead do so by video link from Dubai.

Gcabashe said Mbalula was then reminded on February 14 to respond to the Rule 3.3 notice. On February 22, Mbalula then apparently told the commission he had not been furnished with Manuel's statement. The commission's investigators asked him to send his version as soon as possible, but he had apparently still not done so.

"No acknowledgment of the email or 3.3 notice was received from Mbalula," said Gcabashe, who said they had always been using the same email to correspond with him, from which he said he hadn't received anything.

She said she was willing to give Mbalula the benefit of the doubt, though, and said she was confident Mbalula was willing to appear before and assist the commission.

Zondo appeared unimpressed and said someone should have followed up on the email to ensure Mbalula had received it.

"If no acknowledgment is received, other steps must be taken … technology is good and helpful, but sometimes it creates problems when people deny having received something."

He said this should apply to everyone who had been served with notices and had not acknowledged receipt.

"We don't want disputes about these notices."

Zondo said they should proceed with Manuel's testimony anyway.

"We don't have a lot of time to do this work. We must move with speed."

He urged people who wished to say something at the commission to come forward with their statements. "The commission must not delay any more now, particularly with evidence about dismissals and appointments."

The advocate responded: "Chairman, we've asked Mbalula to respond to our letter of the 21st of February within five days, and give us his version. I think that the enforcement tools that you refer to may have to kick in if we do not have a version from him tomorrow morning, or first thing Monday morning."

"Yes, they may have to kick in, and not only with regard to him. There are others who have responded to requests or correspondence, who have not [submitted]. We have to use those powers. We can't be delayed for too long because of people who might not be giving the work of the commission priority."

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Shortly after this exchange, Manuel was sworn in to begin his testimony.

He was set to testify, among other things, about how Mbalula allegedly told a high-level ANC meeting that the Guptas had allegedly known about his appointment as sports minister before he did, drawing into question how they may have attempted to illegally control the functioning of the state through then president Jacob Zuma.

In 2017, Manuel wrote an op-ed claiming that Mbalula had tearfully confided during a national executive committee meeting that Atul Gupta had congratulated him on his appointment before he was officially informed by Zuma.

Manuel and Mbalula had started bickering over the use of the term "white monopoly capital".

Manuel argued this had been cleverly deployed by disgraced and now defunct British PR agency Bell Pottinger to divert attention from the Gupta family's capture of state-owned enterprises, but Mbalula argued that Manuel was misguided and called him a drama queen.

Manuel - who served as finance minister from 1996 to 2009 - is currently giving testimony at the commission about the procedure of appointing Cabinet ministers and how far-reaching the **state capture** project was in government.

Former Sports Minister, **Fikile Mbalula** briefs media regarding transformation in Rugby at SASCOC house, 5 November 2015. Picture: Neil McCartney

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COMMISSION OF INQUIRY INTO STATE CAPTURE

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State Capture
WATCH: Trevor Manuel takes the stand at state capture inquiry; The former finance minister's testimony will deal with Mbalula's encounter with the Gupta family.

Makhosandile Zulu
361 words
28 February 2019
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Former Cabinet minister **Trevor Manuel** will take the stand at the **commission of inquiry** into **state capture** on Thursday where his evidence will deal with former sports and recreation minister **Fikile Mbalula**'s encounter with the controversial Gupta brothers.

In an open letter published by Daily Maverick in 2017, former finance minister **Trevor Manuel** said Mbalula had made a tearful confession to the ANC's national executive committee NEC in 2011 about his interaction with Atul Gupta.

Mbalula, however, later told Business Day that it was not Atul, but Ajay, who congratulated him on his appointment as sports minister.

Evidence leader, Advocte Leah Gcabashe at the commission said the relevance of Manuel's testimony on Thursday regards terms 1.1 and 1.3 of the inquiry's terms of reference.

The term of reference 1.1 reads: "... to what extent and by whom attempts were made through any form of inducement or for any gain of whatsoever nature to influence members of the national executive (including deputy ministers", office bearers and/or functionaries employed by or office bearers of any state institution or organ of state or directors of the boards of SOEs)."

The term of reference 1.3 reads: "[W]hether the appointment of any member of the national executive, functionary and/or office bearer was disclosed to the Gupta family or any other unauthorised person before such appointments were formally made and/or announced."

Mbalula has publicly stated that he was willing to appear before the commission to give his side of the story about his encounter with the controversial Gupta brothers.

Gcabashe says the statement of Manuel implicates **Fikile Mbalula**, Atul Gupta and Ajay Gupta. She noted that Atul Gupta has not responded to notice while Ajay has responded. Mbalula was served his notice by email, he has not acknowledged receipt or responded#StateCaptureInquiry

— **State Capture** Commission (@StateCaptureCom) February 28, 2019

Watch the proceedings live:

Former Minister of Finance **Trevor Manuel**. Picture: Gallo Images / Foto24 / Lisa Hnatowicz.

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State Capture

Eskom board chairperson to testify at state capture commission; The evidence leader says because of the parastatal's centrality to the economy, it will be investigated first.

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Jabu Mabuza, board chairperson at Eskom, will on Friday testify at the **commission of inquiry** into **state capture**.

Evidence leader advocate Vincent Maleka on Wednesday mapped the timetable for witnesses, whistleblowers, and experts expected to testify about the embattled power utility in the next few weeks. The legal team examined previous investigations into the state-owned enterprises, including parliament's public enterprises committee's report, that of the National Treasury, and the Denton report, among others.

Maleka said that because of the magnitude of corruption at Eskom, it had been prioritised as the first of the state entities before the commission.

"Eskom was not the first victim of the **state capture** project, but we have prioritised it above all SOEs. This is important because of Eskom's centrality to the economy, its budget and expenditure and procurement practices... it is for that reason that we decided to prioritise Eskom," he said.

Maleka noted that very few of those implicated appeared before parliamentarians to state their version of events, and suggested to commission chairman Deputy Chief Justice Raymond Zondo that he invoke his powers to summon individuals should they not heed the commission's call to cooperate. Some of those implicated have flatly denied the allegations against them, he said.

"Some have responded and some have confessed, while some have [denied] those allegations. They refuse implication on their part, and I think, chairperson, this is public notice enough for them to come forward, cooperate with the commission and clear up these allegations or suspicions."

Mabuza's evidence as leader of the new board to "clean up" Eskom will shed light on what the new team found at Eskom, what they did and what "cleaning up" was done, Maleka said. Mabuza will also testify on disciplinary hearings against certain Eskom executives.

Wednesday and Thursday will be dedicated to the tabling of the various investigative reports on Eskom before the commission. Mabuza's evidence will be followed by that of a Mr Mashego of Brakfontein coal mine owned by Gupta's Tegeta Explorations & Resources mentioned in the Denton report.

Next to take the stand will be former Glencore CEO Clifton Ephron, whose Optimum coal mine was taken over by the Gupta family assisted by Eskom executives and former mineral resources minister Mosebenzi Zwane.

Eskom transferred a R569 million pre-payment to Tegeta to enable the Guptas to acquire Optimum at the taxpayers' expense. In her "state of capture" report, the former public protector found that Eskom's actions were solely for the benefit of Tegeta, and that the transaction might have been illegal, corrupt, and wasteful expenditure.

Optimum is presently under business rescue. Maleka said business rescue practitioner Piers Marsden would give evidence on Tegeta's acquisition of Optimum. He will be followed by two whistleblowers, a cyber specialist and the head of compliance at Standard Bank, Ian Sinton.

Sinton previously testified on the closure of Gupta-linked bank accounts and the pressure from the governing ANC and cabinet ministers to rescind their decision. Maleka said Sinton would further detail how the bank noticed signs of money laundering in some of the Gupta accounts.

"Mr Sinton will reveal something that has not been investigated before - which is the movements of funds from some of the state entities into Standard Bank accounts. Standard Bank raised concerns and called for explanations... the bank then decided to fulfil its regulatory job and filed [a] report with the FIC (Financial Information Centre). This is a vital proof of **state capture** and how money was moved," said Maleka.

Former finance minister **Trevor Manuel** will take the stand and testify on former minister **Fikile Mbalula**'s appointment as sports minister. The commission will thereafter hear evidence on another state-owned enterprise, Transnet.

Maleka continued on Wednesday to table the various reports and their findings before the commission.

- African News Agency

Eskom chairperson Jabu Mabuza. Picture: Simphiwe Mbokazi / African News Agency / ANA

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COMMISSION OF INQUIRY INTO STATE CAPTURE

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DailyNews

NOW
Agrizzi admits he is racist

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Former Bosasa COO used k-word on video clip; his ex-colleague tells of threats, being spied on

FORMER Bosasa chief operations officer Angelo Agrizzi yesterday admitted that he was a racist during the final day of his lengthy testimony at the **commission of inquiry** into **state capture**.

The admission came after an audio recording emerged of Agrizzi using the k-word to describe his former colleagues, Johannes Gumede and Papa Leshabane.

Agrizzi is facing crimen injuria charges after Gumede opened a case at a Johannesburg police station.

"I am a racist, I agree. Judge me on that and it's fine," he told the stunned commission chaired by Deputy Chief Justice Raymond Zondo.

Agrizzi appeared to justify his utterances, telling Judge Zondo: "I appreciate the fact that we have to be open and transparent, but you also need to play the three hours."

He said the commission needed to see what started it. "I'm not finding excuses, I'm embarrassed, ashamed of myself. But please understand the context," Agrizzi explained.

He claimed when the recording was made, he had had no sleep and was beside himself.

Agrizzi also denied misleading the commission when he said the Sunday Times had not given him the right of reply in its report that he was offered R80 million to stop revealing details of corruption at Bosasa.

This was after Agrizzi said the newspaper did not offer him an opportunity to respond.

"Chair, I didn't lie," he insisted.

Judge Zondo appealed to journalists not to give people about whom they intended to write a short time to respond, and to observe the basic principle of fairness, as this was not good for professional and good journalism.

He said people had to be given a fair and adequate opportunity to respond.

Agrizzi said Bosasa chief executive Gavin Watson had tried to silence him, and the offer was "to force me to cover up corruption".

Agrizzi said he expected to file a supplementary affidavit as he was under time pressure when he prepared his statement to the commission.

Andries van Tonder, Bosasa's former chief financial officer, also testified about being threatened after he left the company, now known as African Global Operations, like Agrizzi.

Van Tonder said when he left Bosasa he was told to reconsider and toe the line.

The company had photographs of one of his nieces at a restaurant, suggesting Bosasa was spying on him.

He said Watson was going to pin everything on him and Agrizzi, and often boasted that he had never signed any document.

This is why the pair decided to take a video showing wads of cash being prepared by Watson and other Bosasa directors.

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Van Tonder said Watson assured them that he had everything under control and had connections up to the highest levels in government.

Agrizzi has previously testified that former president Jacob Zuma was paid R300 000 in monthly bribes by Bosasa.

Judge Zondo also dismissed Ajay Gupta's application to cross examine former finance minister **Trevor Manuel**, who will implicate him when he testifies at the commission.

Manuel will testify that Gupta unlawfully interfered with the promotion of **Fikile Mbalula** as minister of sport from his position as deputy police minister.

Mbalula has insisted that it was not Atul, but Ajay Gupta who told him about his pending promotion.

"There is no basis for me to grant Ajay Gupta leave to cross-examine (Manuel) because the hurdle which stood in his way in terms of that judgment remains," Judge Zondo ruled.

The hurdle is that the controversial Gupta family refuses to testify at the commission, but wants to give evidence via video from Dubai.

Judge Zondo has refused to grant them their request, but yesterday said he would have no hesitation in giving them the opportunity to cross-examine if they overcame that hurdle. He dismissed the Guptas' application last year.

The Guptas wanted to cross examine former deputy minister Mcebisi Jonas, former Government Communication and Information System boss Themba Maseko and former ANC MP Vytjie Mentor.

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COMMISSION OF INQUIRY INTO STATE CAPTURE

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State Capture

Zondo dismisses Gupta application to remotely cross-examine former minister; The deputy chief justice ruled there was no basis to grant leave because the family refused to be present.

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Deputy Chief Justice Raymond Zondo, who is presiding over an inquiry into **state capture**, on Tuesday dismissed an application by fugitive Ajay Gupta to cross-examine former minister **Trevor Manuel** over the appointment of **Fikile Mbalula** as sports minister.

Gupta received notification from the **state capture** commission that he could be implicated by Manuel's allegation that he interfered in the appointment of Mbalula by former president Jacob Zuma.

Advocate Mike Hellens, representing the Gupta family, which has denied having a corrupt relationship with Zuma, told Zondo that Ajay "only congratulated" Mbalula on his appointment.

But with the family still refusing to return to South Africa to formally give their version of events, Zondo dismissed Hellens' application to cross-examine Manuel from a remote location. Zondo had previously ruled that the family should appear in person in order to participate in the commission.

"There is no basis to grant Mr Ajay Gupta leave to cross-examine because the hurdle that stood in the way remains. The application is dismissed," he said.

Manuel is expected to testify on the Guptas' interference in the appointment of Zuma's cabinet, focusing on Mbalula's appointment in 2010. Manuel alleged that Mbalula told the governing African National Congress's (ANC) National Executive Committee that Atul had informed him he would be appointed sports minister. Mbalula is now ANC head of elections.

The former chief operations officer of Bosasa, Angelo Agrizzi, is due to wrap up his testimony before the **state capture** commission, following days of explosive testimony which implicated top government officials, Bosasa CEO Gavin Watson and other company executives, former SAA board chairwoman Dudu Myeni, and former president Jacob Zuma in bribes for tenders.

Agrizzi has revealed a web of corruption spanning over 10 years and multimillion-rand cash bribes to ensure Bosasa won lucrative state contracts.

- African News Agency

Deputy Chief Justice Raymond Zondo. Picture: Refilwe Modise

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General

If I'm called, I will testify at Zondo commission - Mbalula; The former sports minister says he has no fear about giving an account of his encounter with the controversial Gupta family.

Citizen reporter
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4 January 2019
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Former sports and recreation minister **Fikile Mbalula** said on Friday that he was ready to appear before the Zondo commission into **state capture** and give his side of the story about his encounter with the controversial Gupta brothers.

In an open letter published by Daily Maverick in 2017, former finance minister **Trevor Manuel** said Mbalula had made a tearful confession to the ANC's national executive committee NEC in 2011 about his interaction with Atul Gupta.

Mbalula, however, later told Business Day that it was not Atul, but Ajay, who congratulated him on his appointment as sports minister.

In an interview with eNCA on Friday, Mbalula said he had explained everything about the encounter to former public protector Thuli Madonsela, and would be more than willing to testify at the commission.

"I'm mentioned there, at the **state capture**, and then I'm talking to the investigators, so at a given point in time and date agreed, I think I'll be called upon to give an account of what I probably said in the NEC about the Guptas and I've got no fear about that. I went to Thuli Madonsela, I explained to her exactly what happened, so she knows what happened. So if I'm called upon, I will be there."

EFF leader Julius Malema once detailed, in an interview with Tbo Touch, how Mbalula apparently cried when he received a phone call from the Guptas.

Mbalula had tried to avoid being captured, said Malema. In fact, getting a call from the Guptas telling him he would be police minister eventually left Mbalula in tears.

"I know when the Guptas called him and told him that he's going to be minister of sports, he was offended by that."

Read more: Malema: Mbalula cried when the Guptas called him

Former Sports Minister, **Fikile Mbalula** briefs media regarding transformation in Rugby at SASCOC house, 5 November 2015. Picture: Neil McCartney

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News
'Mbalula confessed to Gupta meeting'

Karyn Maughan
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9 November 2018
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'Mbalula confessed to Gupta meeting'

Former finance minister **Trevor Manuel** has implicated Atul Gupta at the **state capture** inquiry with testimony that suggests the middle Gupta brother unlawfully interfered in the appointment of **Fikile Mbalula** as sports minister.

But on Thursday, Mbalula said it was not Atul who appeared to have foreknowledge of his 2010 appointment, but rather his brother, Ajay.

"It was not Atul who congratulated me about getting the position of sports minister. It was Ajay.

"The commission has asked me about this, but I haven't given it a statement.

"I've answered all their questions to the best of my ability and I'm willing to testify," Mbalula said. The Guptas' lawyers have reiterated that Atul "has never met Mr **Fikile Mbalula**" – and say that Ajay had congratulated Mbalula as a result of "positive and public media speculation" that he would be appointed.

In a brief statement to the Zondo commission, Manuel detailed how Mbalula had made a tearful confession to the ANC's national executive committee about his interaction with "Atul Gupta".

"At this meeting, Mr Mbalula tearfully recounted that he had been summoned to the Gupta residence in Saxonwold, Johannesburg, where he was informed by Mr Atul Gupta that he would be promoted from deputy minister of police to minister of sport and recreation." – TimesLIVE

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ANC urges members to come forward with state capture evidence

Mahlatse Mahlase, Tshidi Madia,
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Since **state capture** allegations came to the fore, some ANC members have spoken publicly on the relationship between the Guptas and key ANC figures

The ANC has urged members who have evidence related to **state capture** to be "bold and courageous" and to make submissions to the **commission of inquiry** even if they implicate their comrades.Ahead of the beginning of the inquiry on Monday, head of the party's presidency Zizi Kodwa said that the commission was crucial for the party to rebuild a broken relationship of trust between it and the public.READ MORE: Day one of **state capture** inquiry gets underway"Those who have made allegations loudly in public should be bold and courageous and use this important platform to come forward with evidence for the sake of the country. We need to get to the bottom of the allegations," Kodwa said."It includes ANC members and ANC leaders, regardless who is involved," he said.AllegationsKodwa added that the commission was important politically because there were allegations that executive decisions were not taken by a democratically-elected government but by "certain people, undermining the authority and the faith people have in a democratic state"."Corruption is thieving. It diverts money meant for service delivery. The commission must do its work to restore people's confidence in the state, [and] restore credibility of institutions, including government companies used for looting," he said.READ MORE: Who's who in round one of **state capture** inquiryHowever, he pointed out that the party has not decided on making a representation to the commission.The inquiry, chaired by Deputy Chief Justice Raymond Zondo, got underway on Monday in Parktown, Johannesburg.Zondo is investigating allegations of undue influence by the politically connected Gupta family on former President Jacob Zuma and at state-owned enterprises.At least one person on the witness list has directly implicated Zuma.Former Government Communication and Information System chief executive officer Themba Maseko said that Zuma had personally called him asking him to help out the Guptas who wanted government advertising to be channelled to their newspaper The New Age.Since the allegations came to the fore, some ANC members have spoken publicly on the relationship between the Guptas and some key ANC figures. ANC head of elections, **Fikile Mbalula** first raised the issue of Gupta influence at a national executive committee (NEC) meeting. Witness shortlistAccording to Economic Freedom Fighters leader Julius Malema, Mbalula broke down, asking why business people had called him about Cabinet appointments.It was reported at the time the Guptas told Mbalula that he would get a ministerial appointment.Recently, former NEC member **Trevor Manuel** wrote an open letter to Mbalula asking if he remembered the tears he shed over the Guptas.Last year, Ekurhuleni ANC chairperson Mzwandile Masina asked the family to give the "ANC space to conduct the revolution".Youth League president Collen Maine said he was not taken to the Guptas by Zuma but it was by former North West premier Supra Mahumapelo.The three are not on the shortlist of witnesses the commission has provided so far.A source close to the commission raised concern over the inquiry being used to settle factional political scores within the party."You have numerous faction going off at each other. All I see is this thing being used by politicians to attack one another," the official said.PoliticsAnalyst Mpumi Mkhabela said that while it would be difficult for politics to play out at the commission, they should not overwhelm the inquiry."It is difficult to have a commission that by its very nature has political implications, to exclude political grandstanding, that's not avoidable," he said. "However, we have to bear in mind that the commission is run by professionals — the chairperson of the commission is the deputy chief justice of the country, he has his own integrity to protect. "He has not yet build much of his reputation, only having been recently appointed in that court so the only major thing he would have to do before going back to that court is this one of the **commission of inquiry**... so through that his credibility really hinges on the success of this commission."Mkhabela said that the integrity of the commission was legally protected as it has powers of the public protector — unlike the Marikana and the Fees Must Fall commissions, which were essentially seen as an advisory process for the president."In this case **state capture** inquiry is framed by the public protector as she said it must have powers that no less than the public protector. You can't easily make it useless," he said.In March, just weeks after replacing Zuma as the country's president, Ramaphosa changed the inquiry's regulations allowing for evidence produced to be used in a criminal case.Under the regulations initially signed off by Zuma, no evidence would have been admissible in any criminal proceedings. — News24

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News
Ministers going to jail – Manuel

Moipone Malefane
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Ramaphosa's Sona promises tough action

Several ministers are scared, and that is justified.

"They are going to jail," said former finance minister **Trevor Manuel** when reacting to President Cyril Ramaphosa's State of the Nation Address on Friday night.

He said the address restored hope to South Africans and reminded him of the presidential years of the late Nelson Mandela.

Ramaphosa's speech emphasised the importance of fighting corruption and restoring government and state-owned enterprises' finances.

Already there are ministers who could face prosecution for corruption.

ANC national executive committee (NEC) member Ronald Lamola supported Manuel's view that those involved in corrupt activities should face prosecution.

"We are not going to nurse people's feelings. State institutions should deal with them."

Police Minister **Fikile Mbalula** said the speech was action-oriented, and "very practical and focused on what needed to be done".

Ramaphosa emphasised that tough decisions had to be made to close the fiscal gap, stabilise the debt and restore state-owned enterprises to health.

Here are the highlights of the speech:

The government is going to convene a jobs summit within the next few months to look at what needs to be done to ensure the economy grows and becomes more productive, that companies invest on a greater scale, that workers are better equipped and economic infrastructure is expanded.

Next month, the government will launch the youth employment service initiative, which will place unemployed youth in paid internships in companies across the economy.

Economy

To organise an investment conference in the next three months, targeting both domestic and international investors, and to market the compelling investment opportunities to be found in the country.

This year the government will intensify engagements with all stakeholders on the Mining Charter to ensure that it is truly an effective instrument to sustainably transform the face of mining.

The government will honour its undertaking to set aside at least 30% of public procurement to SMMEs, cooperatives and township and rural enterprises.

This year the government will take decisive action to realise the enormous economic potential of agriculture.

To accelerate the land redistribution programme not only to redress a grave historical injustice but also to bring more producers into the agricultural sector and to make more land available for cultivation.

The community policing strategy will be implemented, with the aim of gaining the trust of communities and to secure their full involvement in the fight against crime.

The government wants to stabilise and revitalise state-owned enterprises.

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The government will take further measures to ensure that all state-owned companies fulfil their economic and developmental mandates.

The **commission of inquiry** into **state capture** is critical to ensuring that the extent and nature of **state capture** is established and that confidence in public institutions is restored and that those responsible for any wrongdoing are identified.

To urgently attend to the leadership issues at the National Prosecuting Authority to ensure that this critical institution is stabilised and able to perform its mandate unhindered.

President Cyril Ramaphosa delivers the State of the Nation Address in parliament, Cape Town. /ESA ALEXANDER

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COMMISSION OF INQUIRY INTO STATE CAPTURE

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BusinessDay

Leader
STATE CAPTURE - SA needs no messiah, it needs justice

NATASHA MARRIAN
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Business Day
MEWBUD
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STATE CAPTURE

SA needs no messiah, it needs justice

Electing new leadership does not absolve the ANC from the destruction wrought by President Jacob Zuma and his cronies on SA and its institutions.

ANC secretary-general Gwede Mantashe told us this week that presidents of the ANC served as head of state for only two terms as this & limits the damage& they could do if there was any & recklessness& It is quaint that he said this just as the Eskom inquiry heard how Zuma was directly linked to the capture and slow destruction of the state-owned enterprise.

The inquiry heard how former Eskom chairman Zola Tsotsi met Zuma and then South African Airways (SAA) chairwoman Dudu Myeni and her son at his Durban residence, where Myeni recommended the suspension of then Eskom CE Tshediso Matona and three other senior executives. Public Enterprises Minister Lynne Brown said the inquiry was the first time she became aware of this — despite a Sunday Times report on it earlier in 2017.

She is either wholly incompetent or lying through her teeth. This is yet another example of the ANC allowing the president and its deployed ministers to act recklessly and illegally during Zuma's decade-long tenure in office.

The Gupta takeover of the Waterkloof air base in 2013 should have caused shudders through the party, but it did not.

Julius Malema and **Trevor Manuel**'s anecdote of **Fikile Mbalula** weeping in a national executive committee meeting because the Guptas had informed him of his shift from deputy police minister to sports minister reminds us that the Guptas were pulling the strings as far back as 2011, when that ANC national executive committee meeting took place.

The evidence was mounting from halfway through Zuma's first term — eclipsing even the Nkandla scandal, which culminated in a Constitutional Court judgment that Zuma had violated his oath of office.

His second term spawned the rise of the so-called premier league, the group of provincial chairmen from the North West, Mpumalanga and the Free State, an indication of how the ANC began reflecting and mimicking the character and values of its leader.

The hijacking of the security cluster to enable the capture of party and state by the president took place shortly after he took office. But the acceleration of Zuma's project and that of his friends and family came after the 2014 national election with the redeployment of Pravin Gordhan from the finance ministry to the ministry of co-operative governance and traditional affairs.

The dominoes began falling: the South African Revenue Service, the Hawks, the National Prosecuting Authority, Transnet, Eskom, SAA and the Passenger Rail Agency of SA were all caught in the web.

What did the ANC do? Very little, if anything. The party will now have to account to South Africans, who have handed it an overwhelming electoral majority every five years since the dawn of democracy and placed their trust in it. To do so, inquiries such as the one into Eskom in Parliament have got to yield firm and uncompromising results in which there are real consequences for those who are implicated in corruption.

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The party placed its president on a gilded, undeserved pedestal, and in the process eroded the moral high ground it once held and showed the middle finger to all those pushing for it to come out against corruption. Perhaps it was never going to turn out any differently, since Zuma entered office under a cloud.

The candidates in the running for election at the December ANC conference are punting ideals to which the ANC should aspire after the gathering — unity, renewal, a return to its core values and radical economic transformation. But if recent history is anything to go by, all that follows the election of a new leader is for the ANC itself to begin reflecting the character of that leader. Undoing Zuma's legacy is going to be a tall order. He has in effect turned the party into a collection of zombies.

Addressing the ANC veterans consultative conference at the weekend, Nelson Mandela Foundation board chairman Njabulo Ndebele put it better: & The criminal syndicate that is behind systemic corruption in their country has begun to function as a political party.

& It has systematically squeezed out its mother body and is steadily becoming a government in a process and its outcomes that may be designed to situate itself above the nation, having not been established by the nation, but capturing the nation, through simulating its mother body, to serve its own secret purposes.& If the ANC is to begin redeeming itself, it cannot elect a new leader without demonstrating it is prepared to enforce accountability, transparency and the rule of law — the pillars of our constitutional order. It has to walk the talk instead of paying it lip service and promising us a messiah. SA no longer needs one. It needs justice.

Marrian is political editor.

UNDOING ZUMA'S LEGACY IS GOING TO BE A TALL ORDER. HE HAS IN EFFECT TURNED THE PARTY INTO A COLLECTION OF ZOMBIES

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COMMISSION OF INQUIRY INTO STATE CAPTURE

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allAfrica

'Exposés About South Africa's Deputy President Point to Ulterior Motives

Dirk Kotze, University of South Africa
The Conversation
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The recent media "revelations" about South Africa's Deputy President Cyril Ramaphosa's several alleged extramarital affairs are the classic approach to creating doubt about a prominent person's integrity.

They also call into question his claim to be a suitable moral or ethical alternative to President Jacob Zuma's corrupt administration. The latest accusations are meant to attack the very foundation of his campaign to lead both the ANC and the country. Ramaphosa admitted to having had an affair a decade ago.

This is not the first time that prominent ANC personalities have been placed in a situation similar to Ramaphosa's. In the past accusations were made against Kgalema Motlanthe , a former ANC secretary-general and deputy president, and against Blade Nzimande , general-secretary of the South African Communist Party (SACP) and Minister of Higher Education. The SACP is in a governing tri-partite alliance with the ANC and labour federation Cosatu.

More specific reports of alleged infidelity have appeared against Police Minister **Fikile Mbalula** and Jeff Radebe , minister in the Presidency. Marius Fransman , the ANC's Western Cape leader, has been suspended for five years for sexual misconduct.

It would be inappropriate to generalise about all of them. And, with the available information, the Ramaphosa case appears to be an example of the tried-and-tested trick of spreading rumours about or exposing infidelity.

It is noteworthy that Ramaphosa's defence mentions this directly, and that state institutions are being used (by the pro-Zuma group) to neutralise his election campaign :

It represents an escalation of a dirty war against those who are working to restore the values, principles and integrity of the African National Congress and society.

Ramaphosa is considered a frontrunner among the contenders to replace Zuma - ahead of the president's preferred successor, Nkosazana Dlamini-Zuma .

Gunning for Ramaphosa

The campaign to discredit Ramaphosa has gone through several stages:

first, an attempt was made to compromise him by placing blame for the Marikana massacre on him.

Then he was discredited as a puppet of business who is being manipulated by "white monopoly capital" .

These were followed by the claim that he was being manipulated by a "white clique" that manage his election campaign and that he was, therefore, not genuinely "black" .

He was also accused of having beaten his ex-wife. But, she refuted the allegation.

The latest line of attack seeks to advance the view that his moral outrage against Zuma's corruption and unethical leadership is compromised by his own immoral extramarital relations. Importantly, he admitted to having had an affair a decade ago.

But, the campaign to discredit Ramaphosa appears to not be getting the desired effect. The general sentiment among ANC spokespersons and those of Cosatu is one of dismay. Ramaphosa's family and acquaintances have also dismissed the latest accusations against him.

The fact that some refers to events about eight years ago, and the fact that they openly challenge Ramaphosa's character, point to possible ulterior motives.

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Message to detractors

An important aspect of the current Ramaphosa case is that it is an indirect message to Zuma's opponents. Zuma is making it clear that he still has sufficient access to intelligence agencies to expose the skeletons in their cupboards. It will likely dampen the emerging rebellion in the ANC. An example of such rebellion was seen during the recent motion of no confidence against him in Parliament. It saw 35 ANC MPs defy orders to toe the party line in the motion brought by the opposition.

If it's seen in the same light as the Hawks' investigations into former finance minister **Trevor Manuel** and his deputy Jabu Moleketi; and then former South African Revenue Service Commissioner Pravin Gordhan, about SARS intelligence and Treasury management; it sends a message to Ramaphosa supporters: to tread carefully in the future.

The fact that the ANC leadership nomination process has commenced, and that intense contestation can be expected ahead of the party's national elective conference in December, the possibility of serious incidents shouldn't be excluded.

Political assassinations already underway in KwaZulu-Natal might increase.

Serious setbacks

Another important symptom of the motive behind the Ramaphosa case is the fact that Zuma has experienced a set of serious setbacks lately. These include that:

the Guptas, the business family and his friends at the centre of **state capture**, are suffering a meltdown;

there are new parliamentary investigations into **state capture**;

the demise of his key supporters in government agencies (like Brian Molefe, Ben Ngubane, Hlaudi Motsoeneng, Berning Ntlemeza);

the South African Broadcasting Corporation is increasingly exhibiting independence;

the ANC's parliamentary caucus is rebelling against him;

he has suffered several negative court judgments; and

the UK public relations company Bell Pottinger's woes have also discredited Zuma's mantra of "white monopoly capital". The British public relations company employed by the Gupta business empire got embroiled in ANC internal politics. It has since been sanctioned for its role in promoting the racially divisive "white monopoly capital" narrative sponsored by the Guptas, Zuma's friends at the core of **state capture** allegations.

Warning to the media

The months leading towards the ANC's December conference will be a trying period for the South African mainstream media. They are a lucrative target for abuse by the two main ANC election campaigns.

Leaks, planted information, fake news and attempts to lure journalists to support either faction are all very likely possibilities. The Ramaphosa case has been the first major test for the media. Clear editorial policies, uncompromised ethical practices and exceptional professionalism are what will see the media through. It cannot afford mistakes or miscalculations in the next four months.

Disclosure statement

Dirk Kotze does not work for, consult, own shares in or receive funding from any company or organization that would benefit from this article, and has disclosed no relevant affiliations beyond the academic appointment above.

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Weekend Argus

LOR
Real enemy of the revolution

1,527 words
9 July 2017
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In his maiden parliamentary speech, EFF deputy president Floyd Shivambu said: "Let us not lose the class perspective and ideological analysis when dealing with issues of development because once we lose proper revolutionary theory and tools of analysis any revolution is going to fail."

Therefore, one should speak in revolutionary terms since the ANC still pursues a revolutionary struggle in a form of national democratic revolution.

ANCYL secretary-general Njabulo Nzuza, speaking at a press conference where the league named its Gupta-aligned factional slate which comprises Mpumalanga premier David Mabuza as party deputy president and Free State premier Ace Magashule as secretary-genera, said the real enemy of the revolution is white monopoly capital, a populist misnomer the ANC national policy conference has rephrased as monopoly capital. Clearly, Nzuza has lost "tools of analysis".

The real enemy of the revolution is the commercial interests of some ANC leaders. Their commercial interests stymie economic transformation to bring the black majority into the mainstream economy, not Nzuza's claim. For example, if black businesspersons such as Saki Macozoma and Patrice Motsepe could speak with one voice in support of a mining charter, their white counterparts would endorse it. In other words, the real enemy is within the ANC.

Although I am not a proponent of radical economic transformation, I do support the charter, except naturalisation because it caters for the Guptas who might have had a hand in its redrafting for their own commercial interests. Increasing black ownership from 26% to 30% is not radical, not at all.

The ANCYL's slate exemplifies the commercial interests of some ANC leaders. That is the politics of money, a phenomenon that poses a national security threat, not the so-called colour revolution. Ideologically, Mabuza represents nothing, as the EFF pointed out following his announcement he would bring its leader Julius Malema back to the ANC.

Besides that Mpumalanga is the most corrupt province in South Africa according to investigative journalist Mzilikazi wa Afrika in the book Nothing Left to Steal, Mabuza admitted he was part of the Jacob Zuma faction in an interview with the eNCA.

Nothing sets Magashule apart from Mabuza other than factional and ideological standpoints. No major developments ocurred in Free State under his premiership except in his hometown, Parys, which is a version of the luxurious Dubai when compared with other townships in the Ngwathe Municipality: Edenville, Heilbron, Koppies, and Vredefort.

The former public protector's report, State of Capture, and a series of email exposes known as the Gupta Leaks paint a partial picture of how Zuma and his clients, such as Malusi Gigaba and Mosebenzi Zwane, have sold the country to the Guptas. Consequently, the Guptas not only became a licence to print money in South Africa, but also run a state within the state with an armoured military vehicle, an overriding security threat that the State Security Agency (SSA) either misses or overlooks, as I point out in the opinion piece, "The Guptas are a security threat".

It is for this reason Zuma does not trust the SSA. He used a so-called intelligence report to recall Pravin Gordhan from an investor tour in Britain and fire him as finance minister, accusing Gordhan of conniving with investors to topple him.

Regarding the claim of colour revolution, the question comes to mind: "Does the ANC know who compiled the report that Zuma used to fire Gordhan because it did not emanate from the SSA?" ANC deputy president

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Cyril Ramaphosa confirmed secretary-general Gwede Mantashe's revelation that Zuma came with a "ready-made list" while treasurer-general Zweli Mkhize said the party is no longer the centre of power.

The trio, in fact, confirmed what Julius Malema told us five years ago. Calling on the NPA to arraign the Gupta family on charges of treason for landing a private plane at the airbase without authorisation, Malema said: "It is not a fallacy that the Gupta family has tremendous control over the ANC and government and have had influence and knowledge of key decisions even before the most senior of the ANC leaders are aware (of them)."

He added: "It is not a secret that President Zuma discusses sensitive government and ANC decisions with the Guptas." Read in the context of reports the Guptas called **Fikile Mbalula**, other ministers and deputy ministers and informed them of their appointments before Zuma had announced a cabinet reshuffle, Malema's revelations were early warnings the ANC was not in charge of the country.

Zuma's decision to fire Gordhan as finance minister bordered on regime change, as thousands of South Africans took their anger to the street to intensify calls for his resignation or recall as state president.

If South Africa were at a tipping point or did not have social media revolutionaries, as Malema often puts it, Zuma's cabinet reshuffle would have brought about a regime change. It does not take a miracle to bring about regime change.

It took street vendor Mohamed Bouazizi to set himself on fire to protest against confiscation of his wares for scores of Tunisians to take their anger to the street and bring about regime change in Tunisia. Zuma's vacuous decisions and a failure thereof by the ANC to rein him in, incite regime change.

I concur with Moeletsi Mbeki. "The ANC leaders are like a group of children playing with a hand grenade," he said, predicting an Arab Spring in South Africa in 2020. "One day," he warns, "one of them will figure out how to pull out the pin and everyone will be killed."

Reports also emerged that the Guptas, who own Sahara Computers in their consortium of companies, tried to supply the government with advanced equipment and software, which identifies a target within a crowd and instantly prints out his or her identity. The report, along with an email expose that the Guptas spied on Malema, former finance minister **Trevor Manuel** and his wife Maria Ramos, as well as other prominent businesspersons, are the real security threats, not an imaginary regime change which the ANC throws out as a red herring to distract attention from its failures.

Responding to the email expose, EFF treasurer Leigh-Ann Mathys told eNCA that the Guptas had imported sophisticated spying software from Russia. If Russia could hack American election and propel Donald Trump to power, what is South Africato do with the weakest intelligence services in the world? Al Jazeera showed how foreign agencies in the country have infiltrated the Presidency, departments, and ministries.

Through Trump, Russia has captured America and South Africa is on its radar, if not already captured with a covert nuclear deal. This is in line with Russian President Vladimir Putin's quest for global hegemony.

Ironically, Mantashe named Afghanistan, Iraq, and Libya as countries where foreign forces brought about regime change, but stopped short of mentioning that South Africa was part of the latter when it voted in favour of Resolution 1973. Sadly, the ANC expelled Malema for speaking the truth that Thabo Mbeki left a leadership vacuum in Africa.

Mbeki thwarted two coups by the US and one by the UK in Zimbabwe. He also thwarted a coup by France in Ivory Coast, albeit South Africa was not a member of the UN Security Council.

Before a 2003 Iraqi invasion, Mbeki dispatched chemical experts to Iraq to ascertain whether it had weapons of mass destruction. Taking the matter upon himself, Mbeki flew to the UK, where he held a three-hour meeting with former Britain prime minister Tony Blair and an hour meeting with his chemical experts to assure them that, based on a report compiled by the South African experts, Iraq did not have the said weapons. The rest is history as to whether the UK, the US, and other imperialists found the weapons.

Perhaps, the irony of it is Baleka Mbete's claim that, by voting in favour of a motion of no confidence in Zuma, ANC MPs would remove themselves from power when the party itself carried out a bloodless coup against its former president, Mbeki. The recall was unconstitutional.

The ANC's ascribing of a regime change agenda to civil society organisations raises serious concerns.

In March 2016, just two days before the Helen Suzman Foundation and Freedom Under Law interdicted former Hawks head Berning Ntlemeza from exercising his powers pending a review of his appointment, a group of armed robbers broke into the organisations' offices and took computers.

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A year later, barely a day after the Constitutional Court had handed down a ruling on a social grant debacle, the offices of Chief Justice Mogoeng Mogoeng, who had stopped short of calling Social Development Minister Bathabile Dlamini absolutely "incompetent" during the deliberations, were broken into and computers which contained personal information of judges and judicial officials went missing.

The same has happened at the offices of the Hawks, investigating **state capture**. This raises concerns about the safety of civil society activists and judges whose actions or roles pose threats to commercial interests of some within the governing elite.

Tshabalala is an independent political analyst.

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COMMISSION OF INQUIRY INTO STATE CAPTURE

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News
Local soapies, what the hell is happening in Uzalo with its ATM bombing and in...

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27 June 2017
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English
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Local soapies, what the hell is happening in Uzalo with its ATM bombing and in Generations with drugs? As if there is no crime in SA. Jerry Naidu.

This Eid message goes to the staff, management and their families of the Daily Voice. To my friends and neighbours, especially in Factreton and surrounding areas, Eid Mubarak to you, too.

Pastor Ruiters, I don't think Zuma has to give every parent a house whose child was murdered. He can't be everywhere because he has political meetings to attend. Where was your family when you knew that Peters was a tikkop? You are supposed to be there to help your daughter with her child.

Last weekend the SABC again reported the usual road deaths and as usual dismissed them as "accidents" - a word condemned internationally as encouraging the public to believe that road carnage is unavoidable. So how do we get our national broadcaster (and others) to stop describing crashes - nearly all of which are caused by the deliberate homicidal acts of speedsters, drunk or reckless drivers - as "accidents" when they are not? Richard Benson, Road Safety Action Campaign, Cape Town.

Have you noticed our sports stars are doing great without our former Minister of Sport **Fikile Mbalula**. Die ding is mos bad luck. Sê maar net.

Congrats to the Boks! Well done to our players of colour. Jake White, we don't need your stupid comments as Allister and his team are doing a wonderful job. Get well soon, Warren! We need you to lead the boys to greater heights. Bra Spokes.

The problem with Jackson Mthembu is that he cannot stomach the opposition for asking the Constitutional Court to rule on a secret no confidence debate. Instead he congratulates the Concourt for the decision. It arrived at who took the matter there in the first place, Mr Mthembu.

Marius Fransman is destabilising the ANC in the Western Cape. The sooner Luthuli House expels him from the party, the sooner the party can regain lost ground.

One has to question the sudden upping of the tempo on land reform. There are two reasons: one is to divert attention from **state capture** and the Guptas, and the other is they face a serious problem come 2019 and they are hoping to gain lost ground.

Everyone talks about white monopoly capital, yet no one talks about Gupta monopoly capital.

Jacobs, you wanted Zille to go and now the shoe is on the other foot. I knew long ago that you would fall. I hope you have a nice Labarang and don't choke on your daltjie. All you ANC ouens are going to fall.

One thing the ruling party is absolutely fantastic at is diverting the fourth estate's [media] attention from the important issues. So many practical examples can be tabled and at times [this tactic] has proven successful. However, what the ANC is failing to realise is that the news used as a diversion will always die but NOT the ongoing sagas plaguing the party and its cronies. Don't try and fool us or the media. We are all watchdogs. The Expert.

The alleged spying of the Guptas on **Trevor Manuel** and Julius Malema shows desperate fools at the end of their pitiful road in South Africa.

All the allegations pitted against Jacob Zuma and president Gupta[s], show their immense hunger for greed, money and more and more power. Selfish acts contributing to the destruction of SA.

I miss the EFF heckling JZ in parly. Come back.

Document DAIVOICE20170627ed6r0000t

Columns

Mbalula claims 80% of SA tax 'dependent on whites'. Really? The minister has used this stat in support of his argument that 'white monopoly capital' is a problem.

Charles Cilliers
794 words
12 June 2017
The Citizen
CZEN
English
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A public argument has been raging between former finance minister **Trevor Manuel** and the current police minister, **Fikile Mbalula**, about whether "white monopoly capital" (WMC) exists or not.

Mbalula goes to great lengths to spell out his reasons for saying the term is as valid today, 23 years after the fall of apartheid, as it was when Nelson Mandela and Oliver Tambo were leading the struggle.

Among his arguments for the "fact" that South Africa's economy is still mainly in the hands of white monopolies is his assertion that: "We have over 80% of our tax revenue dependent on whites; this is a monopoly itself. It talks to earnings and who earns what."

An investigation of the data, however, would make you wonder where Mbalula gets his 80% statistic from. He doesn't provide a source for it in his Daily Maverick article.

However, a month ago, Africa Check looked into a tweet by the deputy CEO of AfriForum, Ernst Roets, claiming that about 1.7 million people (about 3% of the population) pay about 80% of South Africa's income tax.

Africa Check eventually concluded that just over 1.9 million registered taxpayers indeed do contribute about 80% of our income tax (remember that's only about a third of the total), but they made no mention of race.

Roets allowed his followers to assume he was implying that most of these taxpayers are white, but that's a big assumption given that the black middle class has more than tripled over the past 13 years, while the country's white middle class has shrunk.

To complicate matters, University of Cape Town marketing professor John Simpson said last year that the black middle class had risen to nearly 6 million people, even adding that "The black middle class is keeping the economy alive ... There has been an explosion of the black middle class."

According to Simpson, the factors driving the surge included greater access to credit, improved education levels, BEE and improved economic growth (though that is now apparently a thing of the past).

Meanwhile, New World Wealth's data in 2015 showed that the number of black millionaires in South Africa had almost tripled in eight years, while the number of white millionaires declined significantly (so much so that there are fewer dollar millionaires in South Africa now than there were 10 years ago).

According to them, about 45% of all high-net worth individuals were coming from previously disadvantaged groups at the time, though white South Africans still made up the majority. Chances are, two years on, though, that the figure is now closer to 50-50.

All of this this really makes you question whether white people can still be responsible for paying as much as 80% of all the tax, as Mbalula seems to think. That's not even taking into account the fact that VAT accounts for a quarter of all our taxes (and everyone pays VAT).

If Mbalula was confused about what Roets tweeted, we should also keep in mind that AfriForum's man was only referring to income tax, which only makes up about 36% of all the taxes government collects, as previously mentioned.

No matter which way you look at it, Mbalula's stat just doesn't ring true, unless most of these rich black people are somehow evading paying tax, which is something the police minister should perhaps fill us in on if he knows about it.

Interestingly, The Citizen ran a poll on our website today to see which of our readers agree with either Mbalula or Manuel on whether white monopoly capital is a fair label or not, or whether it's perhaps just being

used to distract from allegations of **state capture** by the Gupta family, as we have been hearing for some time.

Polls like these are hardly scientific, but they do give one a bit of an idea of what the general consumer of news thinks about what's going on.

So despite all my research, I can't figure out whether there's any merit to Mbalula's stat about 80% of our taxes supposedly coming from white people, but based on our poll (at the time of writing this), it would seem 95% of about 300 of our readers appear to think he's talking nonsense.

Have a look below:

To comment you need to be signed in to Facebook. Please do not comment by saying anything prejudiced.

We reserve the right to remove offensive comments.

FILE PICTURE: **Fikile Mbalula**. ©Chris Ricco/BackpagePix The poll.

Document CZEN000020170613ed6c00007

COMMISSION OF INQUIRY INTO STATE CAPTURE

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independent

NWS
SA has lost its values

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7 May 2017
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In a wide-ranging lecture that both repeatedly denounced President Jacob Zuma and gave a potted lesson in constitutional law, ex-finance minister **Trevor Manuel** said South Africa has lost its attachment to the values of Kader Asmal and the constitution. He called for the ANC, the nation and its leaders to return to these values.

"The honour of being sworn in as member of ANC, I don't believe it's something that remains," Manuel said. "I think people join not for the values that once existed".

The lecture was held in a packed University of Cape Town lecture theatre in memory of Asmal, and Manuel returned repeatedly to Asmal's life and views, including his view on Zuma.

Manuel recalled at the 52nd ANC congress in 2007, at the start of Zuma's rise, Asmal nominated now Deputy President Cyril Ramaphosa because he feared Zuma, who had already been embroiled in corruption charges, would set the country back.

When Ramaphosa declined the nomination, Asmal said: "Cyril Ramaphosa has no balls.

"Asmal has been proven correct time without number, about the failures of leadership and characteristics of Jacob Zuma," Manuel said.

His speech comes days after he echoed Ramaphosa's own call for an independent inquiry into **state capture**.

On a World Economic Africa Forum panel discussion in Durban, he told a crowd that included chairperson of Eskom Baldwin Ngubane, South Africa's "public enterprises are a nest of corruption".

Asked after his speech whether this means Ramaphosa had increased his cajones quotient, Manuel said he has "never pretended to be a urologist".

Once a friend of Zuma, Manuel has positioned himself as a leading critic of Zuma's government in recent months.

At the end of March, Manuel called Zuma hypocritical and devoid of a "moral compass" because of how he has handled the Marikana Massacre, the ANC Youth League and the distribution of social grants.

"Moral compass" was an Asmal term and Manuel returned to it yesterday. He said Asmal had a fallout with other factions of the ANC in 2009 over the debates about the militarisation that culminated with the current Minister of Police **Fikile Mbalula** saying "shoot the bastards. Hard-nut to crack, incorrigible bastards."

In response, Asmal had deplored "a tainted political atmosphere in which the moral compass that points to the core issues of our movement has lost it's sense of direction".

"Now, we shoot people", Manuel said.

He then turned to the Financial Intelligence Centre Amendment Bill, the most recent controversial legislation Parliament has passed. After initially sending the bill, which strengthens anti-money laundering and anti-terrorism funding rules, back to Parliament over constitutional concerns, Zuma signed the bill last Friday. The signing, however, brought a backlash from several pro-ANC groups, including Progressive Professional Forum head Mzwanele Manyi.

Manyi said the bill was designed specifically to choke funding for the ANC and make it lose the 2019 election.

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Manuel pointed out that anti-money laundering efforts are premised on the idea that money that is being laundered is the proceeds of crime.

"We must say to Manyi," Manuel said, "If the ANC ever depends on proceeds of crime to be elected. It is better that it is not elected."

"The ANC must be able to go to the people to fund their campaigns."

Manuel said the core values for the ANC and South Africa, and a blueprint for governing South Africa are held in the constitution, but the constitution is being ignored. The principles of that constitution were first drafted in Asmal's kitchen, but the leaders of the ANC, including Asmal, failed to commit to promote the constitution as they became immersed in the daily work of governing the country.

In the months after the constitution's signing on May 8, 1996, anyone could find a copy in all 11 official languages, Manuel said. Today, he said, it would be hard to find a copy in anything but English or Afrikaans.

"Our constitution is held by jurists ad constitutional attorneys around the world as the finest and most progressive constitution in the world, a break from the traditional constitution associated with the US," Manuel said.

"But this constitution is largely neither known or owned by the vast majority of South Africans," he said.

Manuel added that the Bill of Rights called for the country's leaders to actively promote the people's rights, a call leaders for the last 20 years have ignored.

He pointed out that if leaders had followed the education demands in the constitution, the #FeesMustFall movement may not have happened.

Manuel said populists called for constitutional amendments to expropriate land, but the constitution had clear provisions for compensated land reforms.

The problem is Parliament never passed the expropriation bill that the constitution demanded.

"What must you do once you amend the constitution (to take land) to prevent tyranny?" Manuel said, "because many of us in this room have experienced the tyranny of removal under apartheid."

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Weekend Argus

NWS
Manuel: Can Cyril man up?

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7 May 2017
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Recalls how Asmal held Zuma in disdain

In a wide-ranging Saturday lecture that both repeatedly denounced President Jacob Zuma and gave a potted lesson in constitutional law, former finance minister **Trevor Manuel** said South Africa has lost its attachment to the values of Kader Asmal and the constitution and called for the ANC, the nation and its leaders to return to these values.

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Manuel's speech comes days after he echoed Ramaphosa's own call for an independent inquiry into **state capture**.

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Manuel pointed out that anti-money laundering efforts were premised on the idea that money being laundered was for the proceeds of crime.

"We must say to Jimmy Manyi", Manuel said, "if the ANC ever depends on proceeds of crime to be elected, it is better that is not elected.

"The ANC must be able to go to the people to fund their campaigns."

Manuel said the core values for the ANC and South Africa, and a blueprint for governing South Africa were held in the constitution, but the constitution is being ignored.

The principles of that constitution were first drafted in Asmal's kitchen, but the leaders of the ANC, including Asmal, failed to commit to promoting the constitution as they became immersed in the daily work of governing the country.

In the months after the constitution's signing on May 8, 1996, anyone could find a copy in all the 11 languages, Manuel said. Today, he said, it would be hard to find a copy in anything but English or Afrikaans.

"Our constitution is held by jurists and constitutional attorneys around the world as the finest and most progressive constitution in the world, a break from the traditional constitution associated with the US," Manuel said.

"But this constitution is largely neither known or owned by the vast majority of South Africans."

Manuel said the bill of rights calls for the country's leaders to actively promote the people's rights, a call which leaders for the last 20 years have ignored.

He pointed out that if leaders had followed the education demands in the constitution, the #FeesMustFall movement may not have happened.

Manuel said populists were always calling for constitutional amendments to expropriate land, but in reality the constitution had clear provisions for compensated land reforms.

The problem is Parliament never passed the expropriation bill that the constitution demanded, he said.

"What must you do once you amend the constitution (to take land) to prevent tyranny… Many of us in this room have experienced the tyranny of removal under apartheid."

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BusinessDay

Review
ANC fault lines there for all to see

YUNUS MOMONIAT
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English
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Sipho Pityana's speech shone a light on ANC, writes

REACTIONS to Sipho Pityana's intervention at the funeral of Makhenkesi Stofile reveal much about the ANC in a period in which the faction-ridden party speaks with too many voices for us to know what it is planning for SA's future.

The funeral was attended by ANC leaders and members from various & factions& Cyril Ramaphosa, Gwede Mantashe, **Trevor Manuel**, Jeff Radebe, **Fikile Mbalula**, and Pravin Gordhan.

How many fault lines are there between these leaders?

President Jacob Zuma's loyalist Lindiwe Sisulu was sullenly in attendance, as were Nosiviwe Mapisa-Nqakula and her husband Charles Nqakula, Zuma critic Kgalema Motlanthe, flashy Tony Yengeni, and the disaffected Bheki Cele. More fault lines.

ANC secretary-general Gwede Mantashe pledged afterwards that he would report the content of Pityana's speech to his party without downplaying its edge. By the next day, his tone had changed, expressing a hostility to the ANC stalwart's harsh message. Deputy Finance Minister Mcebisi Jonas set the tone for Pityana's speech, introducing the idea that the funeral should be an occasion for self-reflection, as Stofile had been calling for that in his last days.

The ANC's leaders had also touted the idea following the election results, but there had been little evidence of self- reflection. The body language of the ANC luminaries during and after the speech perhaps provides some idea of their view of Pityana's scathing words.

The audience seemed to enjoy what Stofile's supporters were telling the ANC's leaders. When Pityana talked of Nkandla as an & extravaganza in a sea of poverty& they applauded. When he spoke of how Stofile, after he was accused of corruption, cleared his name by submitting to judicial processes — a reference not to Gordhan, but to Zuma, who never & humbled himself& as Stofile had — they cheered loudly.

THEY cheered again when he said that an official who broke his oath of office was & honourable no longer& Pityana talked of a new type of ANC cadre, the & full-time thieves and looters& and the crowd gasped.

A smiling Jonas walked onto the stage 24 minutes into the speech to signal to Pityana that he would have to wind up, and the crowd booed him off. Jonas didn't seem to mind and appeared delighted by both the speech and the boos.

Pityana's call that & it's time for new leadership& got the crowd roaring. When he said he was disappointed that Zuma wasn't at the funeral, the people cheered, laughed, and raised their fists. When he said he would have asked Zuma to resign, they almost went wild.

He turned to Mantashe, thanking him for being present, but adding that the notion of collective responsibility was inadequate to fix the problems in the ANC. Those who take responsibility should instead fall on their swords. Mantashe tried hard not to shift uneasily in his seat.

Calling for an elective conference, Pityana suggested that the party's purged stalwarts — Thabo Mbeki and Motlanthe — be brought in to ensure integrity, drawing another round of applause.

Manuel was plainly enjoying the speech, not even trying to hold back his smile as he glanced over at Mbalula, who was stroking his head with his hand, as if in pain. Mbalula shifted his loyalty away from Zuma before the last election, but he was nevertheless rewarded for services rendered earlier, and his relationship to the

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Guptas remains a subject of speculation because he has never clarified his links to the capture kings. Evidence of a fault line.

When Pityana concluded his speech and descended from the stage, Manuel was on his feet before anyone else, hugging him. Pityana went from one luminary to another, shaking hands, while he was cheered by many ANC colleagues. Ramaphosa embraced him, and seemed to be saying: & You rascal, how could you!& It has been noted by many that this was the first time the deputy president dared to hint at a critique of the president.

Mantashe embraced Pityana, but it was hard to interpret his response. Mantashe is caught between a rock and a hard place; he oscillates between critique, loyalty, and obfuscation. It just depends when you get him. He carries all the fault lines in the party within him.

The next speaker, Ramaphosa, acknowledged Pityana's critique, and presented a review of Mantashe's response to the ANC's election losses, saying individual responsibility was essential. Another fault line exposed.

Mantashe's decision to take collective responsibility was, from the start, a failure to put the blame where it lay, because the balance of forces in the ANC would not allow this view to even be whispered. If responsibility is spread to all, no-one is responsible. Everyone gets off scot-free.

MBALULA bounded on to the stage next and his speech made no mention of Pityana's bombshell. His perfunctory words said nothing about a crisis in the just-about-governing party. No reflection, no problem, all delivered in his uniquely inarticulate and boring style.

When he finished, the cameras panned to the heavyweights, and Mantashe looked as though he hadn't been listening. He didn't applaud. Neither did the audience.

Mantashe would not be inclined to lend his ears to Mbalula, who had conspired to replace him as secretary-general before the ANC's last elective conference. Depressing as things are, they would have been infinitely worse had Mbalula replaced him. Yet another fault line.

By Tuesday, Mantashe was reporting on the decisions of the ANC's national working committee at a media conference, trying to quell reporters' questions regarding the most recent manifestations of the crisis Pityana spoke of: the Gordhan affair, the Hawks, Eskom, other state-owned enterprises, intra-Cabinet disputes — in a phrase, **state capture**. One reporter asked if the ANC had & taken anything away& from Pityana's intervention.

Mantashe first deplored sensationalist reporting. Then, he said, Pityana was & not an institution, not a structure, he had spoken at an important funeral, he is a senior member of our movement, we listened to everything he said& The ANC, he said, had been & decoding& Pityana's message, but it could not spend much time on one message among many.

Just how much decoding is necessary when someone says & Zuma must resign& The ANC, Mantashe says, has been 'decoding' Pityana's message. Just how much decoding is necessary when someone says 'Zuma must resign'?

Deputy President Cyril Ramaphosa acknowledged Sipho Pityana's critique of the ANC and spoke of the importance of individual responsibility being taken for the party's failings. Picture: GCIS

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PRETORIA NEWS WEEKEND

NWS
Will loyal ANC cadres demand accountability?

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At the NEC meeting this weekend, they could change the course of SA's future. After all, Zupta must fall

SIX years ago President Jacob Zuma was safely in Davos, far from the noise erupting at home around an event which many South Africans thought could bring him down.

He was not even a year into his presidency when the Sunday Times newspaper named him as the father of a baby born to Sonono Khoza, the daughter of soccer supremo Irvin Khoza.

It caused a massive stir. Zuma had to apologise and pay damages to Khoza and his family.

He had to say sorry to the party of which he was president and, indeed, to the people of the country he served.

Although he was a polygamist, that choice did not permit this kind of behaviour.

Although there were rumours that Zuma had offered his apologies somewhat reluctantly, and upon the advice, if not instruction of senior ANC members, nothing happened to him.

But in those days, Zuma still tended towards litigious behaviour around and even open attacks on the media, and remaining true to that, he accused the Fourth Estate of wishing some existential harm on his newborn child.

The president lost his mojo around lawsuits on the media a couple of years later, and withdrew claims worth tens, if not hundreds of thousands, including against The Star and cartoonist Zapiro.

He had, however, already pocketed settlements from the press, and was believed to have been an instigator of the infamous attempts at closing down press freedom through a Media Appeals Tribunal and other suggested censorship mechanisms.

Fortunately, a robust Constitution did not allow much of that bluster and threat to achieve anything but a concern about the president's own capacity. This was also true of his affair with Khoza's daughter, which troubled some within the ANC enough to think of him as a growing liability. There was even talk, at that stage, of how he should be prevented from seeking a second term.

Imagine if the visionaries or wise men and women in the senior leadership of the ANC had, indeed, stepped in at that moment and done exactly that: scuppered Zuma's untrammelled ambitions. We might not have been in the nightmare we find ourselves as a nation today.

Yet they allowed him to seek and claim re-election at Mangaung in 2012, clearing his path to the second term which has brought such disaster to the country. The thing was, however, that the ANC then managed to still claim convincing victories not only in
the 2011 Local Government Elections, but also in the national poll in 2014.

Today, just under two years after that ballot was cast, the president is, for the umpteenth time, under scrutiny for his amorality, possible fraud and corruption and profound lack of credibility as a leader.

Not only has he, in his seven years in power, seen corruption reach unprecedented, if not National Party apartheid-era levels in government.

He has also helped to split the ANC's crucial alliance partnerships with Cosatu and the SACP, and it is under his watch that the trade union federation has lost a significant percentage of its member unions to more

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left-wing formationsdisappointed by Zuma's personal lack of conviction around South Africa's antithetical economic model.

Enter the Guptas, for it is the president's close relationship to the family from Saharanpur, India, which has significantly entrenched the Left's position that greed, corruption and money have stolen our liberation, that Zuma's platitudes around the National Democratic Revolution are mere air and, most serious of all, that he has allowed the South African state to be captured.

But, so too the ANC leaders who equally allowed this **State capture** to happen, particularly those who have seemingly blindly voted to support a president, who, it is increasingly clear, gained executive power through patronage back in 2007.

This week, we have heard from some former and current ANC MPs and Cabinet ministers including Vytjie Mentor, Mcebisi Jonas, Barbara Hogan, Ngoako Ramathlodi and, by default, **Fikile Mbalula**, as to how the Gupta family have slowly but steadily gained on and undermined the good that was struck nearly 20 years ago when the Constitution was handed over.

We think too of how vocal former Minister in the Presidency **Trevor Manuel** seemed - once he had left government.

So too Kgalema Motlanthe, who is now lionised in many sectors of South African society, but who had every opportunity when he was briefly president to undermine the insidious power bloc that was taking control.

Other ministers apparently pushed aside, like Yunus Carrim - who served as the Minister of Communications from 2013 to 2014, to be replaced by the dubious character of Faith Muthambi - and Ben Martins, would do well to come clean now too if there was some influence from the Guptas on their departures.

Meanwhile, we should praise those few brave individuals like former Cabinet Minister Ronnie Kasrils who put himself in the political line of fire by openly declaring his disgust at what had happened to the ANC under Zuma. Certainly, we have heard from other veterans - including Ben Turok, Dennis Goldberg and Frank Chikane - but Kasrils stands almost alone, as a former ANC leader in government, in this act of defiance.

Although we had a sense from, say, Winnie Madikizela-Mandela, an ANC MP, NEC member and former ANC Women's League (ANCWL) president, that she early on read between Zuma's jovial lines, she too has not come out stridently enough yet.

Back in 2010, she told The Sunday Independent newspaper that the ANC under Zuma was "not my ANC".

As the NEC meets this weekend in what might be its most important gathering since 2007, when the plot to unseat former president Thabo Mbeki was unfolding, we note that some members were not in Parliament on Thursday when Zuma answered questions.

Is that blind following, which so disturbed opposition parties and many South Africans, really, finally coming to an end?

Meanwhile the sheer embarrassment of what has become of the ANCWL and the ANC Youth League is only increasing.

Instead of being bold enough to stand with the people of this country against the erosion of our democracy, the ANCYL, in particular, has instead stood with the president.

Of course, that is not surprising, since its own leaders have shown no leadership at all.

And neither body is worthy of the tremendous achievements of its apartheid-era predecessors who may, today, barely recognise the party they believed would liberate South Africans from the chains of economic control.

One wonders, too, about the big party benefactors who stepped up to throw money at the ANC through the enthusiasm of its number one fund-raiser, Zuma, back in 2008.

These included IT billionaire Robert Gumede and businessmen Tokyo Sexwale - through his company Mvelaphanda Holdings - and Vivian Reddy.

It was also not unusual at that time to see, for example, Nafcoc, the Airports Company, the Industrial Development Corporation, the 2010 local organising committee, FirstRand, Telkom or the Black Management Forum stepping up to offer applause.

One report is recalled in which Gumede was said to have presented Zuma with a copy of Capitalist Nigger, the best-seller by Chika Onyeani, at a function in Sandton. That shouldn't matter, but somehow, it does.

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Zuma may, however, have shot himself in the foot in more ways than just the exercising of his loose morals in 2010. Ironically, it was upon his advice that the ANC finally decided to share its parliamentary speaking time with smaller parties. And although the DA, under Helen Zille, predictably warned against giving a voice to "one-man" outfits, the ruling party said it would ask Parliament's joint rules committee to discuss better sharing the time allocated. Perhaps without that, we would not have felt the kind of reverberations we are now seeing, at last, from the ANC itself.

Zuma's words at the Polokwane elective conference in 2007 reverberate now, too. He conjured up the ANC's legendary second National Consultative Conference in Kabwe, Zambia, held in June 1985, which relayed a message from Robben Island from Nelson Mandela in which he reminded them that "unity is the rock upon which the movement was founded".

It was at that juncture that cadres demanded the democratic accountability of the party's leadership.

In the same spirit, today's loyal members should be doing the same at the NEC meeting this weekend, looking to change the course of the country's future.

Zupta, after all, must fall.

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COMMISSION OF INQUIRY INTO STATE CAPTURE

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Express Main
Tax U-turn on the cards

MZILIKAZI WA AFRIKA, STEPHAN HOFSTATTER, PIET RAMPEDI and MALCOLM REES
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Report on rogue spy unit in SARS casts doubt on huge deals

SARS should conduct a forensic investigation into all the settlements concluded with taxpayers that had been under investigation since 2005

Tax U-turn on cards after probe into spy unit

TAX settlements worth billions of rands risk being reversed as an independent investigation into a rogue spy unit rocked the South African Revenue Service this week.

Billionaire businessman Dave King is the most prominent among high-profile South Africans who could be slapped with far higher tax bills if their deals with the taxman are reviewed.

The findings of the investigation, carried out by a panel headed by Johannesburg advocate Muzi Sikhakhane, largely confirm reports by the Sunday Times over the past few months — and vociferously denied by SARS at the time — that the rogue unit engaged in a wide array of illegal tactics.

It found "prima facie evidence" that SARS operated a covert unit that illegally spied on the taxpayers it was investigating, including some it had cut deals with.

The result is that all deals reached in the past 10 years could be up for review, with potentially damaging consequences for SARS, long regarded as one of the government's "cleanest" and most effective agencies.

Prominent figures let off the hook by SARS for a fraction of their tax bills include billionaire businessmen King and Christo Wiese as well as political firebrand Julius Malema.

Wiese, who allegedly owed SARS R2-billion, settled for an undisclosed sum last year. King owed SARS R2.7-billion and settled for R700-million last year.

"There appear to be serious concerns about whether settlements concluded with taxpayers who were the subject of investigation were validly and properly concluded," the panel said in a report seen by Sunday Times reporters.

"SARS should conduct a forensic investigation into all the settlements concluded with taxpayers that had been under investigation since 2005," says the report.

The Sikhakhane report — handed to SARS commissioner Tom Moyane on November 5 — also recommends that President Jacob Zuma appoint a **commission of inquiry** to get to the bottom of the rot at SARS, or that the inspector-general of intelligence investigate "the activities and functions of this unit".

"The establishment of the unit without having the requisite statutory authority was indeed unlawful," the report says.

This week the SARS scandal dominated headlines, with former acting commissioner Ivan Pillay winning an urgent court bid on Thursday to overturn his suspension.

The Sunday Times has established that Pillay, who appointed the panel, was handed a new suspension notice on Friday for his role in setting up the illegal unit. He has until January 12 to respond.

The panel interviewed more than 25 former and current SARS employees. Its 98-page report confirms key aspects of a Sunday Times investigation into the rogue unit. These include prima facie evidence that:

& x95;The unit "may have abused its power and resources by engaging in activities that reside in other agencies of government and which it had no lawful authority to perform";

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& x95;"Recruitment, funding and practices of the unit were in violation of SARS's own human resource policy"; and

& x95;The unit may have engaged in "rogue behaviour that had the potential to damage the reputation of SARS as an organ of the state".

"The existence of this unit had the real possibility of undermining the work of those agencies tasked with the investigation of organised crime and collection of intelligence," the report says.

The panel was initially tasked with investigating the conduct of top SARS investigator Johann van Loggerenberg after his former lover, Belinda Walter, lodged an official complaint that he had run a covert unit involved in the illegal interception of phone conversations and e-mails, and that he had unlawfully revealed taxpayer information to her.

The report said Van Loggerenberg was romantically involved with the Pretoria lawyer at a time when she chaired a tobacco industry association whose members "were the subject of pending investigations by SARS" in which he was directly involved.

Van Loggerenberg informed SARS of his relationship with Walter only four months after they started dating. The panel found their relationship constituted "a conflict in his role as an investigator" and criticised him for failing to report it timeously.

The panel was also critical of Van Loggerenberg for accepting donations for charitable causes, through his charity Wachizungu, from taxpayers who had "crossed swords" with SARS.

"It is inappropriate for a senior SARS official to be associated with a charity which is donated to, amongst others, by those he is responsible for investigating," the panel found.

Van Loggerenberg has since been suspended and faces possible dismissal.

The spy unit inside SARS underwent several name changes before it was known as the National Research Group. The report says it was established in 2007 by Pillay and later headed by Van Loggerenberg.

SARS initially wanted to create a special unit within the National Intelligence Agency dedicated to supplying the tax authority with intelligence to combat the illicit economy by infiltrating syndicates engaged in rhino horn, cigarette and drug smuggling. In February 2007, Pravin Gordhan, who was SARS commissioner at the time, obtained funding approval from the then finance minister, **Trevor Manuel**, for this unit to be housed in the NIA. Manuel approved a personnel budget of almost R50-million over three years.

"This is an activity for which SARS does not presently have the capability (including the legislative mandate to manage clandestine activity)," Pillay's memo to Manuel said.

The Sikhakhane report concludes that "even on SARS's own version, that unless [the] NIA co-operated, the establishment of such a unit would be an illegality".

Negotiations with the NIA "did not progress to a point where the plan became reality" — and SARS had already recruited members for its covert unit and started conducting intelligence work into organised crime, the report says.

It sketches a cloak-and-dagger atmosphere, with cells of operatives working in isolation to limit the risk of leaks, and members being given unorthodox orders they had to obey unquestioningly.

The unit "operated outside of the traditional SARS environment, printed fake SARS cards, bugged, traced vehicles, conducted surveillance ... and disguised themselves as drivers to certain political figures".

Unit members told investigators they had been involved in "what seemed like covert operations", including "electronic tracing of vehicles and surveillance of individuals".

Some members "had been asked by one of their handlers to pose as drivers to political figures like Mr Julius Malema and Mr **Fikile Mbalula**". They did not know how this was related to their tax functions but performed the tasks as they were told "never to ask questions".

The report says SARS executives tried to cover up the unit's continued existence_ until it was exposed by this newspaper.

The unit was disbanded in 2009, then secretly revived with a small, six-member team comprising mostly former spies and police officers under a new name, the High Risk Investigation Unit.

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"They remained in operation, unknown and unheard of, until they were exposed through the Sunday Times on 12 October 2014 following the romantic [falling out] between Mr Van Loggerenberg and Ms Walter," the report says.

Former unit members who went back to their normal day jobs at SARS "laboured under the impression that the [unit] had been totally disbanded. They only became aware through their colleagues who were still remaining that there had been a name change, but the unit continued to exist."

The panel describes what appeared to be an orchestrated cover-up.

"Even when the panel later confirmed [the unit's] existence through other sources, some of the relevant witnesses within SARS management presented what seemed like a rehearsed narrative whose object may have been [to] mislead the panel [and] present the existence of such unit in [a] positive and lawful light," the report says.

"This narrative ignored one simple legality imperative — that SARS cannot and should not engage in the intelligence or investigative functions which reside in other agencies of the state."

The panel was not able to prove that the rogue unit used telephone taps but says there is "sufficient evidence to justify a more extensive investigation into the question of the extent of [its] interception capacity".

SARS declined to comment on the Sikhakhane report as it "remains confidential", said spokesman Marika Muller.

Finance Minister Nhlanhla Nene issued a statement yesterday saying he had received the report and would announce steps he planned to take to deal with it by the end of January.

After initially providing the Sunday Times with a detailed response, Van Loggerenberg withdrew his comments yesterday "as instructed by my employer".

investigations@sundaytimes.co.za

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COMMISSION OF INQUIRY INTO STATE CAPTURE

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MANTASHE WARNS OF ANARCHY

421 words
14 September 2012
SAPA (South African Press Association)
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English
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by Devereaux Morkel

ANC secretary general Gwede Mantashe on Friday warned of anarchy if incitement to violence was tolerated.

"We cannot allow lawlessness to roll over the country and think it should be rewarded and therefore begin a norm in society," he told reporters in Pretoria.

"Our appeal we are making to the state -- people must exercise their rights but violence should not be an option when exercising those rights."

Mantashe was briefing reporters at the St George's hotel, in Pretoria, before the start of the African National Congress' national executive committee meeting.

Mantashe said the NEC would focus on a number of issues including the situation at platinum mines.

"We are paying attention to the Marikana situation and its ramifications," he said.

"We are not trying to cover what would be covered by the **Commission of Inquiry**. We are looking into the political economy of the development and the long-term impacts on society in general."

Mantashe added that it was not the business of the NEC to deal with incitement but that of the state.

Incitement is a criminal offence and it is written as such in the Constitution, he added.

"Tolerance to incitement and agitation is something that can lead to anarchy," he said.

"Once anarchy rules society, that society degenerates, and that society collapses in the long run."

Mantashe said the NEC would also discuss issues around the centenary celebrations of the ANC.

He said the meeting would discuss whether the celebrations helped society understand the history of the ANC, and the party itself.

"We are looking into the preparations for the national conference in December," he added.

Mantashe said there would be at least two special NEC meetings in the run-up to the Mangaung elective conference, to ensure a "smooth national conference".

President Jacob Zuma, National Assembly Speaker Max Sisulu, ministers **Trevor Manuel**, Lindiwe Sisulu, **Fikile Mbalula**, Susan Shabango, Jeff Radebe, Nathi Mthethwa and Naledi Pandor were among those seen entering St George's hotel.

At the head of the table were Zuma, Mantashe, deputy president Kgalema Motlanthe, ANC treasurer general Mathews Phosa and deputy secretary general Thandi Modise.

Before the session started, Zuma was seen walking through stalls selling ANC merchandise set up at the hotel.

Talking on his cellphone, the president kept looking at a black ANC shirt, while security stood nearby.

ANC Youth League deputy president Ronald Lamola was seen arriving alone.

The NEC meeting is expected to run until September 16.

Sapa

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SUNDAYTRIBUNE

LOR
Has his bubble burst?

norman.sheppard
440 words
6 November 2011
Sunday Tribune
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E1
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English
© 2011 Independent Newspapers (Pty) Ltd

HAS Sport and Recreation Minister **Fikile Mbalula**'s bubble finally burst? I'm speaking here purely from a political perspective, of course, and any unfair or mischievous inference or insinuation drawn from the question is entirely unintended and coincidental.

I have a sneaky admiration for the man. Yes, he does have his faults, tending to shoot from the hip and displaying great flair for the bombastic. But I suppose it comes with the teritory - his upbringing as an ANC Youth League leader.

Remember when he toured the University of KwaZulu-Natal in 2007 and couldn't resist comparing the campus to a little Bombay because of the large number of brownees present? Or when he wrote to former finance minister **Trevor Manuel** calling him an "attention-seeking drama queen"?

What about the day he accused Unisa rector Barney Pityana of making a clown of himself with his confusion and comical postulation.

Despite all these indiscretions, he has made waves in the political arena in recent months. Just look at what he has been doing to clean up sport. When cricket administrators were dishing out bonuses without proper governance, he stepped in and called for an urgent **commission of inquiry** into the questionable disbursements.

When our national soccer officials forgot the rules of the game and Bafana Bafana were dumped unceremoniously from the African Cup of Nations, Mbalula took the issue by the scruff of its neck and promised heads would roll.

But just as he was seemingly heading for the big time, including a possible stint as national secretary of the ANC, a moment of unbridled passion landed him in the middle of an unsavoury and much-publicised sex scandal.

He apparently admitted the brief affair to a newspaper but vehemently denied not using a condom. In fact, he said, the condom had burst in a moment of passion, but he was surprised the woman was now claiming to be pregnant - something that remains unproven.

On his side is Indian psychiatrist and psychotherapist Dr Deepak Raheja, who says it would be unfair to judge a person's character based on a moment of weakness since that could have come from a chemical overplay or sudden clouding of the mind due to extreme emotions.

Either way, I don't see Mbalula losing his cabinet position even if he is the father. As I see it, all President Jacob Zuma needs to consider is a minor adjustment to his title.

He could become our new Minister of Sport and Procreation. You can't keep a good man down.

Write to: dennis.pather@telkomsa.net

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He apparently admitted the brief affair to a newspaper but vehemently denied not using a condom. In fact, he said, the condom had burst in a moment of passion, but he was surprised the woman was now claiming to be pregnant - something that remains unproven.

On his side is Indian psychiatrist and psychotherapist Dr Deepak Raheja, who says it would be unfair to judge a person's character based on a moment of weakness since that could have come from a chemical overplay or sudden clouding of the mind due to extreme emotions.

Either way, I don't see Mbalula losing his cabinet position even if he is the father. As I see it, all President Jacob Zuma needs to consider is a minor adjustment to his title.

He could become our new Minister of Sport and Procreation. You can't keep a good man down.

Write to: dennis.pather@telkomsa.net

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QUOTES OF THE WEEK

702 words
3 November 2011
SAPA (South African Press Association)
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A selection of quotes of southern African interest. This feature moves every Thursday.

"I hope my involvement in this march will make it possible for me to get a house. We are not supporting Malema here, we are taking part in a march to bring changes in our country." -- Thandi Maseko, 50, from Thembelihle, south of Johannesburg, who took part in the ANC Youth League's "economic freedom" march.

"The march will bear absolutely no positive outcomes, except blisters and heat stroke for the participants." -- The IFP-aligned SA Democratic Students' Movement.

"[E]vidently the greatest and longest mass action for economic freedom, not only in the history of South Africa, but the entire history of the African continent and the world." -- ANCYL spokesman Floyd Shivambu.

"Malema made a mistake by getting on the truck, because a person should lead by setting an example and now many people are going to criticise him." -- An upset "economic freedom" marcher, quoted in Beeld newspaper,on ANCYL leader Julius Malema's not walking the full length of the trek.

"I am not Gaddafi. And I hope I don't end up like him." -- Kaizer Chiefs coach Vladimir Vermezovic responding to criticism of his "direct and brutal" management of the team, quoted in The Times.

"No, I am not dropping the court case. I'm not happy with the terms of reference." -- Arms deal activist Terry Crawford-Browne annoucing he will pursue his Constitutional Court case against President Jacob Zuma over the arms deal, despite a **commission of inquiry** being appointed to probe the matter.

"We will meet fire with fire. If that is not clear to anyone, I challenge you to commit crime." -- Newly-appointed acting national police chief Lt-Gen Nhlanhla Mkhwanazi.

"A tender could be taken away tomorrow, but education and skills can never be taken away from you. Let's make education fashionable." --Higher Education Minister Blade Nzimande, speaking at a Youth for Jobs summit, on chasing tenders to get rich.

"Comrade Mbalula is undoubtedly one of the best leaders of the ANC, a great mobiliser and organiser for progressive change. [He] gives energy and oomph to every responsibility assigned to him." -- ANCYL spokesman Floyd Shivambu, accepting Sports Minister **Fikile Mbalula**'s apology in the aftermath of weekend reports detailing his sex life.

"We've spent money we haven't earned yet and we've spent it on goods that we don't need. We're trying to keep up with the Kunenes." -- Minister in the Presidency **Trevor Manuel** on why South Africa found itself in a debt trap.

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"He groomed us...we were like robots, zombies." -- Hardus Lotter on his co-accused Mathew Naidoo who, Lotter claimed in court, told him and his sister Nicolette to kill their parents in 2008.

"My parents are two pathetic jokes. I have lost all respect for them. They belittled the authority of God, the bastards will pay as well as anybody else who stands in my way." -- A letter presented in the Lotters' murder trial, written by Hardus Lotter months before his parent's murder.

"She indicated that her husband was a sex addict. I asked how she had got this information, but she would not disclose it to me, and I noted that she was getting very angry." -- Justice Minister Jeff Radebe on murder-accused Thandi Maqubela, widow of slain acting judge Patrick Maqubela.

"At one of the houses, we realised that one of the suspects could not have got past without being seen... police searched and found him hiding in the ceiling," -- Lt-Col Tshisikhawe Ndou on the arrest of a man accused on hijacking.

"The Hawks themselves have to be concerned why such an individual behaves that way. They must investigate themselves because that individual undermines investigations and the integrity of the institution itself." -- ANCYL President Julius Malema on information leaked to the media on a Hawks investigation into his financial affairs.

"It is blood money, often gotten corruptly. They go around buying delegates... we have to kill that phenomenon." -- SA Communist Party general secretary Blade Nzimande, claiming the ruling tripartite alliance were using money to sway votes in its leadership elections.

Sapa

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Search Summary

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MEDIA REPORTS

Times Live dated

28 February 2019

COMMISSION OF INQUIRY INTO STATE CAPTURE

Politics

Fikile Mbalula: 'The truth (about my promotion) shall set us free'

28 February 2019 - 16:33 By ZINGISA MVUMVU

ANC head of elections Fikile Mbalula has corroborated Trevor Manuel's testimony about his Gupta meeting at the state capture commission.
Image: SYDNEY SESHIBEDI

ANC head of elections Fikile Mbalula has lauded the testimony given by former finance minister Trevor Manuel before the Zondo commission of inquiry.

This comes after Manuel told the commission that an emotional Mbalula had told an ANC meeting how he took exception to being told by a Gupta brother that he would be minister of sport and recreation.

Mbalula said there was no lie in Manuel's testimony, adding that he would in fact go to the commission to corroborate it.

Said Mbalula: "An impression must never be created that I am dicey. I think Trevor Manuel today set the tone about the events that unfolded in that meeting. I salute him.

"Me, I will go to the commission and give my statement and as we speak I have written to the judge to say what I will need from Trevor.

"The truth shall set us free. I have got no fear because this commission is very important," said Mbalula.

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COMMISSION OF INQUIRY INTO STATE CAPTURE

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MEDIA REPORTS

Daily Mercury dated

01 March 2019

COMMISSION OF INQUIRY INTO STATE CAPTURE

Search Results

I'll testify, the truth will set us free, says Mbalula

Former sports minister cried when he revealed how Guptas told him about promotion

The Mercury | 1 Mar 2019 | +11 more | SIVIWE FEKETHA and AFRICAN NEWS AGENCY(ANA)

ANC head of elections Fikile Mbalula has confirmed former minister Trevor Manuel's testimony before the Zondo State Capture Commission of Inquiry that he first heard of his appointment as sports minister from the Gupta family before a cabinet reshuffle more than 10 years ago.

Mbalula was responding to testimony from Manuel and former minister Siphiwe Nyanda before the Zondo commission on allegations that the Guptas had prior knowledge of cabinet changes.

Manuel was the minister responsible for the Presidency, while Nyanda headed the communications department.

Mbalula said that what came out of the Zondo-led commission yesterday was the truth and that he would soon appear to testify.

"That commission is important in unravelling the state capture allegations. Manuel should be saluted for telling the truth about the events that unfolded in that (ANC national executive committee) meeting," Mbalula told reporters at a briefing at Luthuli House.

FORMER minister in the presidency Trevor Manuel leaves the Zondo Commission. His testimony was confirmed by Fikile Mbalula.

"I will go to the commission and present my statement. Our lawyers had written to the judge on what they needed from Manuel. Now that things have been raised (at the commission), I will appear. The truth will set us free."

He said he would "amplify the truth", explaining why he had raised concerns in a 2011 ANC NEC meeting.

Manuel detailed how Mbalula had cried during an ANC NEC meeting in 2011, complaining that the Guptas had in 2010 summoned him to the family's Saxonwold compound and congratulated him for being promoted from deputy police minister to sports minister by then-president Jacob Zuma.

This was before Zuma had made his October 2010 cabinet reshuffle or told Mbalula about his intention to appoint him to his cabinet.

"When it came to the opportunity for Mbalula in that meeting, he became very emotional.

"He said he was at first very excited about making it into the cabinet, but in retrospect it should never have been the Guptas or anybody else who told him that," Manuel said.

He said that despite the explosive allegation by Mbalula, Zuma had avoided the topic during the meeting.

"At that time it seemed there was a climate where certain individuals were invited to Saxonwold, not only Mbalula, but he was the first to make that declaration.

"This was the first confirmation which was in the form of an emotional statement about how he had been appointed," Manuel said.

The former finance minister wrote an open letter in 2017 in which he detailed Mbalula's statement at the NEC meeting.

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TRANSCRIPTS

Public Protector's interview with Fikile Mbalula on 12 October 2016

COMMISSION OF INQUIRY INTO STATE CAPTURE

INVESTIGATION INTERVIEW

DATE: 12 October 2016
CASE NO: N/A
VENUE: [Not on record]

Interview between Office of the Public Protector and Fikile Mbalula

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Present: Advocate Thuli Madonsela, Public Protector.
Nkebe Kanyane. acting executive manager, Good Governance and Integrity
Simon Delaney
Frans Lekubo, investigator
Attorney Ntsoane

Interviewee: The Honourable Fikile Mbalula

COMMISSION OF INQUIRY INTO STATE CAPTURE

CERTIFICATE OF VERACITY

I, the undersigned, hereby certify that in as far as it is audible the aforegoing is a true and correct transcript of the recording provided by you in the matter:

Interview between Office of the Public Protector and Fikile Mbalula

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TRANSCRIBER	:	K WAINWRIGHT
DATE HELD	:	12 October 2016
DATE COMPLETED	:	13 October 2016
NUMBER OF PAGES	:	46
SIGNATURE	:	

Notes:

1. At times poor recording with soft sound and lots of background noise, air conditioning, coughing, rustling of papers.
2. No stenographer notes were supplied, hampering accurate identification of parties.

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PROCEEDINGS ON 12 OCTOBER 2016

MS MADONSELA: Good morning again Minister Mbalula. Would you representative, Mr ...

MS KANYANE: [indistinct]

MS MADONSELA: And good morning to members of the Public Protector Investigation Team. Minister, we are here on the basis of a subpoena. But before we go into the reason we are here, I am going to ask the rest of the team except the minister, to, that we should indicate our names.

MS KANYANE: Okay.

MS MADONSELA: Let's start the date.

MS KANYANE: Okay, thank you ma'am. Today is the 12th of October 2016. My name is Nkebe Kanyane. I am the Acting Executive Manager in the Good Governance and Integrity Branch in the office.

MR LEKUBO: Frans Lekubo. I'm an investigator.

MR DELANEY: Simon Delaney. I'm an attorney and an investigator.

ADV MADONSELA: Thuli Madonsela. The Public Protector.

MR NTSOANE: I'm Mbeki Ntsoane. The advisor to the Minister.

ADV MADONSELA: Thank you. Minister Mbalula, you are here on the basis of the subpoena that was issued in terms of Section 74, subsection 5 of the Public Protector act. And then the

subpoena was served on you, was duly served on you. We are here to solicit evidence in support of allegations of improper conduct of the President of the Republic of South Africa, and various state officials, in the appointment of cabinet members and awarding of contracts by state owned enterprises.

The investigation follows a receipt of three complaints in this case. Two from members of the public, one from a political party representative of the public.

The first complaint was received from the Dominican in order of the Catholic Group. The second complainant is the leader of the DA in opposition in parliament, Mr Musi Maimane. The last complainant, we haven't got put his name here, but it is a member of the public.

The complaints, just in principal, are about the president, or rather, the complaint – the first complaint is that Mr Jonas was offered, was corruptly offered a position of a minister in that he was offered a position of Minister of Finance on the understanding that he would make decisions that are favourable and beneficial to the business interests of the Gupta family.

This offer allegedly took place on the 23rd of October 2015 at a meeting arrange by Mr Duduzane Zuma and the offer was allegedly made by one of the Gupta brothers, which Mr Jonas believes based on what he saw in the media after the meeting, was A J Gupta. That is the essence of the first complaint. Linked to that complaint is that the Gupta family must have had some influence in

the subsequent appointment of Mr van Rooyen who came to treasury on the 11th of December 2015 with two Gupta linked advisors. Allegedly Gupta advisors.

The second complaint with having combined them, the second complaint raises the appointment of the minister – the dismissal of the Minister of Finance. The appointment of the Minister of Finance and the appointment of the two advisors, but he also raises the influence of the Gupta in the award of tenders to their companies and payment of moneys to those companies and award of [indistinct] to those same companies. Attributing that influence to the improper involvement in the selection and appointment of ministers and members of the [indistinct].

The third complainant also wanted us to investigate if it is true that – no the second complainant also wanted us to investigate if it is true that Miss Vytjie Mentor who at the time was chairperson of the Procurement Committee of Public Enterprises, was offered to the position of Minister for Public Enterprises on the condition that he – on the position that she causes the SAA to discontinue a route to India. The third complainant did not deal with these two complaints.

The ones that are linking to the appointment of Mr Jonas. The removal of Mr Nene and appointment of Mr van Rooyen. He also didn't deal with the alleged offer to Miss Mentor or the allegation that the Gupta family has an undue influence in the selection and appointment of board members or it so is, and

leverages that relationship to get tenders and to get payments and licences.

He asked us. He didn't allege anything. He asked us to investigate why cabinet got involved in the private dispute between the banks and the Gupta family. And asked us to concede if it is normal that cabinet gets involved in private disputes and asked if there may have been corruption and ended us – ended with a comment that, shouldn't this matter have been dealt with by the National Consumer Commission with the Banking Ambit.

A lot of those complaints have nothing to do with you Minister, however, if you have information on any of these three, you can assist us. The only reason you are here Minister, is in relation to the allegation regarding the involvement of the Gupta family in the selection and appointment of ministers as well as the dismissal of ministers.

And specifically, it has been alleged Minister, that you stated that the first time you got to know that you were going to be the Minister of Sport, you were advised by the Gupta, or a member of the Gupta family about it and that you conveyed this message to a meeting of the ANC MEC, and said that you were concerned that this happened. We will go into it.

But that's basically all that we record here Minister, and I don't think that it will take longer than 30 minutes. Having said so, I am going to go to the Oath. Do you have any objection? No, firstly Minister, can you state your full names for the record?

MR MBALULA: Fikile April Mbalula.

ADV MADONSELA: Thank you. Do you have any objection to taking the prescribed Oath?

MR MBALULA: No I don't.

5 ADV MADONSELA: Do you consider it binding on your conscience?

MR MBALULA: Yes.

ADV MADONSELA: Do you swear that the evidence that you're going to give is the truth, the whole truth and nothing but the 10 truth, and if so, please raise your right hand and say, so help me God.

MR MBALULA: So help me God.

ADV MADONSELA: Can I explain then the role of the legal advisor here, Mr Ntsoane. It is a process where the minister or any 15 person that we are interviewing is provided with legal assistance, and we distinguish between legal assistance and legal representation, because if it is legal representation, it would mean that you speak and he tells you what to say.

In our case, he speaks, you advise him what to say if you 20 think that something that he says may be misunderstood, or if you think that there's a legal technicality that we need to be aware of, you can request to stop the proceedings and then in turn, if you want to caucus with the minister about anything that you want to advise him on, you can also request that.

25 My only request is that we don't overlay each other when we

speak. When I'm saying something, you just indicate on me that you would like to interrupt and then I will stop and then give you an opportunity to do so. But, that is all. Minister, maybe at this stage you can ask if Mr Ntsoane has anything that he would like to say.

5 MR NTSOANE: No, that is my understanding completely thank you.

ADV MADONSELA: Thank you. Thank you. Minister, I am going to proceed then. We have prepared a sheet of persons but because these are integral to the proceedings, and within terms of 10 Section 6 and Section 7 of the Public Protector Act, we want to firstly give people an opportunity to speak in their own flow, and then you can ask specific questions. Perhaps, if you are happy you can let us know if you have heard of these allegations and what you know of them.

15 MR MBALULA: Yes.

ADV MADONSELA: You can answer.

MR MBALULA: Thank you very much to the Public Protector. The first point I would like to establish, just in the order. As you will have stated, there are people who have laid complaints 20 in relation to a whole lot of issues with regard to the Gupta family, and all of that influence and so on. And as to whether those people, they are basing what they are saying on whatever evidence that they've got.

But, with regard to me, it is not clear, I mean, who is the 25 complainant? And on which basis of cause, I mean there is a hear-

say or whatever that has been said in the public domain. Are we basing that question on that allegation made in the public domain or there is a specific question or complaint raised about this thing.

Either from the Gupta family or from the individual who have made such a representations so to say, here in the public domain.

ADV MADONSELA: Thank you Minister, and I like your questioning because, we've had instances where people have presumed that the evidence against them and presumed that it is from specific witnesses, and then saying they are not going to answer until they can interview those witnesses.

In terms of both the Constitution, Section 182 and the Public Protector Act Section 6. The Public Protector can investigate under two circumstances. An allegation made by way of a complaint of somebody alleging you did that or a suspicion. A suspicion means I can just read it in the newspapers.

It means I can hear somebody in the public saying this, or I can see something. It's a suspicion, it is then an opportunity for you to clear that suspicion. On your particular issue, when they submitted their – those medias stated here, the complainants are not eyewitnesses. None of the four – of the three complainants are eyewitnesses directly affected by this.

They are people who read the media story that broke out regarding Deputy Minister Jonas [indistinct]. And Deputy Minister Jonas when then Minister Mentor followed and Mr Maseko followed. About that. And in that newspapers, your name was mentioned as

somebody who also said that. Who allegedly, not who said, who allegedly said. And it is on that basis that we would like to know from you under oath, what really took place.

MR MBALULA: No it's fine. First and foremost I would like to clarify the fact that I was not appointed nor contacted by the Guptas about my appointment as a minister. I was told by President Jacob Zuma that I'm going to be minister, and we had a conversation prior to that with regard to the altercation we had in the Ministry of Police and then he said to me that I'm going to be moved.

And then that's when I knew and then I was called by Lakela Kahuna to the presidential house, and I found the president and [indistinct] there, and they informed me that I'm Minister of Sports and Recreation as per our earlier discussions, so, none of the people that you have talked about ever informed be about the position of Minister of Sports and Recreation.

ADV MADONSELA: Right. Thank you Minister. When did you become Minister of Sport?

MR MBALULA: Well, it is seven years now. I think.

ADV MADONSELA: Yes.

MR MBALULA: Yes. I can't recall it exactly when. It is in the middle of the term. That can always be traceable.

ADV MADONSELA: Yes. And you said you have had a prior discussion Minister with the president. Did that discussion happen when you were still Minister of [indistinct]?

MR MBALULA: No.

ADV MADONSELA: [indistinct]

MR MBALULA: Deputy Minister of Police.

ADV MADONSELA: Alright.

MR MBALULA: I went to him to complain about the fact that me and the minister were not seeing eye to eye. And we were not in good terms and I was not in a working position, so I requested from him permission to redeploy me.

ADV MADONSELA: Yes.

MR MBALULA: So he said well okay, don't move. He basically didn't tell me the position but he basically told me that he will deal with it and then I'll be moved.

ADV MADONSELA: Okay. Thank you sir. Do you have a relationship with any member of the Gupta family?

MR MBALULA: I don't have any relationship with any of them. It depend with what you mean by relationship.

ADV MADONSELA: A relationship such as, do you occasionally call each other? Do you visit each other's house?

MR MBALULA: We don't, except if there is an issue that needs to be addressed .

ADV MADONSELA: Okay. Have you visited the Gupta ... [intervenes]

MR NTSOANE : Excuse me, can I come in here?

MR MBALULA: Yes.

MR NTSOANE : Can I ...

ADV MADONSELA: Yes, yes, go ahead.

MR NTSOANE: Can I just ask for five minutes with the gentleman?

ADV MADONSELA: Thank you. Okay. Please can you [indistinct].

5 **PROCEEDINGS ADJOURN**

PROCEEDINGS RESUME

ADV MADONSELA: I am asking about the relationship and wanting - and then Minister you asked what do you mean by relationship? And I asked if you do visit each other or if you have
10 visited each other or phoned each other.

MR MBALULA: Okay. Yes, I said it depends on the issue. The specific that – yes.

ADV MADONSELA: Is the answer yes, you've called each other occasionally and visit each other occasionally?

15 MR MBALULA: No, we don't.

ADV MADONSELA: You don't? Okay. So what do you – explain, what is I then Minister, what do you mean by the issues that it depends on the issues?

MR MBALULA: I've had an issue with the Guptas about
20 Julius Malema.

ADV MADONSELA: Yes?

MR MBALULA: Not Guptas. The New Age in particular when I was in London, I was accused, which I took the matter to the Ombudsman and I won. I was accused to have paid for Julius
25 Malema to London Olympics. The matter which never happened. It

was untrue. It was ... [intervenes]

ADV MADONSELA: Now when did that happen?

MR MBALULA: London Olympics, I think it's four years, five years ago.

5 ADV MADONSELA: 2012?

MR MBALULA: Yes, 2012.

ADV MADONSELA: Yes?

MR MBALULA: Yes. And then the matter then happen to be in front of – I took the matter up with the Press Ombudsman to

10 clear my name which, at the end of the day, it was found that there is no basis for them and an apology was made by the New Age. The front page I think. Apologised that they falsified the facts about me having paid for Julius Malema to go to London during the time of the Olympics.

15 ADV MADONSELA: Thank you. Have you ever visited the Gupta family at their Saxon Wold residence or any other residence?

MR MBALULA: I have been to the Gupta's residence in Saxon. I've been to their offices in Midrand. Yes.

ADV MADONSELA: [indistinct]?

20 MR MBALULA: Yes, their offices. Where they are broadcasting from.

ADV MADONSELA: How often has that been or how many times?

MR MBALULA: I think once. Once in a while, because

25 it's not regular.

ADV MADONSELA: Which one is once in a while? Is it the offices or the house?

MR MBALULA: The offices I've been for interviews.

ADV MADONSELA: Yes.

5 MR MBALULA: Not even the offices, I've been to these, where the New Age is based.

ADV MADONSELA: The ANN7.

MR MBALULA: The ANN7, I've been there. And the house, I think once or twice.

10 ADV MADONSELA: Thank you sir. Were you accompanied by anyone when you visited there?

MR MBALULA: [indistinct]. Nobody else.

ADV MADONSELA: Okay, and what was the purpose of the visit?

15 MR MBALULA: Well the purpose of the visit was, among others, to discuss the issue of Julius Malema in terms of the complaint that I've made to the Press Ombudsman.

ADV MADONSELA: Okay? Was it after the Ombudsman has made a ruling in your favour or was it before?

20 MR MBALULA: It was after because we were normalising the question or relations because the relationship between ourselves and the New Age was not basically normal. It was hostile.

ADV MADONSELA: Right. Sahara Computers at one stage, were sponsors of a cricket venue in Durban. It was named Sahara

25 Park. Do you know how this came about? And were you involved in

the process?

MR MBALULA: No I was not.

ADV MADONSELA: Contracts. Has your department given any contracts to the Gupta Companies, if so, which ones?

5 MR MBALULA: The Department of Sports has not given, to my knowledge, any contracts to the Guptas except that for the New Age print [indistinct]. The SABC.

ADV MADONSELA: Okay. How did that come about sir?

MR MBALULA: The SABC has got a platform where in

10 which if you want to engage with a large populace of people in sports, where we are, they've got this partnership with New Age [indistinct] that they have a partnership. That used to happen sometimes with us but over time SABC entered into a contract with New Age.

15 ADV MADONSELA: Yes.

MR MBALULA: So, for us to access that platform of the SABC, we've had to – I mean the SABC, we've had to work with New Age. That's how we came across with a partner. The engagement was with the SABC.

20 ADV MADONSELA: Okay. Would SABC have said it's impossible for to have a morning – a breakfast show without going through the ... [intervenes]

MR MBALULA: Yes. Yes.

ADV MADONSELA: The New Age platform?

25 MR MBALULA: Yes, they said they've got [indistinct] with

them at that time, and then they said no, they've got – what is this, media contract with New Age. So as to what they have done, that platform, we must – SABC will work with their partners and their partners being New Age.

ADV MADONSELA: Have you considered or asked SABC why if you could do this directly with SABC previously, why you have to do it with New Age now?

MR MBALULA: No. We didn't ask because it's really their prerogative.

ADV MADONSELA: Who do you pay then?

MR MBALULA: The department I think pay the SABC and the New Age.

ADV MADONSELA: So you pay both of them?

MR MBALULA: No, the SABC I suppose. Subject to correction.

ADV MADONSELA: Okay, maybe you can ask very specifically from your office to find out how the procurement side works here.

MR MBALULA. Okay.

ADV MADONSELA: Regarding was the service procured from the SABC or was the service procured from New Age? And what was the basis of that?

MR MBALULA: Okay.

ADV MADONSELA: And ... [intervenes]

MR NTSOANE : Thank you PP .

ADV MADONSELA: And how much money was involved.

MR NTSOANE: Thank you PP. Obviously, the fact that I wanted just to request for another adjournment but now that you've actually given me that opportunity, I think it becomes much easier for me to assist the process there. The minister might not be able to know. Plus the minister is not actually dealing with the procurement issues.

ADV MADONSELA: Okay.

MR NTSOANE: The procurement issues are only dealt with by the administration. So, as for the finer details on how the services are being procured, that will only be handled by the administration. The minister might just be related to say that we have a contract with SABC. As for the finer details, he might not be able to know.

ADV MADONSELA: Okay.

MR NTSOANE: Maybe it might be, in my own view, I think it might be unfair for the minister for to really understand how the procurement system internally works because I think it's more administrative. Maybe the administration would be better positioned to assist in terms of how they procured the services for the New Age or for SABC and any other service provider.

ADV MADONSELA: Oh, that's understood. As is, I do have a small question Mr Ntsoane, to [indistinct] we approach them, with the [indistinct]. Who is we when they informed the minister? When you first were informed in the discussions with the .. .[intervenes]

MR MBALULA: No, I was not.

ADV MADONSELA: You were not informed?

MR MBALULA: Yes. I know that my team, who was involved because they informed me about it.

5 ADV MADONSELA: [indistinct] Right, in the media reports that we read Minister, Mr Julius Malema, leader of the Economic Freedom Party ... [intervenes]

MR MBALULA: Fighters.

ADV MADONSELA: Yes, fighters. Yes.

10 [Indistinct – speaking simultaneously].

ADV MADONSELA: I am just reading blindly what [indistinct]. Thank you Minister.

MR NTSOANE: Maybe if we return. PP, sorry for interjecting. Just to get back to the last question of procurement.

15 Does it mean that the issue in which it relates to the procurement of how services are procured from the department. That person is it, does it mean that now – is now going to be removed from the list of persons which the Minister was generally inclined to respond to, because, as I was saying, that it might be unfair for him to have to

20 know the precise knowledge of what actually takes place.

ADV MADONSELA: It will remain on this writ, however we will want an answer that comes from the department, in writing, and obviously, in the report it will say, the department or the DG or whoever – a short narrative, not a long story, a short narrative which

25 is given in attachment indicating that this is how services are

obtained from the SABC. This is what the SABC said. And this is how it ended up with a New Age partnership.

MR NTSOANE: Okay, I would really appreciate that.

ADV MADONSELA: And it will reflect that it came from the [indistinct]. Is that okay sir?

MR NTSOANE: It's okay PP. Only if we agree that we are actually removing that person from his list of person's to respond to. That the administration will be able to deal with that.

ADV MADONSELA: That's fine.

MR NTSOANE: Okay. Thanks PP.

ADV MADONSELA: You might however refer to your counterpart. Okay. [indistinct - laughter] But back to you then Minister, the leader, and thank you for the correction. The leader of the Economic Freedom Fighters, Mr Julius Malema, has called on you in the media to admit that you were offered a government position by members of the Gupta family.

You earlier on said you've never been offered any position and that the president spoke to you long before and he then indicated that you would – what's your comment and in response to the allegations that had been repeatedly made in the media by Mr Julius Malema?

MR MBALULA: I was never offered the position by the Gupta family. I was offered by the president and I don't know why Julius Malema is making those allegations.

ADV MADONSELA: Minister Mbalula, have you ever

discussed the fact that you were going to become the Minister of Sports and Recreation with Mr A J Gupta before this position was given to you?

MR MBALULA: No.

5 ADV MADONSELA: He says you did. In his affidavit he said you had a discussion but he was relaying to you what he knew then, he was not offering the post to you.

MR MBALULA: Gupta says that?

ADV MADONSELA: Mr A J Gupta, his affidavit. When we

10 interviewed him here. He said he had a discussion with you about this post, but he denies that it was him who was offering it to you.

MR MBALULA: No he did not.

ADV MADONSELA: You have heard ... [intervenes]

MR MBALULA: I met Mr Gupta, I met Mr Gupta post

15 facto in terms of the issue in the media and then he explained himself to me. And then I said okay, that is fine and we me met at the Wanderers Cricket Grounds. In the cricket match.

I don't remember what was played, but it was post facto where which he was basically saying that, how can you basically say this

20 and all of that and so on. I said, but you were not part of the ANC meeting. Because it was reported during the meeting of the ANC, I mean, it was leaked in the media arising of the meeting of the ANC which took place, and he was basically busy lamenting that.

ADV MADONSELA: Alright, he was confirming about what

25 you allegedly said in the ANC meeting?

MR MBALULA: He was lamenting. He was lamenting what was reported to have been said in the ANC meeting by me.

ADV MADONSELA: Yes?

MR MBALULA: Yes.

5 ADV MADONSELA: Which takes me to that that. So your answer, your evidence is, before you were appointed Minister of Sport, you never ever had a conversation with Mr Gupta about this post?

MR MBALULA: I never had a conversation with Mr A J

10 Gupta about the post of Minister of Sports and Recreation.

ADV MADONSELA: Yes, did you have a conversation with any of the other Gupta family members? Before you were ... [intervenes]

MR MBALULA: The only person I've met in the Gupta

15 family, is Mr A J Gupta. And there were chief among the things that he lamented was the fact of the – that it was reported in the media that they had anything to do with my appointment as the Minister of Sport.

ADV MADONSELA: Thank you. It was alleged that you took

20 exception to being offered a cabinet post by members of the Gupta family. And subsequently raised the same while in the ANC meeting – MEC meeting. Apparently Minister Marco Ramatlhlodi sought to downplay the issue during the said meeting. Can you confirm that? You did lament, if I may use the word there, that you got to know

25 about the fact that you were going to become the Minister of Sport

from a member of the Gupta family, but Minister Marco Ramatlhlodi took exception to you bringing that matter to the ANC MEC.

MR MBALULA: I can't speak for Marco Ramatlhlodi, what I can say is that in the meeting of the ANC, I raised the issue about the perceptions of the Guptas on us as a movement and the fact of the matter is that we needed to deal with that particular issue as an organisation.

ADV MADONSELA: Didn't the media say, specifically said that you lamented the fact that the first time you heard that you're going to be Minister of Sport, you heard it from the Gupta family instead of hearing it from the president?

MR MBALULA: I've heard that too.

ADV MADONSELA: Yes?

MR MBALULA: Yes. In the media, but the first time I knew that I was going to be Minister of Sport, I heard it from the president.

ADV MADONSELA: That was what you said in your evidence. What I'm interested in now is, do you deny that? At the ANC MEC you complained about being approached by the .. [intervenes]

MR MBALULA: I raised the issue of the Guptas. I complained about the Guptas and the fact that there is a perception that they appoint ministers. At no stage in that particular meeting did I ever refer to the fact that I was appointed by the Guptas.

ADV MADONSELA: So you deny that? You were unhappy that you got to hear it from them before the president approached

you? Is that a firm denial sir?

MR MBALULA: I am saying Public Protector that I deny the fact that in the meeting of the ANC, I actually said that I was appointed by the Guptas.

5 ADV MADONSELA: It's not appointment sir, but that you heard from them that you are going to be Minister of Sport before you heard from the person who has appointed you.

MR MBALULA: I raised the issue of perceptions.

ADV MADONSELA: Okay sir. I want to get you to that

10 perceptions because that is an interesting thought that we would like to follow through. Let us attempt to tie this, just for our record, I just want on this one issue that, do you deny that you complained that you were informed that the president was going to appoint you as the Minister of Sport?

15 MR MBALULA: I deny that vehemently.

ADV MADONSELA: So you deny that?

MR MBALULA: Emphatically.

ADV MADONSELA: Then – we then get to the part where, that you are raising that you raised, the issue you raised was about

20 the perception about Guptas being involved in the appointment of ministers. What was the basis of your ... [intervenes]

MR MBALULA: In the ANC meetings, there is a political discussion.

ADV MADONSELA. Yes?

25 MR MBALULA: And in every political discussion, there is

a context. And they were dealing – I was dealing specifically with the question of the ideological and political environment that we find ourselves in against our movement. And I said, one of the contemporary issue that we needed to deal with, was the perception
5 that we are deep in the pocket of the Guptas through the president. And that the ANC needed to deal with that issue and that perception.

ADV MADONSELA: What was ... [intervenes]

MR MBALULA: Because a perception can become a reality if it is not dealt with in whatever way that it is said or
10 sustained.

ADV MADONSELA: Okay. What was the basis of your believing of that perception?

MR MBALULA: Because in the contemporary political conjuncture, it is a – the question of the Guptas is the password.

15 ADV MADONSELA: Right, but this meeting, when did this meeting take place? This MEC meeting.

MR MBALULA: I wouldn't remember ... [intervenes]

ADV MADONSELA: [indistinct]

MR MBALULA: I wouldn't remember exactly the date.

20 ADV MADONSELA: But it was a long time ago, shortly after the Jonas ... [intervenes]

MR MBALULA: No it is a long time ago.

ADV MADONSELA: It's a long time ago. Mr Ramatlhlodi at the time was the minister.

25 MR MBALULA: Ramatlhlodi at that time was not the

minister if I were to remember whatever that is the case. I can't remember very clearly whether he was still a minister. When he started, Ramatlhodi he was deputy minister I think, and then he only became a minister later on.

5 ADV MADONSELA: You have no recollection of what position he held at that point?

MR MBALULA: No I don't.

ADV MADONSELA: I see.

MR MBALULA: And I wouldn't recall of how he reacted to

10 my view at the time of the meeting and so on because it is an eighty member committee. And many people express their views there.

ADV MADONSELA: Right. I'm going to read a statement made by Minister Jonas. He says:

> "Malema tweeted what he attributed ... "

15 Following, no:

> "Malema tweeted that after Deputy Minister Jonas was said to have been offered a position, he tweeted as follows:
>
> "Hope at Mbalula Fikile will also confirm that
>
> 20 he was offered the Sport Ministry by the Guptas and unlike Jonas, he accepted it and complained later""

What is your reaction to that statement?

MR MBALULA: There is nothing I can read about it

25 because Malema is a political animal so, me and him, we know each

other from the opposite sides. So ...

ADV MADONSELA: Okay, so is this true?

MR MBALULA: What?

ADV MADONSELA: What Malema is saying. That you were offered the post of Minister of Sport and accepted it but complained later.

MR MBALULA: I never accepted. I was never offered a position of Minister of Sport by the Guptas and complained later.

ADV MADONSELA: There is also your response to his tweet where you say:

> "What you are saying is simply provocation. I was never offered any job by anyone. I'm not accountable to you but to the ANC MEC."

Is that the position you still hold?

MR MBALULA: Yes. And there was a follow up to that which I said that, what you are saying is public knowledge. Because that issue about the Guptas and what I've said in the meeting, was actually leaked in the media.

ADV MADONSELA: Okay.

MR MBALULA: Yes.

ADV MADONSELA: When the Gupta family – when the IPL came to South Africa, it is alleged that the Gupta family was involved. What roll did your ministry play and how ... [intervenes]

MR MBALULA: I was not minister when the IPL came to South Africa.

ADV MADONSELA: You were not the minister? Okay.

MR MBALULA: I was in the police. Deputy Minister of Police.

ADV MADONSELA: So the Minister of Police played a role in IPL?

MR MBALULA: What I am saying, when IPL came to South Africa, I was Deputy Minister of Police.

ADV MADONSELA: And did the Minister of Police play a role in that IPL?

MR MBALULA: With [indistinct] the Minister of Police that he play a role in terms of securing and everything else but ... [intervenes]

ADV MADONSELA: But do you ... [intervenes]

MR MBALULA: And the minister I was not directly involved in ... [intervenes]

ADV MADONSELA: Yes. Yes. But do you ... [intervenes]

MR MBALULA: The minister would have been knowledgeable about it but I was not, because I was just the deputy.

ADV MADONSELA: Yes, the reason I am asking is because it has been alleged that that was expedited and fast tracked in a manner that was not [indistinct], and that ... [intervenes]

MR MBALULA: I want you to know that the Reverend Stofile was the Minister of Sport. So I wouldn't know.

ADV MADONSELA: And he has passed on.

MR MBALULA: Yes, I wouldn't know the nitty-gritties of

what was involved and how the Guptas got involved in the IPL. I wouldn't know.

ADV MADONSELA: Ah, I wish I could have then interviewed you earlier because if I could have interviewed him, before passing on, he could have ... [intervenes]

MR MBALULA: During the [indistinct] who was there he passed on also.

ADV MADONSELA: Who was the [indistinct] then?

MR MBALULA: Vennie Pietersen.

ADV MADONSELA: Oh. I didn't know he has passed on.

MR MBALULA: Vennie passed on long – I mean I think ... [intervenes]

ADV MADONSELA: I missed that.

MR MBALULA: About six months when I was appointed.

ADV MADONSELA: I wasn't aware of that. Okay Minister, from my side, I am done. I just want to know if members of the Public Protector Team have any questions. But from my side, the only one question I'll ask you is, you said you've only been to the Gupta family once or twice .

MR MBALULA: Yes.

ADV MADONSELA: And you say you've only spoken to the Gupta, Mr A J Gupta once or twice after the fall out to sort out the ... [intervenes]

MR MBALULA: Yes, I have spoken to, in terms of the family, I have spoken to I J Gupta.

ADV MADONSELA: Yes?

MR MBALULA: I have met I J Gupta and some members of the family also outside the family house. I was invited to AM at 7, where you were given to South African of the year. I was represented an award there. I met with them there. I met with them regularly whenever we have events like, what, the breakfast.

ADV MADONSELA: Yes.

MR MBALULA: There will always be a family member there. So, I've met them also, in their studios, sometimes. So, in terms of the family house visit, like I said, how many it was once or twice. So I am not a regular visitor but that can be said that every five minutes I am on the phone with them, that we are family friends. I ask for their council on any other issue, or whatever I want and go to them, their family gatherings. I was invited to their wedding, I didn't turn up. So, I'm not their – I don't regard myself as friend. That is why I said, it depend on the whatever, you know.

ADV MADONSELA: Have you been invited to any Gupta sponsored cricket games?

MR MBALULA: No.

ADV MADONSELA: Have you given any ... [intervenes]

MR MBALULA: I don't need to get invited by them. I just rock up to those things because I am the minister. Razzmatazz. [indistinct – all laugh]

MR MBALULA: I can go to my game. These are my people. So if they've got their own thing, it's fine. For me, I don't

need their favour or anything. Those are my games, that is my sport. It is my national team. It belongs to me. Appointed by the president, I rock up any time I want. So, if there's a big match, I want to encourage the players, I go. I don't need anybody's permission including the President of the Cricket Board. I don't. Just tell the captain that I am coming in the dressing room tomorrow, so I go.

ADV MADONSELA: Thanks Minister. To members of the team, that is the list of my questions. Is there anything that I did not say that we need further clarification?

MR LEKUBO: Yes. Thanks ma'am. Just to go back on the issue. The New Age, SABC breakfast, I understand that you could assist us. Minister, traditionally prior to the SABC, New Age arrangement. What will typically happen if the minister needed to call, maybe launch a program or [indistinct] on the SABC or communicate with the people?

MR MBALULA: To go to SABC?

MR LEKUBO: Yes, to go to SABC.

MR MBALULA: No, my spokesperson arrange that.

MR LEKUBO: Okay.

MR MBALULA: They arrange my appearance or if we've got an event, they set up an arrangement with the SABC. So that is out of that that the question of the New Age breakfast comes into play.

MR LEKUBO: Okay.

MR MBALULA: It is a huge showcasing.

MR LEKUBO: But previously, to the extent that you know, did you have to pay for appearing over SABC?

MR MBALULA: No.

5 MR LEKUBO: Okay.

MR MBALULA: [indistinct] today. It came after the SABC had a commercial agreement with the Guptas.

MR LEKUBO: So now that they've got a commercial agreement, and you have to appear, you have to launch a program

10 so the department has to have a [indistinct] agreement of the merger now of New Age or SABC or whoever the representative of that arrangement is. So the department now pays to appear at SABC. That is my understanding?

MR MBALULA: No, we don't pay. It's [indistinct] service.

15 MR LEKUBO: Okay. [Indistinct]

ADV MADONSELA: [indistinct]

MR NTSOANE: I think we will agree that the issue of the procurement and the payments has to be done by the administrations.

20 MR LEKUBO: Okay.

MR NTSOANE: The minister might not be able to know what has been paid for securing a space there, for [indistinct].

MR LEKUBO: Okay.

MR NTSOANE: May I humbly request that ... [intervenes]

25 MR MBALULA: On that detail let's agree. That detail it's

fine. The department will deal with that. I think you yourselves know very well that I don't ... [intervenes]

MR LEKUBO: No absolutely yes, no, no.

MR MBALULA: The point that you are asking is the first answer. The department didn't have to pay.

MR LEKUBO: Prior?

MR MBALULA: Prior. Yes.

MR LEKUBO: I think that ... [intervenes]

MR MBALULA: The proof.

MR LEKUBO: Yeah that's it.

MR MBALULA: Explain to me.

MR LEKUBO: Yes.

MR MBALULA: But it happened over time, after SABC had commercial rights with New Age.

MR LEKUBO: Yes.

MR MBALULA: All departments, not only Sports, to access that show which is called New Age Breakfast.

MR LEKUBO: Yes.

MR MBALULA: You have to pay. Under [indistinct] but also the departments, so it's not a secret.

MR LEKUBO: Yes, I hear.

MR MBALULA: You are asking something that is not known.

MR LEKUBO: No definitely, I think that is what I was trying to get to. Thanks Minister.

ADV MADONSELA: If you wanted to have your own Breakfast, that is not New Age, would they let you?

MR MBALULA: If we the sports, yes they will let us, but not after the New Age.

ADV MADONSELA: Okay.

MR LEKUBO: Yes.

MR MBALULA: Especially the morning show. The SABC morning show. Morning Breakfast. But with the new arrangement, it is there in paper that we must pay to access that, but we usually we take our [indistinct], like we come from the Olympics and all of that, we would like to appear morning show where we showcase that and all of that and things we do. But after the SABC entered into an agreement which they themselves can explain.

MR LEKUBO: Yes.

ADV MADONSELA: Yes thank you Minister.

MR MBALULA: Then we had to pay for that.

MR LEKUBO: No, thanks for that Minister. That is just what I wanted to clear in to that a point of procurement obviously I don't expect the minister to handle that.

MR MBALULA: Yes, that is ... [intervenes]

MR LEKUBO: It's is just that concept yes.

MR MBALULA: The rest will explain how much .. [intervenes]

MR NTSOANE: You have answered his questions Minister.

MR LEKUBO: Okay, thank you Minister, that is all from me.

ADV MADONSELA: Do you?

MS KANYANE: No I don't have any questions.

5 MR DELANEY: Ma'am, may I ask a very short question please?

ADV MADONSELA: Yes.

MR DELANEY: Minister, you've given it into evidence that you visited Saxon Wold twice after the complaint was settled.

10 So, the purpose of the first visit was to normalise relations with the Gupta family. Is that correct?

MR MBALULA: Not exactly.

MR DELANEY: What was the purpose?

MR MBALULA: Well, the purpose of the visit in terms of

15 the Gupta family, I want to record that I know that among the business that we had, among others was to discuss the issue that was reported in the media. And because I J Gupta was not happy about that. I know for a fact. You know, so I explained to him, what basically transpired, and that was it.

20 MR DELANEY: I would have thought that you would be interested in normalising relations with Mr Malema, who was the cause of the complaint essentially. I mean, I am just wondering why you had to pay a visit to the Guptas ... [intervenes]

MR MBALULA: When I went to the Guptas, Malema was

25 still in the ANC I think. If I'm not mistaken. I don't know. I wouldn't

recall that. It is not Malema who complained because it was a leaked story from the ANC MEC.

ADV MADONSELA: Yes.

MR MBALULA: But Malema raised the issue now to parliament, I think last year. And then said that I was appointed by the Guptas. Long after he had left the ANC. When he was still there, Malema raised the issue of the Guptas in a rally in North West, where he said we can't be ruled by a small family. That's where he raised that issue. But he never said that to me.

MR DELANEY: Was this the purpose of the other visit to the Guptas?

MR MBALULA: I wouldn't really specifically recall what was the purpose, but I know that the instances where I've been there, is because me and I J Gupta were to discuss the issue that he raised specifically, with regard to what was reported in the media, with regard to what transpired in the ANC MEC, which was apportioned to me, that I said I was appointed by them.

MS KANYANE: Why did you feel the need to normalise the relationship with Mr A J?

MR MBALULA: I didn't feel the need to normalise the relationship. We are a government. If we are in altercation with any other newspaper, or broadcaster per se, and there is an issue between us, it is important for us to have normal relations because the newspapers and the broadcasters is our mouthpiece to the people.

So, our relationship with New Age I said was a problem, because we were unfairly attacked, including allegations made against me, and I was attacked consistently because, I mean among others, the lies that were spread that I took Julius to London, which was not the case, with public money.

And then with no regard to the prescripts of the rights to myself in terms of what obtains with regards to publicising such stories, you know. So, I was basically attacked and so that becomes the truth. I had to go the route of the thing, so when I talk about normalising relations is what we do with all newspapers.

MS KANYANE: Did you initiate the meeting?

MR MBALULA: Did you initiate the meeting? I don't remember but we met. I mean there is a whole lot of other issues that I think the department also was complaining about with regard to falsification of information that was publicised. I don't think even we met with – I think we met with the editors and the, I don't think even A J Gupta was there. In terms of that meeting.

MS KANYANE: It was the editors meeting at Saxon Wold?

MR MBALULA: I tell you it was the CEO, Mr Naziem, I think. And the editor, who is the editor there? He is still there. Those are the people that we met with I think to discuss the issues of normalising of relations and lessening hostilities.

MS KANYANE: Okay.

MR MBALULA: Between us.

MS KANYANE: I have no further ... [intervenes]

ADV MADONSELA: Thank you.

MS KANYANE: I took a bit of your time.

MR MBALULA: And I J Gupta [indistinct] complained with regard to what he read in the newspapers. Not only even then after our meeting, even after our meeting. He consistently said, no my brother, you know, you know this thing did not happen and all of that and so on. So we discussed that at his house. I know.

MS KANYANE: But his evidence has now been that he actually did have that conversation, but his version is that he was simply alerting you to the rumour that you are in the process ... [intervenes]

ADV MADONSELA: He said he was congratulating you.

MS KANYANE: Yes, you are in the process of being appointed to the position of Minister of Sport.

MR MBALULA: I don't know why you will put it that way but I can tell you I met I J Gupta after the events and _ because there was no way that we could have discussed it in the first place. Because, there was never any report about the Guptas prior, so the report about the Guptas came after it was leaked to the Sunday Times, that Mbalula complained about the Guptas in the ANC meeting. And thereafter we actually met, and he lamented about that particular issue.

ADV MADONSELA: Just to clarify, his version is that when he discussed this matter with you, he was not lamenting. He was

congratulating you in advance based on a rumour that you were going to be appointed Minister of Sport. This was before you became appointed as Minister of Sport. That's his version.

That when Malema later came and said you got to know the story from Mr A J, Mr A J says he wasn't talking to you because he had exclusive knowledge, he was repeating to you a rumour that was doing the rounds in at the time.

MS KANYANE: In the media. He said.

ADV MADONSELA: That you were going to be appointed Minister of Sport.

MS KANYANE: Yes.

MR MBALULA: No, there was not such a rumour in the first place. Neither was my name in the rumours about cabinet reshuffle.

ADV MADONSELA: Is he lying or did we misunderstand him?

MS KANYANE: That is also what I wanted to ask the minister, to say, in your recollection, before you were moved to the portfolio of police, were there media reports about your possible move to the ministry?

MR MBALULA: No.

MS KANYANE: Because that's his version.

ADV MADONSELA: [indistinct]

MS KANYANE: That there were – it was nothing exclusive, he had heard in the media that you were going to be appointed and he called to congratulate you.

MR MBALULA: No I J Gupta, I don't know why he would misrepresent facts. I'm telling you my version. I don't know. What I can tell you is there was an ANC MEC meeting, that took place and then in, after that meeting, there was a leak in the Sunday Times. You can go check it, that I actually complained about the Guptas and the fact that whatever, I was appointed by the Guptas. In the media. Alright? That is what, that is the version that was there. I J Gupta right thereafter raised an issue with me that he wanted to see me and all of that. I said to him fine, there is no problem.

And then we went to his house, right? We met and then we discussed the issue. I explained to him that, no this thing has got nothing to do with you per se, it is what I was raising in the meeting. And I cannot be held accountable about what I raised in a meeting of the ANC and all of that. The matter was settled. That is why it was basically sorted out after. But before that, I mean, AJ, I honestly don't recall having met I J Gupta and discussed any position of ministry of government. I didn't.

MS KANYANE: Okay, I also want to ask PP, Minister you said you had a discussion with the president where you complained about your relationship with the Minister of Police and then he said he will deal with it. You will be moved. Did – how soon after this discussion were you then moved?

MR MBALULA: We didn't have a good relationship with the Minister of Police, and then I want to the president as my political principal, I explained to him that the environment that I am in

is not okay, so, I rather go back to Luthuli House, which was my area of deployment. Right? And I leave government.

MS KANYANE: Yes?

MR MBALULA: And then he said no, you must not leave hanging there. You see, because there are changes that we are going to make and there you will actually be moved. In fact, the president did not even tell me ... [intervenes]

MS KANYANE: Yes, you said he didn't say what portfolio he sees you at.

MR MBALULA: No, he didn't tell me what portfolio. And then he called, Lakela called me on the Sunday, I was moving from Cape Town in a church in Katlehong, because appointment, you can't forget them. It's very important in upward mobility. So I recall very vividly that I was in a church in Katlehong. I drove from there in the afternoon at 3 o'clock. I think I met the president and the FG and they informed me that I was Minister of Sport and the president told me that.

MS KANYANE: Yes.

MR MBALULA: In the presence of the AGSM. That is what I told you. I said no thank you and then I left.

MS KANYANE: Do you recall how soon after you complained were you then – was the change done.

MR MBALULA: After I complained to him?

MS KANYANE: Yes. How soon were you ... [intervenes]

MR MBALULA: No it took some time. I didn't happen

because, I went to him resigning basically, and going to Luthuli House, that no, I can't work with this man and so on and so. He basically told me now to wait, so, when someone tells you to wait, you wait. You can't say, so it took – it didn't happen like next week, it took some time, so I heard rumours of reshuffle, but I knew there was something coming for me. I didn't know what exactly it was. I, even then I didn't tell him what I want. So ...

ADV MADONSELA: And you never had contact with the Guptas?

MR MBALULA: No.

ADV MADONSELA: During that period?

MR MBALULA: No. Guptas are not my friends. I mean, there is no way that I could have contacted them or ask anything from them. Even if I will tell you now the truth that, no, they did contact me, whatever that is the case, that Malema says. You know. I've got no difficulty with that. They are not my, they are not, I am not accountable to them. They are not my friends. So, such that I would have gone running to them.

I raised the issue of the Guptas. I'm the first person who have raised the issue of the Guptas in the ANC meeting. Because the Gupta issue was an issue because it was rumoured and it was said that people were appointed at Saxon Wold. I've never been there at that time. I raised it in the meeting. I said we need to deal with this issue. Politically as an organisation. And that's what I did. In the meeting .

ADV MADONSELA: And what happened. What happened just after you raised this issue? Did the ANC ... [intervenes]

MR MBALULA: No, nothing happened. Nobody asked me in the ANC why I say that. Nobody asked me. They leaked it to the media.

ADV MADONSELA: Okay.

MR MBALULA: That was is and I will live with this pain that everybody is appointed by the Guptas and all of that, so, nobody did anything about it. I raised it in the meeting of the ANC and there is context to it, and I can tell you now, in denial that I never said I was appointed by the Guptas. If I was appointed by I J Gupta, he told me that I was going to be Minister of Sport.

I'll tell you now, indeed, that this is the case. I raised the Gupta issue because it is like a big elephant in the room. And I said that this issue is a problem. We've got to deal with it and that is it. That is what I have done, and that is what I have said. And those who are cowards and who could not raise their opinions about it in the meeting leaked it to the press. It was there in the meeting.

ADV MADONSELA: Just, if you can flag the question right here because I want to ask, do you think that the Gupta matter remains a problem? We need to clarify whether or not they've been involved in appointment matters.

MR MBALULA: Look, the perception that Guptas involved in appointment of people whatever way, and so on. It is something that must be dealt with, because it is on the ANC and it's

representatives to basically deal with that particular issue because it shouldn't be like that. In whatever way we can think about it, and the – even if it can be by any other person, with their riches and all of that, I don't think it is a corrupt thing, but over and above that, that perception must be dealt with because we have dealt with that issue politically in the organisation, and, extensively.

ADV MADONSELA: Has it been solved now?

MR MBALULA: The point is that you solve something that you can actually lay your hands on it.

ADV MADONSELA: Yes.

MR MBALULA: Not a perception. A perception you've got to undo. Now with all this allegations of Jonas and them, and so one, they sustain the perception. You see, and all of that, so that is an issue. Politically that has got to be dealt with by the political party.

ADV MADONSELA: Okay, please proceed now Mr [indistinct]. We had actually, we somehow stopped with Mr Delaney. Were you done with your questions?

MR DELANEY: Mostly, I mean, I – Mr – I'm still not quite understanding. Given the fact that you don't really have a relationship with A J Gupta, you're not friends right? Why you would be so keen to normalise relations with him when ultimately your problems was with the New Age right, writing this article which was, which you were very unhappy about. And you said that you met with the – sorry, who is the editor of the New Age?

MR MBALULA: It's not the editor, it's the CEO of the company, so, Naziem Hower.

MS KANYANE: Naziem Hower.

MR DELANEY: Okay. But it is the editor that published the article, right, not Mr Gupta.

MR MBALULA: Yes.

MR DELANEY: So wouldn't you have taken up your issue with the editor of the New Age, not Mr Gupta?

MR MBALULA: We did. We did take up the issue and then we did go to the Press Ombudsman to take up the issue, but over and above that, Mr I J Gupta was the one who was dissatisfied about what was input in the media about me to have said about them.

ADV MADONSELA: Did he confront you about it?

MR MBALULA: Yes, we met at his house. He confronted me about it. He said that ... [intervenes]

ADV MADONSELA: Okay, but before you went to his house, how did you know he was unhappy?

MR MBALULA: He was unhappy. He called me.

ADV MADONSELA: He called you?

MR MBALULA: Yes.

ADV MADONSELA: Okay. Okay but ... [intervenes]

MR MBALULA: And like I said, we also met at the cricket, the Wanderers where we were to watch the cricket among on that day. And the Guptas in particular I J, let me not say Guptas,

because when you say Guptas, it's now the whole family. But the person I know to be involved in terms of [indistinct], in terms of the sport, I J Gupta.

ADV MADONSELA: Does he organise cricket games?

5 MR MBALULA: No, I think they are the biggest investor. Sahara Computers. At some point they have got Sahara Park which is Super Sport Park. They used to own the stadium. The, what is this thing, commercial rights.

ADV MADONSELA: Yes.

10 MR MBALULA: Of the stadium. They used to hold it. Very passionate about cricket. Like you say proudly to be involved with IPM, and they also had the big Mkhaya Ntini, Sachen Tendulkar retirement game in Durban, and with all those dancers from India.

MR LEKUBO: Dancers from India. Okay. Yes, Minister,

15 PP, if you can stop me there. By his own admission Mr A J Gupta has got quite a number of ministers that visit his residence. Typically I would imagine in business you have got a person who you are seeking business from, but seems to have a lot of ministers who are frequenting his place. It is basically at Saxon Wold, not at

20 his residence.

And it is also a fact that the Gupta family is doing a lot of business with government and quite substantial contracts. And they are pretty much in every SOE, and which is what the PP is trying, the truth she is trying to get to. And you are part of the executive in government.

25 You have got your, with your political knowledge as well. Why such

an influence? How do you think this comes about for this family to have all the ministers streaming to their residence, not even their offices? He has mentioned quite a number of ministers.

ADV MADONSELA: Right, but that is an opinion and feel free to answer and feel free not to answer.

MR LEKUBO: [indistinct]

MR MBALULA: No I would not answer except if it was directed to me. Why I was doing that, so, I suppose different ministers will have reasons why, they have been summoned, or they have been called or they feel the need to go and meet with them, so, me, I don't even know the difference between his Saxon Wold, his house, and because I went there through one gate, you know, and there is a reception there and then that's it.

I don't know how many houses are there. What I read in the newspapers is that people are complaining about the helicopter pad that was supposed to be attended to and that, so I don't know how many.

MR LEKUBO: Okay.

MR MBALULA: Yes, so.

ADV MADONSELA: Right.

MR NTSOANE: Sorry PP. I just want to find out, [indistinct] that the [indistinct] the PP is limited to ask questions and all that, so I thought that what the PP was saying she is done.

ADV MADONSELA: I am.

MR NTSOANE: I wanted just to find out whether we are

still going to have a series of questions.

MR LEKUBO: No.

ADV MADONSELA: No.

MR NTSOANE: If that is the case, I thought that one would then deal with the questions, get to be finished.

ADV MADONSELA: Yes.

MR LEKUBO: Yes.

MR NTSOANE: The next one would then follow and all, so that, now it is like we go back, you know, we are not necessary finding any completion of direction. But, none the less, I was just saying humbly PP, if we are still going to have a series of questions, maybe the minister must just be dealt with by one individual so that we can get to be done through that investigator, then we move on to another one and so forth.

ADV MADONSELA: The only difficulty with that neat and linear approach is follow up questions, it's that one person can ask a question [indistinct] that that relates to that issue. That's why we allow the others to interject, because otherwise one person will ask their own linear questions. If she has the same issues, she will go back to the start and it is not concluded. But I suspect we are concluding in the next five minutes.

MR LEKUBO: Yes, it's okay.

ADV MADONSELA: You done?

MR LEKUBO: I'm done.

MR DELANEY: I'm done thanks.

ADV MADONSELA: You're done. Let me just start, the last question from me is, do you have any information you wish to share with us which you believe could assist with the investigation for example, has anybody ever told you that they were put on pressure by the Gupta family or whether you have been appointed – anything that doesn't relate to you, but you know somebody else that can assist us. Any information that we can follow? That could shed light on the issue we are investigating?

MR MBALULA: No I can't. I don't have anything except myself.

ADV MADONSELA: Thank you. In that case, we thank you very sincerely for availing yourself and with Mr Ntsoane for assisting you and assisting us. And should you, as you are going back to your office, remember something that you think is material, and of assistance to this investigation, we would appreciate you either directly contacting us, or let Mr Lintsoane know, Mr Ntsoane, sorry Mr Ntsoane, I have Mr Lintsoane here. So I keep referring. You can ask Mr Ntsoane to give us and then lastly Mr Ntsoane, would you just give us a very brief overview of how the New Age contract or contracts were ... [intervenes]

MR NTSOANE : The department.

ADV MADONSELA: Have been dealt with by the department, how many and what has been the cost, and also, how it used to be done before the New Age contract. Thank you again once more . Thank you to members of the team.

PROCEEDINGS ADJOURN

COMMISSION OF INQUIRY INTO STATE CAPTURE

V3(c)

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TRANSCRIPTS

Commission of Inquiry into State Capture – Day 58 dated 28 February 2019

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

28 FEBRUARY 2019

DAY 58

20

COMMISSION OF INQUIRY INTO STATE CAPTURE

PROCEEDINGS HELD ON 28 FEBRUARY 2019

CHAIRPERSON: Good morning Mr Pretorius, good morning everybody, good morning Mr Manuel.

ADV PAUL PRETORIUS: Good morning Chair.

CHAIRPERSON: Yes.

ADV PAUL PRETORIUS: Chair for today the Eskom course of evidence is suspended temporarily it will resume tomorrow and evidence will be led by Ms Gcabashe in relation to the evidence of Mr Trevor Manuel and then that will be followed by the evidence of General Siphiwe Nyanda who will be led by Ms Sello.

10 **CHAIRPERSON**: Thank you. Thank you.

MS LEAH GCABASHE: Morning Chair.

CHAIRPERSON: Good morning Ms Gcabashe.

MS LEAH GCABASHE: Morning Mr Manuel. Chairman the commission will this morning hear the evidence of Mr Trevor Manuel and retired General Siphiwe Nyanda. With your leave it might be convenient and appropriate for Mr Trengove who represents Mr Manuel to place himself on record and to introduce his team. Thank you Chair.

CHAIRPERSON: Yes.

MR WIM TRENGOVE: May it please you Chair. My learned friend Mr Mbekewe and I instructed by Ms Van Leefer appear for the witness.

20 **CHAIRPERSON**: Thank you Mr Trengove.

MS LEAH GCABASHE: Thank you Chairman. For your ease of reference Chairman and also for the ease of reference of the witness the bundle today consists of two volumes which are marked V1 and V2 but they are in one file Chairman. We ask you to admit them as Exhibits V1 and V2. If you open the file Chairman.

CHAIRPERSON: Before that so this will be. ..

MS LEAH GCABASHE: So it is Exhibit V for Valerie.

CHAIRPERSON: Exhibit V.

MS LEAH GCABASHE: And inside we have divided the file Chairman between the evidence of Mr Manuel which comes under V1.

CHAIRPERSON: Yes.

MS LEAH GCABASHE: And the evidence of General Nyanda which is – has been placed under the ...

CHAIRPERSON: Ja okay thank you .

MS LEAH GCABASHE: Section marked V2.

10 **CHAIRPERSON:** Thank you.

MS LEAH GCABASHE: The structure of today's evidence Chairman will be as follows: First we are going to just address you very briefly on the relevance of Mr Manuel's evidence to the commissions terms of reference followed by Chairman just the – a housekeeping issue I would like to call it which is the furnishing of the Rule 33 Notices to Mr Mbalula just to give you a sense of what has transpired in that regard and to give you a level of comfort around that issue.

CHAIRPERSON: Yes.

MS LEAH GCABASHE: And then after that we will really go into what I call the merits.

CHAIRPERSON: Okay.

20 **MS LEAH GCABASHE:** If I might start with the relevance.

CHAIRPERSON: Yes.

MS LEAH GCABASHE: Of Mr Manuel's evidence Chairman. Both terms of reference 1.1 and 1.3 are relevant to what Mr Manuel has to tell us today. The more specific one really is term of reference 1.3 which reads as follows just for the record Chairman: It asks us to investigate in the context of state capture, fraud and corruption. Whether the

appointment of any member of the National Executive functionary and or office bearer was disclosed to the Gupta family or any other unauthorised person before such appointments were formally made and or announced and if so whether the President or any member of the National Executive is responsible for such conduct.

CHAIRPERSON: Yes.

MS LEAH GCABASHE: Chairman in context therefore various issues will be explored with Mr Manuel. He is a South African who has been South Africa's longest serving Minister of Finance but he also has insights Chairman into aspects of the efficacy of laws such as the PFMA by way of example and policies of government that informed the terms of reference of this commission. In this regard his views will be sought on the concept of state capture as defined among others by the two American experts who gave evidence before this commission in August and September last year. Mr Manuel will primarily deal with the specific topic of the statement of Mr Mbalula at the August 2011 ANC NEC meeting regarding the appointment or how Mr Mbalula got to know that he was to be appointed as Minister of Sport and Recreation. In this regard of course the affidavit that has been deposed to my Mr Manuel on the 11 October 2018 is relevant.

CHAIRPERSON: Yes.

MR TREVOR MANUEL: The commission did Chairman after reading that particular affidavit asked Mr Manuel to share his insights on appointments and dismissals of cabinet members simply to dig into his institutional knowledge of those matters Chairman. He has deposed to an affidavit which is the supplementary affidavit that is annexed to the papers and in that he deals with those aspects. We believe Chairman that that particular part of his evidence will inform or may inform some of the recommendations that you may wish to consider as you – as you finalise this process.

CHAIRPERSON: Yes.

MS LEAH GCABASHE: For the sake of completeness Chairman it is important to point out that Mr Mbalula and Mr Atul Gupta are implicated parties with regards to Mr Manuel's evidence. Both were furnished with Rule 33 Notices Chairman notifying them that they are implicated parties. Mr Mbalula's was emailed to him on the 31 October 2018. As you will appreciate Chairman the full statement of Mr Manuel was annexed to that notice. In fact in the case of Mr Mbalula the – a copy of rules and a copy of the terms of reference was also annexed just for his ease of reference. The – Mr Atul Gupta has not responded to that notice. Rather his brother Ajay Gupta sought to respond by way of a Rule 34 Application as the Chairman is aware. This application was opposed by Mr Manuel and in the ruling you gave on the 13 September you dealt with the subject matter of why the Gupta's are at this point in time not entitled to an audience before you until such time as they essentially submit to the jurisdiction of this commission. I really just paraphrasing but you made a ruling Chairman and for that reason you – the Rule 3.4 Application was unsuccessful. With your leave however Chairman and also in terms of our rules the allegations made by Mr Ajay Gupta in that Rule 3.4 Application will be put to Mr Manuel for the record. Much as Mr Manuel did respond to them when he opposed the Rule 3.4 Application he is aware that we will put them because we have explained that in terms of rules when we do have a version we place that version before the witness who is currently taking the stand.

CHAIRPERSON: You have Ms to whether Mr Mbalula did acknowledge receipt of the Rule 33 Notice and whether he has reacted in any way to that notice.

MS LEAH GCABASHE: That is the next area that I touch on right now Chairman.

CHAIRPERSON: Okay.

MS LEAH GCABASHE: I – to structure my thoughts I made notes for myself.

CHAIRPERSON: Okay.

MS LEAH GCABASHE: Because it raises a little bit of a dispute and I believe we must give him the benefit of the doubt because of the issue he raises. Mr Mbalula was furnished with that by email, Rule 33 Notice. He has also been given notice of today's proceedings. As recently as the 14 February Chairman Mr Mbalula was reminded that he had not responded to the Rule 33 Notice and he was requested to present a version to the commission on or before Friday the 22 February. On the 22 February Chairman the commission had received correspondence from Mr Mbalula in which he stated that he had not been furnished with the October 2018 statement of Mr Manuel right [indistinct] had been furnished with the supplementary statement of February this year. What the commission then did was we immediately wrote back to him and indicated when we had sent the original 33 Notice to him and we asked him to please within the shortest period of time furnish us with a version. We have yet to receive that version form Mr Mbalula. So essentially Chairman what we have on file and I have a small file but we have prepared should you wish to look at it at your leisure is a file that indicates that email was sent by our attorney of record to Mr Mbalula in service – in serving the Rule 33 Notice. The email was delivered Chairman however no acknowledgment of the email or the Rule 33 Notice was received from Mr Mbalula. The email address that was used is the same email address we have used consistently Chairman. So by way of example when he responded to the commission's letter of the 14 February this year the email that had been sent to him about giving the commission a version was exactly the same email address that was used when the Rule 33 Notice was sent to him on the 31 October last year. However Chairman I think he ought to be given the benefit of the doubt regarding when he received the Rule 33 Notice. What we can be sure of is that he knows of today's proceedings. He has made public statements in which he has said

he is only too happy to assist this commission and he will appear before this commission when called upon to do so. So in that regard Chairman I do not think there will be any particular difficulty in obtaining a version from Mr Mbalula and in him appearing before this commission as and when it is appropriate for him to do so.

CHAIRPERSON: Well if the Rule 33 Notice was sent by email somebody should have made sure that if no acknowledgment came – was received from him by a certain time further steps were taken to make sure we have got proof the commission has got proof that he was served with the Rule 33 Notice. If he was served – if the Rule 33 Notice was sent to him in September last year that is a long time ago and it should not be that we only hear in February that he never – he says he never received I think measures must be put in place to make sure that within a certain period of time after a Rule 33 Notice has been sent to an implicated person by email that if no acknowledgement is received other steps must be taken to make sure that the Rule 33 Notice is served in a manner that will give us proof of service. You know technology is good and it is very helpful but sometimes it creates problems when people deny having received something when there is a dispute. So I think urgent measures must be taken either that the Rule 33 Notice be served afresh in circumstances where there will proof furnished to the commission that he has been served or if it is emailed again it must be on the understanding that he agrees to immediately send confirmation that he has received it. And I think this should apply to everyone else so the legal team should look at everyone else who has been served or sent by email the Rule 33 Notice who has not responded or acknowledged receipt and try and take measures to make sure that they have got – you have got proof that they have received it because we do not want disputes about whether people have received these notices or not. Okay no that is alright. We will proceed. Those measures must just be taken.

MS LEAH GCABASHE: Thank you Chairman we will do so.

CHAIRPERSON: Ja.

MS LEAH GCABASHE: Chairman for what it is worth of course in the media Mr Manuel's evidence has been all over the papers since at least October last year. So I would like to think that Mr Mbalula is aware of the essence of what Mr Manuel will be saying today. But I think that he also.

CHAIRPERSON: Yes.

MS LEAH GCABASHE: Will be prepared.

CHAIRPERSON: Ja.

10 **MS LEAH GCABASHE:** To come to the commission. He has indicated as much.

CHAIRPERSON: Ja.

MS LEAH GCABASHE: And assist the commission. It is really just the timing issue Chairman.

CHAIRPERSON: Ja.

MS LEAH GCABASHE: But I think he will – I would like to think he will be here.

CHAIRPERSON: Well I must just say in line with what I have been saying to the legal team of late steps must be taken to make sure that all the people who are implicated in matters relating to dismissals and appointments and in regard to most of the witnesses who have given evidence they must now be brought to the commission to give their

20 version. So one we must get their versions in writing first. Two they have got to appear and if they are not volunteering to appear then we must use the processes that are at our disposal to compel them to appear. We do not have a lot of time to do this work we have got to move with speed. So – but I know that at least in terms of the media there are a number who keep on saying they are waiting for the commission to invite them. But people should not wait for the commission to invite them. If they want to make a

contribution they should make communication with the commission and say I would like to come and deal with this. This is what I know. I would like to come in and deal with this or make a statement. But from our side the commission must not delay anymore now. We need to make sure that we wrap up all the evidence particularly relating to dismissals and appointments and evidence of witnesses that we have had so far.

MS LEAH GCABASHE: Thank you Chairman. I must say we do struggle a little with some witnesses.

CHAIRPERSON: Yes.

MS LEAH GCABASHE: But we will follow the ...

10 **CHAIRPERSON:** Ja.

MS LEAH GCABASHE: You are giving and I trust the public out there is also understanding you very clearly.

CHAIRPERSON: Yes, yes.

MS LEAH GCABASHE: As to how we are going to deal with...

CHAIRPERSON: Ja.

MS LEAH GCABASHE: Witnesses who are reluctant.

CHAIRPERSON: Ja.

MS LEAH GCABASHE: To work within our time frames.

CHAIRPERSON: Yes, ja.

20 **MS LEAH GCABASHE:** And prefer to tell us about their time frames.

CHAIRPERSON: Ja no we – we have been trying to accommodate witnesses where we can but we have got to draw a line. We do not have a lot of time to do this work. This commission is not going to finish its work within time if we are going to all the time wait for dates that suit witnesses. We just – we will have to be quite firm. I hope everyone will give priority to the work of the commission because there is a time within

which we must finish this work. Okay. Alright.

MS LEAH GCABASHE: Chairman we have asked Mr Mbalula to respond to our letter of the 21 February last week within five days and give us a version. I think that the enforcement tools that you refer to may have to kick in.

CHAIRPERSON: Ja.

MS LEAH GCABASHE: If we do not have a version from him latest tomorrow evening first thing Monday morning.

CHAIRPERSON: Yes they may have to kick in and not only in regard to him there are others too – there are others also who are supposed to have responded to either requests that have been made to them or to correspondence that has been sent to them who have not done so. So we will have to use those powers. We cannot be delayed for too long because of people who might not really be giving the work of the commission priority. I accept that in some cases people have got legitimate schedule challenges and they would sit definitely like to help the commission and they would like to give it priority but we will look at those. But one cannot avoid the impression that there are some who are not giving the work of the commission the priority that it deserves.

MS LEAH GCABASHE: Thank you Chairman. Chairman I believe it is appropriate now for witness to be sworn in. He prefers to take an affirmation.

CHAIRPERSON: Okay. Just administer the affirmation.

REGISTRAR: Please place your full names for the record?

MR TREVOR MANUEL: Trevor Andrew Manuel.

REGISTRAR: Do you have any objection to taking the prescribed affirmation?

MR TREVOR MANUEL: I have no objection

REGISTRAR: Do you truly affirm that evidence you will give shall be the truth; the

whole truth and nothing but the truth; if so please raise your right hand and say, I truly affirm?

MR TREVOR MANUEL: I so affirm.

CHAIRPERSON: Thank you very much. Before you start Ms Gcabashe Mr Manuel I just want to say thank you for coming to assist this commission and to give evidence. You were in government for many years and you were in the structures of the governing party for many years. I have no doubt that you could assist this commission maybe not just about the issue relating to Mr Mbalula but also in regard to other issues that we might wish to ask you about. So I really want to say thank you for coming. As you may have – as you may be aware I have been appealing to past and present ministers and directors general who may have information that could help the commission in terms of its terms of reference to come forward and assist the commission. I am very grateful that there is a number of ministers who have come forward who had some the former DG's also coming forward but we wish that they should be more because it is difficult to think that only those who have made contact with the commission know things. One thinks that there are many and there are many present and past ministers who have a lot of information that they know and government officials but they simply have not come forward including members of the governing party who should know quite a lot of things. So I really thank you that you have made yourself available.

MR TREVOR MANUEL: Thank you very much Chair.

CHAIRPERSON: Thank you.

MR TREVOR MANUEL: I think we all vested as South Africans all vested in the success of your mission so we wish you every strength and success as we proceed. Thank you.

CHAIRPERSON: Thank you very much. Yes Ms Gcabashe.

MS LEAH GCABASHE: Yes thank you Chairman. Mr Manuel you have before you just one volume, one bundle of documents that run from TAM02 to TAM41. You have that?

MR TREVOR MANUEL: I have that.

MS LEAH GCABASHE: If you look at page TAM02 I will actually if you do not mind cut out the TAM appellation part I will just call the numbers. So if you look at paginated page 02 to 016 of the paginated bundle could you tell the Chairman if you recognise this document?

MR TREVOR MANUEL: Indeed this is an affidavit I submitted in October last year.

10 **MS LEAH GCABASHE:** If you go to – if you turn to page 04 there is a signature on that page, do you confirm that this is your signature?

MR TREVOR MANUEL: I can confirm that that is my signature yes.

MS LEAH GCABASHE: When did you sign this document before a commissioner of oaths?

MR TREVOR MANUEL: In October the 11 October last year.

MS LEAH GCABASHE: Are there any corrections or amendments that you would at this point wish to make to the statement – this is the better time to do it rather than as we go along.

MR TREVOR MANUEL: Yes there is a bit of a contradiction that arises from the dates

20 that I refer to when the NEC took place. But that matter is corrected in paragraph 12.

MS LEAH GCABASHE: Indeed so.

MR TREVOR MANUEL: Thank you

MS LEAH GCABASHE: The documents that are on pages 6 through to 16 what are those documents?

MR TREVOR MANUEL: (Laughing) that is an exchange of unforgettable open letters

between Mr Fikile Mbalula and I.

MS LEAH GCABASHE: We will get to them in due course. Do you recognise the document that is on page 18 and runs all the way to page 25? What is that document?

MR TREVOR MANUEL: Yes Chair that is a supplementary affidavit that I deposed to in February of this year which deals primarily with the system of appointments and ministers. I can confirm that indeed I deposed that affidavit and that is my signature on page 25 of the bundle 8 of the affidavit. Thank you.

MS LEAH GCABASHE: Thank you. Are there any changes, amendments you might want to make to that particular document?

10 **MR TREVOR MANUEL:** You know there is one change and it relates to the circumstances that prevailed I think it is paragraph 23 on page 23 of the bundle and it relates to the fact that it says here that Cyril Ramaphosa succeeded Halima Motlanthe as deputy president in Polokwane that is in fact not correct.

CHAIRPERSON: Yes.

MS LEAH GCABASHE: What is the correction you wish to make?

MR TREVOR MANUEL: The correction there is that Kgalema Motlanthe became deputy president at the conference in December 2007.

CHAIRPERSON: That is in Polokwane?

MR TREVOR MANUEL: Sorry?

20 **CHAIRPERSON:** That is in Polokwane?

MR TREVOR MANUEL: In Polokwane Chair.

CHAIRPERSON: Yes. Yes.

MS LEAH GCABASHE: Thank you.

MR TREVOR MANUEL: Thank you.

MS LEAH GCABASHE: And no further changes?

MR TREVOR MANUEL: No further changes.

MS LEAH GCABASHE: Thank you. Rule 65 of our rules requires that I establish whether any of the evidence contained in the October 2018 and the February 2019 affidavits has previously been placed before any other commission or tribunal or court or body, has it?

MR TREVOR MANUEL: No I can affirm Chair that this evidence appears before this particular commission for the first time.

CHAIRPERSON: Thank you.

MS LEAH GCABASHE: And just in explanation of that if that were the case we would then have had to find that transcription so that we could look at that evidence with you.

MR TREVOR MANUEL: Appreciate that.

MS LEAH GCABASHE: Then last but not least could you please turn to page TAM27 through to 29.

MR TREVOR MANUEL: Yes.

MS LEAH GCABASHE: And then if you keep your finger there if you could then look at TAM30 to 41.

MR TREVOR MANUEL: Yes.

MS LEAH GCABASHE: Have you seen these documents before today?

MR TREVOR MANUEL: I have seen it in the bundle. And it relates to a _ an affidavit from Mr Gupta.

MS LEAH GCABASHE: It is the application that you had opposed about a month ago?

MR TREVOR MANUEL: Yes.

MS LEAH GCABASHE: This is just to say that we will be placing some of those facts into evidence while we will asking you about some of those matters that are raised there. To go to matters of a little more significance Mr Manuel you are a person who

has had vast experience as the Chairman has pointed out in serving in a democratically elected government. Are you familiar with the report of the Public Protector dated 14 October 2016 and which is titled: "State of Capture". Only familiar not that you have read it cover to cover Mr Manuel but are you familiar with it?

MR TREVOR MANUEL: I can confirm both thank you.

MS LEAH GCABASHE: In fact the cover page of that report explains that it is and I quote:

> "A report on an investigation into alleged improper and unethical conduct by the President and other state functionaries relating to alleged improper relationships and involvement of the Gupta family in the removal and appointment of Ministers and Directors of state owned enterprises resulting in improper and possibly corrupt award of state contracts and benefits to the Gupta family's businesses."

Mr Manuel as a result of that report this Commission of course has been tasked with investigating the matters that Advocate Madonsela investigated. You would agree that the untoward appointment and dismissals of Members of Cabinet falls squarely within the Commission's remit?

MR TREVOR ANDREW MANUEL: I have no doubt it is centre, front and centre of the Commission's work.

ADV LEAH GCABASHE: Various witnesses have given evidence on state capture in particular as well as fraud and corruption but the focus that I want to, to, to hone in on today is state capture, because the Commission is interested in what you may identify as key issues in state capture, but to give you a bit of context Mr Manuel I have come across an open source media report where the SACP has referred to state capture

amongst others as a term used and I quote:

> "To describe private interests influencing the state's decision making processes."

Then in the May 2017 South African State Capacity Research Projects paper entitled "Betrayal of a Promise: How South Africa is being Stolen?" they refer to state capture as a concerted effort at repurposing the state and diverting rents away from development in ways that are extra-legal and anti-constitutional to the detriment of the South African Public. I really paraphrased what they have to say. Then finally Mr Manuel we have had two experts, American professors, Drs Hellman and Kaufmann who appeared before the Commission. Dr Kaufmann actually appeared in person and they define state capture as and I quote again:

> "The efforts of individuals or firms to shape the formation of laws, policies, rules and regulations of the state to their own advantage by providing illicit private benefits for public officials."

Essentially they say to us that state capture is a form of corruption and one that is distinct from the, distinct and more invasive than administrative corruption which is the more common form of corruption. Having given you that background Mr Manuel can you share your views on this subject matter of state capture and in particular as I [indistinct] earlier? Are you able to identify key issues in state capture that really should be preeminent in the mind of the Chairman as he wades through the evidence that will be placed before him whenever all of that evidence has been placed before him? Are, are there pointers that you can share with the Commission?

MR TREVOR ANDREW MANUEL: Thank you. Mr Chairman my understanding of our Constitution is that it vests responsibility executive authority in the President acting with Cabinet. There is no higher authority and in the context of *trias politica* I think even the

courts have been reticent to try and determine how the President should conduct himself. Now in respect of the appointment of Ministers for instance the, the Constitution does not give anybody else the authority to do so and in, in the context also the oath of office of the President which is a very public oath there is a commitment to act within the interests, to do everything in the interests, to advance the Republic and to oppose that which may weaken and to also ask for the [intervenes].

CHAIRPERSON: And to be faithful to the Republic, and to be faithful to the Republic I think if I am not mistaken.

MR TREVOR ANDREW MANUEL: And to be faithful to the Republic and in this
10 context I mean I, I think that the judgment by the Constitutional Court on 31 March 2016 found that the President had violated his oath of office. Now if we take oaths and we are cavalier in the implementation I think it is the beginning of issues relating to state capture and, and you know it is, it is something that I think all [coughing] South African should be deeply concerned about because if those words lose meaning then the conduct cannot follow and, and when I go back to a number of judgments for instance my, it is very clear that that, that the court would not enter into the terrain that is occupied by the legislature either and so there is no higher authority and we must look to the dictates of conscious, conscience as the oath requires to ensure that you will have the proper execution of what is required of, of people who occupy high public
20 office. Now in this regard I think the, the issues that arise Chair about the appointment of Ministers is exceedingly material. Who knows who has consulted, who breaks the news and how, how is information shared I think is signal to a range of other issues about the conduct that is that is before this Commission, thank you.

ADV LEAH GCABASHE: In fact Mr Manuel if I might just contextualise what you have said in particular with respect to, to the President and what the Constitution requires of

a President. I, I would like to just go through Section 86 of the, of the Constitution, I beg your pardon. 83 of the Constitution which reads as follows:

> "The President a, is the Head of State and Head of the National Executive. B, must uphold, defend and respect the Constitution as the supreme law of the Republic and c, promotes the unity of the nation and that which will advance the Republic."

So there really is a duty on the President to ensure that what he and the National Executive that is appointed under his direction and at his will, because he, he believes there are people who can progress the mandate that he has been charged with. The President must ensure that in what he does and in what the National Executive does the interests of the Republic must be advanced and that really is what you, you have talked to us about, but can I go a little beyond that Mr Manuel because this Commission has of course heard evidence from various witnesses. Some of it which will still be challenged I believe at some point, but if I might just point you to the PFMA which I believe is one of our most significant pieces of legislation and one that you had just about everything to do with. You drove it through the whole legislative process. Can you just very briefly speak to the critical issues that that piece of legislation sought to ensure this democracy would take account of? That this democracy would embed and these all the types of checks and balances that the drafters and the legislatures at the time, the legislator at the time sought to ensure would, would advance the interests of the Republic of South Africa. Just very briefly speak to us about that piece of legislation and of course all the Treasury notes and regulations that go with it.

MR TREVOR ANDREW MANUEL: Thank you very much Ms Gcabashe. Mr Chairman the; when we drafted the, the Public Finance Management Act which is Act 1 of 1999

there was a fundamental shift from the old norms that applied in the Exchequer and what we sought to do in the PFMA was to recognise the parity of decision making across systems. The three spheres of Government and, and the systems that that apply and the focus was on outputs and responsibilities. What the Exchequer Act did was to construct a Treasury that kind of gave individual permissions and so you had a, a kind of rules based bureaucracy and the big shift and I think it is, it is in line with what we raised earlier about the interpretation of the responsibilities of, of the Head of State, the Head of the Executive. It requires people to act in the best interest and the words used in the PFMA at various points would be utmost care and so that shift is
10 fundamentally important. It is, it is drawn the, the essence of, of the PFMA is drawn from Chapter 13 of our Constitution which sets out norms for budgets, for budget control, for the management of finances, for the issuing of guarantees and the range of similar kinds of issues that would be normal in fiscal arrangements in democracy and so it is for that reason that the Public Finance Management Act was greeted in the way that it was. I, I should, I should point out that as, as it matured probably a few years later there was some resistance from people who argued that it holds up but if you, if you go, if you look at the link again between the PFMA and the Constitution the Constitution asks that one of the tests be that there is value for money. I make the point now. I can, I can expand it. That when there is reckless spending almost
20 inevitably people who are dependent on public services, the poor, are denied access to services because the controls are not in place and in the context of state capture it is actually an endeavour to remove those kinds of controls and, and I think it is, it is that that we must take a very serious view of because the, the measure of what happens is actually seen in the light of very poor people. Children who still do not have school buildings, children who die in pit latrines. It is that kind of issue that happens when the

controls are loose because there is not due care and attention as required by the PFMA. One of the other issues in the PFMA relates to certain schedules that apply in respect of State Owned Enterprises. Schedule 2 for instance takes account of large significant State Owned Enterprises. Eskom, Transnet, SAA, Denel those kinds of enterprises would, would all, they all listed in that schedule and part of the difference between that schedule and the next schedule is that the [indistinct] provision to bring these bodies into Schedule 2 is that they would be well managed that corporate governance norms would be adhered to; that they have strong balance sheets and can manage their affairs and be accountable for the management of their affairs in the
10 public space and, and I think that the collapse that we have seen with a number of State Owned Enterprises in the last decade or so reflects a fact that that the, the powers given to these, to these State Owned Enterprises were, were exercised without the necessary care and attention to detail and so it is, it is that. I am saying the PFMA is distinguished from its predecessors by the fact that it recognises, understood its responsibility to groups of equals.

ADV LEAH GCABASHE: I, I am glad that you mentioned SOEs in particular Mr Manuel because I have, I have always grappled with the distinction between an SOE and what was converted to an SOC and the underlying rational for doing that. I know you are a part of that policy making that sought to convert what might be, and
20 correct me if I am wrong, the predominantly developmental role of an SOE to a more commercial role for SOCs but I might have this completely wrong. Can you just take us through that?

MR TREVOR ANDREW MANUEL: Chair, Chair I, this is not an area that I am that I am that I am an expert in, but my, my sense of it is that the [indistinct] referred to State Owned Enterprises for a long period and when the Companies Act was amended they

were termed State Owned Corporations.

ADV LEAH GCABASHE: Hm.

MR TREVOR ANDREW MANUEL: In essence they are the same. The big, the big distinction in, in the PFMA are the schedule. The first, Schedule 1 applies to all manner of bodies including the Chapter 9 Institutions for instance. Schedule 2 has a long list of entities and I referred to some of them before. Schedule 3 refers to some smaller State Owned Enterprises and Schedule 4 has a very diverse list including supported entities such as universities and so on, but it is Schedule 2 that we look at because I think the bulk of issues Chair that relate to state capture actually can be found in Schedule 2.

10 **ADV LEAH GCABASHE:** Yes, thank you. Maybe as just a last question in this part of the evidence you are giving, are you able to identify a, one or two institutions that are particularly vulnerable to state capture and really this is an open ended question. If you are not able to so be it, but if you it would, it would just help to illustrate the point that you have been making this morning.

MR TREVOR ANDREW MANUEL: Chairperson it is a, it is a, it is a fundamental important question and, and from the many state owned corporations let me, let me, let me highlight what I see as a position of Eskom and I think it is a, it is a situation that is well canvassed. Eskom in its history was an exceedingly strong institution. One of the top utilities in the world. Eskom had a stronger credit rating than we had as a

20 Sovereign and we would look to Eskom with a, with a, with a sense of jealousy about the fact that they could borrow more cheaply than what we could. Eskom also of course had surplus generating capacity and six power stations were mothballed and then changes happened and I think that if you looked at the situation in the last decade all of that has come apart. Now I am sure that this Commission has and will continue to receive detailed explanations of how things go wrong but when I, when I try and

understand the, the role of Eskom in the public domain. Firstly South Africa's industries were built on available cheap source of power. That is no longer there. We have moved up the ranks of, of the cost of, of energy. We were also able to use surplus power to extend electricity to the homes of many millions of very poor South Africans who previously because of apartheid had been excluded. Thirdly, having available electricity with predictable prices meant that that we could, we could build further an industry and invite investment into our country and then of course Eskom managing off the strength of its balance sheet did not impose a burden on the fisc not for cash injections or neither for cash injections nor for guarantees. All of that is gone and if you
10 look at the position of Eskom now and when I, when I refer to the, the budget tabled in Parliament by Minister Mboweni last week it is clear that that Eskom sits as an albatross around the neck of the fiscus and so Eskom has to be supported. I think none of us as South Africa can ever entertain the idea of allowing Eskom to go down but having it means that we, we increase our, our, our, the burden of debt in the general economy. Also if one looks at the applications of Eskom to NERSA the, the cost of energy into the future are not as predictable as they ought to be, but moreover I think that that as the state takes on more and more debt the credit rating suffers and when the credit rating of a country suffers and if we run the risk of losing our investment grade rating it means that as a country we have to borrow at much higher costs. Now
20 the, the budget last week proposes a deficit of 4.5 percent to GDP. That money must be borrowed and if the cost of those borrowings increase the ability of the state to provide services to people is, is, is diminished. It has seen the interconnectedness of this. When, when I look at the events which are, which are very well canvassed in the state of capture report by Advocate Madonsela it is clear Chairperson that there was a cavalier attitude in the management of this. I think there are a serious of other issues

as well. In the last few years, in the last decade in fact Eskom had 12 CEOs, six Chairman, 60 Directors and 30 Executives and between them they cost R514 million. So if decisions are taken with the focus on short term for the benefit of private individuals then I think the costs are borne by all of society, but those most vulnerable bear a greater proportion of the costs and I think it is that that we must understand about, about Eskom and similarly if you looked, if you looked at Transnet and you look at the way in which the, the supply chain management was managed on, on the acquisition of locomotives and, and wagon systems then you begin to understand that the costs, because part of what Transnet has to do through Freight Rail is to, is to manage major exports, coal line and the iron ore line and when you place the costs of that prohibitively outside what is, what is competitive in the global system I think we weaken the economy progressively, but similarly given the fact that we have Gauteng as the industrial heart line far from, far from the, the, the seaports. Managing that in the system of freight rail is also something that needs to be taken with a lot of care and, and, and the, the essence of that, those words in the PFMA of "due care" needs to be felt in the management of these kinds of systems. So I think that that, that the examples of, of, of the impact of state capture are legion in this country right now.

ADV LEAH GCABASHE: So, so when the SACP speaks to the taking of decisions that deprives South Africans of the resources of this country that really is the essence of what state capture can be considered to be?

MR TREVOR ANDREW MANUEL: I, I, I concur entirely. Chairperson it is felt immediately and I say you can look at education of social services at one level. You can look at the deteriorating state of our infrastructure at another and then you can look at the poor spending that we can do as a country on, on, on economic infrastructure. The kinds of things like special economic zones and so on. If, if our abilities are

diminished then we are not going to create the employment and we also then impose a burden on future generations and of course state debt is always a price for future generations to pay. So it is a very serious matter.

ADV LEAH GCABASHE: Thank you. Thank you Mr Manuel for those insights. It might be best at this point to, to move on to the primary reason really that the Commission wrote to you and asked you to come through to assist it and that is your recollection of what transpired at the NEC meeting, an ANC NEC meeting of August 2011, but it might be more convenient Chairman to, to preface that discussion of the NEC by just looking at the broad area of appointments and dismissals. So in this regard I will ask you to, to turn to your February affidavit Mr Manuel and recount or to summarise your experience of the practices or conventions that were followed when you were appointed to Cabinet. At paragraph 2 you, you state that:

> "You have always understood that the power of the President to appoint Cabinet Ministers is a constitutionally protected prerogative and that Cabinet Ministers serve at the pleasure of a Sitting President."

Please just expound on this proposition.

MR TREVOR ANDREW MANUEL: Thank you Ms Gcabashe. Mr Chair the; I mean it is, it is one of the powers given to the President that has no fetters and I think that in the experience of, of those of us who, who served under different Presidents we would have seen the exercise of that power. The first President I served under was the late Nelson Mandela and the first Government we were part of was a Government of National Unity. So that reality I suppose fettered the freedom that the President had, but it was clear that that there had been consultation between, he was then just President of the ANC, Nelson Mandela, and some of the senior leaders who were about

including the late Walter Sisulu and others and so after the announcement of the election results but before he was even inaugurated there were a number of positions that he indicated he had secured.

ADV LEAH GCABASHE: Can you pause just there? He indicated he had secured, indicated to whom?

MR TREVOR ANDREW MANUEL: Okay.

ADV LEAH GCABASHE: When and why were those particular persons selected?

MR TREVOR ANDREW MANUEL: The, the saying that it was on about 9 May 1994 and historians can check the date of the election results and the date of the inauguration of the President and we had convened in the National Working Committee of the ANC and there were a number of positions including the fact that that the position of, of Deputy President would be shared between Thabo Mbeki and, and F W De Klerk. That the position of Foreign Minister would go to Alfred Nzo. That the position of Defence Minister would go to Joe Modise etcetera and I was also on that as Minister of Trade and Industry. It seemed that that in the discussions also between the three parties would constitute the Government of National Unity. These positions had been settled and after the inauguration of, of, of President Mandela on 11 May there was still some negotiation about some positions, but that is what happened then.

ADV LEAH GCABASHE: And at the time of course we had the Interim Constitution that was in place at the time.

MR TREVOR ANDREW MANUEL: We had the Interim Constitution that applied until we adopted the Constitution in May 1996. Would you like me to continue?

ADV LEAH GCABASHE: Please do, please do.

MR TREVOR ANDREW MANUEL: Then after, after, some weeks after, after President Mandela he called me as was his, his, his style at four in the morning asking

me to see him as soon as I could in the morning. I happened to be in Cape Town and had to get an early flight, but that was you know. That is just by the by and when I got there then Deputy President Thabo Mbeki was there along with fellow Minister Tito Mboweni and Deputy Minister Alec Erwin and the President told us that Derek Keys, being our first Minister of Finance had asked to be relieved of is responsibilities and that he needed to find a new Minister of Finance. He felt that the country wasn't ready for an ANC Minister of Finance yet, and then put the proposal that he wanted to bring in his banker, Chris Liebenberg, as Minister of Finance. He wanted to test this with this grouping of people who in his view were in government and understood matters economic, and he then proceeded to invite Chris Liebenberg. And Chris served I think for about a year before he indicated to Madiba that his time was limited, and so in August of 1995 I was invited to the office of the President where he and I met then Deputy President Thabo Mbeki, the President said to me that Chris Liebenberg would be leaving after he tabled is budget and would I be ready to serve as Minister of Finance and asked for the views of the Deputy President and we agreed and on that basis President Mandela asked me not to disclose this to anybody.

Now I mention that because the oath of office has been consistent that Ministers in taking the oath commit not to disclose information in their possession to anybody not entitled to do so and there was no disclosure. It was in – on the 28th of March 1996 that President Mandela, well shortly before that, about a week or so before that the President called me again and told me that I would get a new Deputy Minister in the person of Gill Marcus and ja, and that the position of – that I had occupied as Trade & Industry would go to Alec Erwin and he gave me permission to have a conversation with Gill Marcus, and on 28th of March of that year in Parliament President Mandela made the announcement that Gill Marcus would be the Deputy Minister of

Finance, I would move across, Alec Erwin would become Minister of Trade & Industry and Phumzile Mlambo Ngcuka would become his Deputy.

Those were some of the changes that he announced and there were others relating to the closing down of the RDP office, the dropping of Paulo Jordan from cabinet and the move of Jay Naidoo from the RDP office into Communications, that happened on that day and we took, we were sworn in so that I became Minister of Finance from the 4th of April 1996. That's what happened then and there were no changes. 1999 the ...(intervention)

ADV LEAH GCABASHE: Can I before you get to 1999 Mr Manuel, sorry to interrupt the narrative, which is important, can I just interrogate one or two issues, the one point you make, and I think it's in paragraph 3 of your affidavit is you speak about the norm, I'm just getting the term out of context, either at this point or maybe you would want to deal with this later, my question really is was there – is there such a thing as a norm in the appointment of members of the National Executive, and really I'm looking at the manner in which President Mandela in light of the Government of National Unit had to handle the appointment of members of the National Executive, but can you say that anything in the manner in which he dealt with appointments would have constituted a norm that other Presidents may have wanted to have regard to?

MR TREVOR ANDREW MANUEL: It's a complex question Chair becomes norms and conventions require much longer period, but I think what President Mandela did was to put emotion a trend that is true to the spirit of the Constitution that vests the responsibility with the President.

ADV LEAH GCABASHE: The responsibility for what Mr Manuel, just to be very clear .

MR TREVOR ANDREW MANUEL: Sorry, responsibility for the appointment of members of the Executive, bear in mind that the Executive exists in the Constitution

and in life in two parts, on the one part there are Cabinet Ministers and then as the constitution says the President may draw from members of Parliament and appoint them as Deputy Ministers to support the system of governance. That too is a responsibility and of course the Deputy President is appointed by the President in quite the same way, but those are presidential prerogatives articulated in our Constitution.

ADV LEAH GCABASHE: The second aspect you touched on with respect to the appointment procedure followed by President Mandela, was the issue of confidentiality, both in relation to the manner in which he spoke to the persons he had selected as members of his cabinet but also in relation to how those members who had been selected needed to treat this information that had been imparted to them, so my understanding of your evidence is that that confidentiality not publicising discussions either by the President, with the President that way of doing things, that manner of doing things was critical to upholding the gravitas of the office to securing the interest if I might just default to that phrase, the interest of the Republic of South Africa. It's really the confidentiality of those discussions that I'm drilling down into.

MR TREVOR ANDREW MANUEL: Chairperson that is fundamental. I think it's also important to see that in the context of ensuring that releases of information are symmetrical to anybody who is interested. A symmetry of information especially in respect of matters of government, will actually be used by certain players I would imagine to hedge and take positions on all (indistinct) issues. So it's not just confidentiality for its own sake, it's also recognising the importance of the exercise of power by the Head of State because you can't – I think it would be completely cavalier to allow for arbitrage opportunity and I think that if you look a situation that applies later, in December of 2015 it seems very clear that there were people who knew that a particular individual, quote out of the blue was going to be appointed as Minister of

Finance and somehow became advisors even before the individual was sworn in.

That demonstrates a break with that norm, with that tradition that is so fundamentally important in ensuring that confidentiality is actually uppermost in the exercise of that power.

ADV LEAH GCABASHE: Maybe I should allow you then to deal with the next period which starts in 1999, just before we get to the tea break and that's the appointment process, new experience under President Thabo Mbeki.

MR TREVOR ANDREW MANUEL: Thank you, Chairperson the elections in 1999 were held I think perhaps end of May early June, the President was inaugurated on the 16th of June that year, President Mbeki, a number of us received requests to be at the State guesthouse late that evening after a cultural event, have sensed what it was about, and there was a large gathering of many people who had been Ministers, were Ministers because ja, Ministers remain in position until a new cabinet is appointed as per our Constitution, and there were some new individuals in this large room.

It had never, I mean there had been no process like that before and so we all kind of sensed what it was about but didn't know how this would be exercised, and individuals were then called into a study. I was I think perhaps the second person to be called that night, and President Mbeki was sitting there with Kgalema Motlantle who was then Secretary General of the ANC. Very briefly I was asked whether I would continue, I'd be prepared to continue serving as Minister of Finance. When I agreed they would thank me and I was asked to leave the study for the outside and to go home, not to have any contact with the rest of them and I went home. It so happened that I shared a house with the late Kader Asmal who then changed from Minister of Water Affairs to Minister of Forestry. He came in many hours later, and I had no inkling of the change until he woke me, very rowdily I would say, to tell me that he was very

happy with the new assignment that he had, but that's how that happened.

We were sworn in on the following day, it should probably reflect on about the 17th or 18th of June and that's how the position remained, essentially there would have been some minor reshuffles I would imagine, between then, that's June 1999 and 2004 when there is yet again an election.

ADV LEAH GCABASHE: Can I ask you just to pause there for one minute.

MR TREVOR ANDREW MANUEL: Happily.

ADV LEAH GCABASHE: And explain to me what your interpretation of the presence of Mr Kgalema Motlantle, who was the Secretary General of the ANC at the time, what our interpretation of his presence in that study with President Mbeki was, how did you view that?

MR TREVOR ANDREW MANUEL: Thank you. Chairperson my understanding of it is that the President would never arrive in the position purely on the strength of his own or her own jacket. Ours is a party-based system and if you look at the proportional representation system I think the President in party is actually the Genesis of taking responsibility. As we know the President arrives in Parliament to be sworn in as a member at the convening of the first Parliament after an election, and if there's then an election by Parliament for the President who is then relieved of his or her responsibilities as a member of Parliament. So the President is very much also of the party that wins an election.

So with the Secretary General present my understanding has been that there would have been some consultation. Now when I say some consultation I'd indicated that when President Mandela announced to us it was in the National Working Committee, but subsequently it was never at so large a forum. Clearly it could not be in the National Executive Committee which is exceedingly large, it's about 80+ people and

I would hazard Chairperson that each of the members of the National Executive Committee would see themselves as a prospective Minister and so you couldn't negotiate this thing. There needed to be some consultation so without knowing for sure I would guess that it may have been with the top six, President's preferences given to the top six and then the Secretary General representing those interests when an individual is invited to serve as a Minister.

ADV LEAH GCABASHE: Thank you and I have been reminded that it is almost tea, but if I can just wrap this up with one last question Chairman. What I understand you to be saying is that you would essentially subscribe to the view that in selecting members of the National Executive a President makes political judgment on how best to deliver on the mandate of the majority party, hence that however informal consultation with senior members of the party.

MR TREVOR ANDREW MANUEL: That is certainly my interpretation. I think just for the record Chair there were also people brought into cabinet during that period who were not of the ANC. Nkosi Mangosuthu Buthelezi was brought in as a minister from the IFP. Mosibudi Mangena was brought as a minister but was president of Izapo so those things happened as well, but I'm sure there would have been consultation because almost inevitably there may be some people who in the ANC would think that those individuals occupy their positions so the political pre-eminence of the Head of State being able to explain how they weigh the balances, I think is a fundamentally important part of that. Thank you.

ADV LEAH GCABASHE: And what that person considers best serves the interests of the Republic obviously would inform this process.

MR TREVOR ANDREW MANUEL: Yes Chairperson I read it in the context of the oath of office to do that which advances the interests of the Republic.

ADV LEAH GCABASHE: Thank you Mr Manuel, Chairman maybe this is an appropriate time to take the tea break.

CHAIRPERSON: Okay, we will take the tea adjournment and we will resume at half past eleven. We will adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes you may proceed Ms Gcabashe.

MS LEAH GCABASHE: Thank you Chairman. Mr Manuel we were essentially at page 23 of your affidavit and this portion deals with the process as you experienced it under President Kgalema Motlanthe if you could just give a short narrative on that thank you?

MR TREVOR MANUEL: Thank you very much Ms Gcabashe. Mr Chairman the – just before the process with President Motlanthe I had said that there were significant changes introduced at the ANC conference in Polokwane in 2007. One of the consequences of that was a very intense discussion at an NEC meeting in September 2008 at which a resolution was adopted to recall President Mbeki and one of the first actions I took very early I the morning – it was a Saturday morning perhaps the 20 September I went to my office in Pretoria to have a letterhead and I tendered my letter of resignation to President Mbeki and I delivered it at about 7:30 in the morning. I went off there was the NEC meeting continued and I gave a copy of that letter to both President Zuma who was then president of the ANC and President Kgalema Motlanthe because it was clear that the ANC would support his candidacy to become president of the Republic. They tried to persuade me to withdraw my letter but I was very clear that my reading of the constitution is that Ministers serve at the pleasure of the President. The assumption of course being that the pleasure is properly and carefully utilised. I – as it happens I – well I indicated to then Minister Motlanthe that if he required my

services I would be available but it had to be his call. It could not be the call of a predecessor. As it happened I had to fly off to New York and Washington for international responsibilities I had and whilst travelling from New York to Washington as it happens my phone rang off the hook because my letter of resignation had been leaked to the press in South Africa and the Rand was – appeared to be in free fall. But I returned on the public holiday 24 September that evening Kgalema Motlanthe called me and asked if I would continue to serve as Minister of Finance and he would invite me after he is elected the following day. It seemed to be procedural formality that he would be elected. And so that was a different set of circumstances. There were some
10 ministers who resigned and replacements had to be found. Some rather hurriedly and a new cabinet was formed and sworn in as the president – the cabinet of the President Motlanthe on about the 25th or 26 September of 2008. And that cabinet remained in position until elections the following year and the same routine was followed. When President Zuma then had been inaugurated an invitation to the state guest house then a much larger grouping of people invited and perhaps I was lucky to be first or second again invited to serve and in the room – in the study were President Zuma with Gwede Mantashe who was then the Secretary General of the ANC. So I am saying that in my mind the response – no the initiative to confer with some of the top leaders of the political party seemed to be entrenched by that practise. We were sworn in and sorry,
20 sorry I need to interrupt this. There was something that happened. You see Chairperson when you are invited to become a member of Parliament to have your name placed on the list of candidates for a party you are required to sign an acceptance. A nomination acceptance and to the best of my knowledge it still exists in all political parties. So I was not sure that I wanted to go back after the 2009 elections. So I delayed and then I was called to Luthuli House by_ and had a meeting with

President Zuma and who was not then president of the Republic and Gwede Mantashe. And I indicated that that event I referred to was a signal that my persona had become too intertwined with the Portfolio Minister Of Finance and it was not good for democracy or me. And President – well Jacob Zuma then indicated to me that he was mindful of it and said that he would ask me to do something else in cabinet not Minister of Finance but it would be inappropriate to discuss it because there would asymmetry. I accepted that, signed the acceptance form, went through the motions, sworn in and then I was invited to serve as Minister in the Presidency responsible for the national planning commission. And that was a position I occupied until the end of that term which was in
10 2014. But I think Chairperson it is appropriate to mention that there were – there were significant changes in the way in which these things were exercised. For instance at the end of October of 2010 there was very large reshuffling. There were ten ministerial changes in all and seven ministers were dropped from cabinet. And when one looks at it well try to understand it then but when one looks at it in retrospect that word that was used by Advocate Gcabashe quoting a report earlier the repurposing seemed to be at least one of the factors considered. When one looks for instance and I am going to use an example Chair Barbara Hogan who testified before this commission had been Minister for Public Enterprises. Now on that day the 31 October she was summarily dropped from her position and Malusi Gigaba was appointed as Minister for Public
20 Enterprises. It is a – and you can run through the entire list that reflects a series of choices that were exercised along those lines and you know for instance Minister Molewa was removed as Minister of Social Development. Minister Bathabile Dlamini was brought into cabinet for the first time. So those changes were there and those changes I think have had a profound impact on the norms of governance since then. There is a person I see in the room and I am not supposed to see him but I know that

he was also summarily dismissed on that occasion as part of the repurposing.

MS LEAH GCABASHE: In fact that new cabinet and I should actually rephrase that the persons who were appointed both to cabinet and the deputy ministers who were appointed ended up constituting the largest cabinet/appointment of deputy ministers we have ever had in South Africa in terms of just numbers?

MR TREVOR MANUEL: Numerically I mean this thing exploded. A cabinet that – the executive exploded because apart from – well from 2009 there were new positions created. What used to exist is Minerals and Energy were separated what used to exist is Trade and Industry. Two new portfolios were created. Economic Development and small business. There was a new alignment of agriculture forestry and fisheries etcetera, etcetera so there were significant changes in 2009 and I think that the cabinet was not rapidly expanded even at that occasion in 2010 I referred to but virtually for every position there was – there was a deputy minister and in some instances two deputy ministers. So I am saying repurposing but of course there is always an opportunity for patronage when you expand a function in the way that it happened over that period.

MS LEAH GCABASHE: The ..

CHAIRPERSON: Well may I interrupt you Ms Gcabashe?

MS LEAH GCABASHE: Of course Chair.

CHAIRPERSON: Just to say will the legal team make arrangements that we obtain that full list of how the cabinet was constituted before that reshuffle in 2012 that Mr Manuel is talking about and obviously the le – how it looked like after the reshuffling. I think it may be quite important we should just have that list and then obviously the legal team and the investigators must apply their minds to what evidence if any may be necessary around that. Okay.

MS LEAH GCABASHE: We will do that Chair.

CHAIRPERSON: Thank you.

MS LEAH GCABASHE: Mr Manuel the point you really touch on now is that the constitution provides for a rational application of its provisions and that includes the appointment of Ministers and the appointment of Deputy Ministers, you would agree with that?

MR TREVOR MANUEL: I agree with it in time.

MS LEAH GCABASHE: So one of the key factors that the Chairman can certainly look at as he ultimately at the end of this – of all these hearings looks at appointments and dismissals is use that rationality standard to interrogate whether a particular national executive...

CHAIRPERSON: Well before Mr Manuel might answer that and he is free to answer it I just want to advise him that this may be a legal question so that if he chooses to answer he can answer but if he thinks it might be difficulties for him to do that. Ja okay alright.

MS LEAH GCABASHE: Then I will just rephrase it as you say rational standards are what is expected in terms of the constitution and leave it at that.

MR TREVOR MANUEL: Yes and Chair you are absolutely correct I think there has to be the test – the objective test for rationality in the exercise of power.

MS LEAH GCABASHE: Can I ask...

CHAIRPERSON: Yes.

MS LEAH GCABASHE: Can I ask you just very briefly to then just explain the significance of a ministerial portfolio as opposed to that of a deputy minister because we are ultimately going to come to a position where we are discussing the change in status of Mr Mbalula from being a Deputy Minister of Police to being a full Minister of

Sports and Recreation. There are people who still confuse the concept of Deputy Minister and assume that Deputy Ministers are members of cabinet. Maybe coming from you people will understand this differentiation a little better.

MR TREVOR MANUEL: Chair the – my experience and my reading of the constitution is that Section 85 of the Constitution vests the executive authority in the present and its exercise with other members of cabinet. So presumably you have to be a full minister – you may be assisted but in the main ministers cannot devolve their responsibility to deputy ministers. So it has always been well before '94 there was a clear distinction because there were some deputy ministers and ministers had loos in their toilets and deputy ministers did not ever. They had to continue to try and get there. They were referred to Afrikaans [indistinct] is Kort Broek Ministers. That was the distinction before 1994. And so I am saying Section 85 vests the executive authority in the present acting with cabinet and it was always a bug bear for deputy ministers because when ministers are – were away there was always requirement that an acting minister be appointed and this must actually be in a presidential minute. And the acting minister has to be a member of cabinet. So deputy ministers never become acting ministers. I think the distinction made in the constitution is held in practise. And I think it is quite an important distinction. In fact in the case of the Minister of Finance because of the extraordinary work load one of the functions that the Minister of Finance has to deal with would be variations to import tariffs. Now these things come in at the rate of about sometimes 30 a week and it was just an unbelievable work load and I approached President Mandela sorry President Mbeki then asking him whether we could separate this out and the deputy minister could be assigned this so there had to be a formal assignment, right? By special presidential minute and the publication of that power in the gazette. So it was not just the Minister of Finance sort of shovelling work to the

deputy minister to keep them out of trouble. There was actually a formal assignment of that responsibility. And I think that is how the constitution provides for the distinction.

MS LEAH GCABASHE: Yes indeed you are correct because the constitution does provide in Section 98 and 99 for any temporary assignment or functions to go from a cabinet member to another cabinet member. So if it were to go to a deputy minister indeed a special proclamation some legal document.

MR TREVOR MANUEL: Yes.

MS LEAH GCABASHE: In terms of Section 101 again of the Constitution would have to be put in place. Can I wrap up this part of your evidence with the following question? Is there anything fundamentally wrong in a president taking advise in circumstances where he or she does not applicate his or her authority to take a particular decision? I ask this because part of the area we are going to move into now is the 1.3 Term of Reference 1.3 area where we are talking about whether anybody in an unauthorised manner was able to get information on an appointment process that the then president was busy with. So the question is: Is there anything wrong really with consulting never mind who but just the process of consulting a third party if that president does not abdicate his or her authority to take that final decision?

MR TREVOR MANUEL: Thank you Ms Gcabashe. Chairperson I do not think that there – there can be an objection to consultation. What I have tried to indicate from my experience was when I was appointed the Secretary General of the African National Congress was not a Member of Parliament even was in the room indicating that there had been consultation. I had never known any – which is why I would have to guess if the top 6 were consulted as a unit. Because there was never = I mean I did not see the Treasury General of the ANC having a press conference and saying well you know this president wants to appoint Trevor Manuel I disagree with that. It was always kept in the

strictest confidence and I think that the issue of consultation would require that. It would require I think also un-interpretation of the oath of office of the head of state. What advances the interest of the Republic and they look to you Chair and say that when I read the judgment of the constitutional court 31 March 2016 and at paragraph 83 where it deals with the violation of the oath of office. It is about those kinds of things. It is about whether – these matters are – where the powers are consciously exercised. And the limitations understood by those who exercise that kind of power.

MS LEAH GCABASHE: Yes. Thank you. This really takes us to the meeting of August 2011 and it brings us to the October 2018 affidavit that you deposed to.

10 **MR TREVOR MANUEL:** Yes.

MS LEAH GCABASHE: Maybe I should start at the beginning. What triggered Mr Mbalula's outburst at the NEC meeting of the 20 – of August 2011?

MR TREVOR MANUEL: Chair I may be slightly wrong about this because _ just because of lapse of time .

CHAIRPERSON: Yes.

MR TREVOR MANUEL: But I will try and put my recollection and I think the next witness may be in a position to confirm or vary that.

CHAIRPERSON: Yes.

MR TREVOR MANUEL: But my recollection of that NEC was that there was a tense

20 discussion about the influence of the Gupta's.

MS LEAH GCABASHE: Can I ask you to pause there because I know you are going to go further. When you say the influence of the Gupta's a tense discussion about the influence of the Gupta's was this not the discussion introduced by Mr Mbalula or did that tense discussion ensue after Mr Mbalula had made his contribution?

MR TREVOR MANUEL: Chairperson the African National Congress is a political

movement and politics is very wide and wide ranging discussions take place in the National Executive Committee and so in response to what started out as a political overview provided frequently by the President of the ANC that then is wide ranging discussion and amongst the issues not covered – not canvassed in the introductory paper but that emerges from the floor is but why are the Gupta's as influential as they are? And then there would be various comments on that. There is no resolution on it at the conclusion of the discussion Chair but it is quite important that these matters were raised as freely and as strongly as they were in that National Executive Committee Meeting. And my recollection of it is Chairperson that when it came to the opportunity
10 for Mr Mbalula to speak in that meeting he became very emotional in the exchange of open letters between ourselves – I refer to his weeping and he said he cried but he did not – I did not understand why he cried and it was – I am saying it was a very emotional thing. I am not saying this to in any way try and humiliate him or anything it was an exceedingly difficult emotional issue for Mr Mbalula my interpretation. And it was about the fact that he had served before this reshuffle I refer to 31 October 2010 he was serving as Deputy Minister of Police. Maybe it was called Safety and Security maybe Police but he was Deputy Minister there and on the 31 October he was announced at the Minister for Sport and Recreation. And thus moving from a Deputy Minister into a cabinet position. Now what he articulated in the NEC was that he was – he was very
20 excited. No, he said that he was called to Saxonwold to be told by the Gupta's now I know that there may be a difference of names maybe Atul maybe Ajay maybe he knew them maybe he did not know them I would not be able to distinguish between one and the other brother because I do not know them.

MS LEAH GCABASHE: If I might just clarify. Mr Ajay Gupta who is the older brother says he had the discussion with Mr Mbalula. It was not Mr Atol Gupta who you

reference in the statement but that is really just...

MR TREVOR MANUEL: That may be so but...

MS LEAH GCABASHE: Information.

MR TREVOR MANUEL: If I read his affidavit Chair he also says that it was in Midrand at the offices of Sahara whereas my recollection of what Mr Mbalula said in the NEC was that he was called to Saxonwold. And I would assume that he knows the geography of greater Johannesburg well enough to know the difference between Midrand and Saxonwold.

MS LEAH GCABASHE: Can I add one more area of dispute as you continue with your narrative. The third one is that Mr Ajay Gupta says he simply said to – congratulated Mr Mbalula and said he understands Mr Mbalula is going to become a full minister.

CHAIRPERSON: Well Ms Gcabashe I wonder whether you should not allow Mr Manuel to finish his recollection of what happened in what Mr Mbalula said and what happened at the NEC meeting that is relevant to what we are dealing with before then maybe you – you put that to him.

MS LEAH GCABASHE: As you please Chairman.

CHAIRPERSON: Yes. Just so that the evidence is continuous.

MR TREVOR MANUEL: Okay.

CHAIRPERSON: Ja.

MR TREVOR MANUEL: Thank you Chair. What Mr Mbalula said was that when he was called to Saxonwold he went there and there he was told that he was going to be appointed as Minister of Sport and Recreation. And he was at first very excited about making it into cabinet I mean there is a sense of a big promotion. Very excited at being told this but in retrospect and this was the emotional part of it. It should never have been the Gupta's or anybody else told him that. It was the prerogative of the president

and that prerogative had been violated by the way in which the information had been shared with him. Now I think Chairperson that if and when Mr Mbalula does appear in this commission as a witness he is likely to confirm what I am saying. That it was the sense of the violation of the constitutional prescripts in the exercise of authority by the president that had been violated by somebody who knew before he was entitled to. And seemed to suggest that he had sufficient power to confer the status of cabinet minister on an individual That is the big issue and I think it goes to the heart of what I earlier described as repurposing and extraneous influences which also seem to align with the terms of reference of your commission Chairperson.

10 **MS LEAH GCABASHE:** Thank you Mr Manuel. If I might just ask one or two questions relating to this particular narrative. First my understanding from your evidence is that Mr Mbalula's contribution at that NEC meeting did not trigger the discussion on the influence of the Gupta family or the perceived influence of the Gupta family on the president. It was in response to a discussion that was already in place or that was unfolding that he then made his contribution. I do not know if you can recollect that kind of detail it would be useful if you could.

MR TREVOR ANDREW MANUEL: Chair with respect I do not recall it. It may have been something along the lines of a group of Members of the National Executive that is starting to argue that the President does not exercise control and then it sort of

20 developed into a particular discussion. It may have been something along those lines, but I, I, I could not confirm at this stage that it was Fikile Mbalula who, who sort of started who triggered the enter discussion. I think there was a discussion happening that arose from a concern about [indistinct] his influences on the exercise of power.

CHAIRPERSON: So is my understanding correct that while because of the lapse of time you might not recollect certain aspects correctly but you have no doubt that there

was at that meeting some discussion around concern, the concern that was being expressed or had been expressed about either the influence of the Gupta family in Government or that the then President was not controlling certain things properly? That part, is that part one that your recollection is clear about or not really?

MR TREVOR ANDREW MANUEL: No, I, I, Chair I think your, your, your reading of what I am saying is.

CHAIRPERSON: Hm.

MR TREVOR ANDREW MANUEL: Is correct.

CHAIRPERSON: Yes.

10 **MR TREVOR ANDREW MANUEL:** In fact at that time there was a climate where it seemed as though certain individuals were invited to Saxonwold not, not only Minister Mbalula, but he was the first to make that declaration, and it is almost a public declaration because the NEC comprised of more than 80 people, of how he had been appointed. There had been speculation about a number of others and a bit of banter even about whether somebody was a Gupta minister or whatever, but this was the first to the best of my knowledge a first confirmation which was in the form of, of, of I am saying a very emotional statement by then Minister Mbalula about how he had been appointed. So it broke, in many ways it broke, it broke, it broke the, the taboo had broken the myth that it confirmed that these things were actually happening.

20 **ADV LEAH GCABASHE:** It is, it is interesting that this is a discussion that took place in August 2011.

MR TREVOR ANDREW MANUEL: Huh-uh.

ADV LEAH GCABASHE: The appointment of Mr Mbalula was in October, effective 1 November 2010?

MR TREVOR ANDREW MANUEL: Yes.

ADV LEAH GCABASHE: Almost a year later as when you had this discussion at the NEC meeting. Are there events that may have unfolded between 1 November 2010 when he was appointed Minister of Sport and Recreation and the August 2011 date that sparked this discussion?

MR TREVOR ANDREW MANUEL: Chair I, I do not want to subject this, this Commission to my conjecture.

CHAIRPERSON: Yes, yes.

MR TREVOR ANDREW MANUEL: Because, because I mean in, in, in the form of, of these discussions in the NEC and I hope I am not breaking any confidences, but it generally starts with a political overview provided by the President and then discussions. Discussions are generally free flowing and they would be supportive of the views and sometimes there would be, there would be opposing views. They never come together. They never resolve, result in, in formal resolutions, but I think it is an opportunity to clear the air. To try and persuade others of, of positions held and so I, I do not actually read in, anything into .

CHAIRPERSON: Yes.

MR TREVOR ANDREW MANUEL: The fact that there was not an immediate reaction in November 2010. Perhaps.

CHAIRPERSON: Hm.

MR TREVOR ANDREW MANUEL: It took, it took some time for .

CHAIRPERSON: Hm.

MR TREVOR ANDREW MANUEL: For the matter to actually just state just in the minds of, of some people there.

ADV LEAH GCABASHE: I, I would then go back to my term application of authority and say that the essence therefore of, of that discussion was about the President being

influenced by a family to the extent that he appeared to abdicate his authority to take critical decisions that the Constitution confers on him and him alone.

MR TREVOR ANDREW MANUEL: Chair I have not the slightest doubt that that application is, is in evidence in the example, but I would hazard that if you take many of the State Owned Corporations the Ministers, I, I used, I used the word repurposing. The Ministers who were appointed to particular portfolios part of the exercise of their powers to recommend frequently, recommend to Cabinet certain appointments at State Owned Corporations/Enterprises, same thing and I think that they, they, they acted frequently to advance certain positions. You could only Chairperson arrive at the
10 situation where Eskom lived through 12 CEOs and six Chairs in a decade. If the repurposing was the objective and so it is, I mean I have no doubt that if there were recalcitrant, not recalcitrant, reluctant Ministers there would be removed and replaced with, with people who were more pliable. I, I, I want to, to say that I, I do not have the slightest doubt that that is what transpired with removal of Minister Nhlanhla Nene on 9 December 2015 and his temporary replacement with Des Van Rooyen who arrived with advisors in tow and if my reading of Advocate Madonsela's report is correct had spent the previous week visiting a particular house in Saxonwold every single day. When I say repurposing it is my reading of those kinds of circumstances that shape it for me. Somebody who is reluctant in, in, in performing certain functions then being
20 replaced with somebody who might act quite differently and receive instructions from strange places.

ADV LEAH GCABASHE: One, one small, little matter just to confirm. At the NEC meeting of August 2011 you confirm that the President of the Republic was present?

MR TREVOR ANDREW MANUEL: The President of the?

ADV LEAH GCABASHE: The President of the ANC, he was there?

MR TREVOR ANDREW MANUEL: Yes indeed Chairperson.

ADV LEAH GCABASHE: Thank you.

MR TREVOR ANDREW MANUEL: He was there.

ADV LEAH GCABASHE: I just want to confirm [intervenes].

MR TREVOR ANDREW MANUEL: No, he was there. I mean it is, it is, you know perhaps it is just, it is just the way. If Advocate Gcabashe in this environment said something, she cast judgment on, on something I am doing I am going to actually say with respect Advocate Gcabashe I, I fundamentally disagree with your view on this matter. I would not leave it, but you know that is just how things are.

10 **ADV LEAH GCABASHE:** Was there a reaction from the President?

MR TREVOR ANDREW MANUEL: I certainly do not recall any reaction.

ADV LEAH GCABASHE: I would then like to take you to the issues that Mr Ajay Gupta raises in his Rule 3.4 application and the statement annexed to that and I will really just set them out, paraphrase them briefly.

CHAIRPERSON: Ms Gcabashe [indistinct].

ADV LEAH GCABASHE: My learned.

CHAIRPERSON: You are getting a lot of assistance.

ADV LEAH GCABASHE: My learned leader thought you were preparing to ask a question Chair.

20 **CHAIRPERSON:** Oh, no, no

ADV LEAH GCABASHE: And he knows that I.

CHAIRPERSON: No.

ADV LEAH GCABASHE: I do not spot talking until I am asked to stop.

[Laughing].

CHAIRPERSON:

ADV LEAH GCABASHE: He was, he was just.

CHAIRPERSON: Well.

ADV LEAH GCABASHE: Asking me to pause for a second.

CHAIRPERSON: Well I did not intend to, but certainly there was a question in my mind. So that part he, he read quite well. There was a question in my mind, but I am not going to interrupt you for now.

ADV LEAH GCABASHE: Thank you, thank you Chair.

CHAIRPERSON: Hm.

ADV LEAH GCABASHE: The first issue really is that both Mr Mbalula and Mr, Mr Ajay Gupta said that it was Mr Ajay Gupta who had the discussion and not Mr Atul Gupta. My question really is does anything turn on which Gupta brother had this discussion with Mr Mbalula?

MR TREVOR ANDREW MANUEL: Chairperson I do not think anything turns on it. I think the admission that there was a discussion is sufficient to confirm what Ms Gcabashe refers to as a sense of application. I know that in, in, in this open letter I, I said it was Atul or did I say Ajay?

CHAIRPERSON: Yes, I think you said [intervenes].

ADV LEAH GCABASHE: You said Atul Mr Manuel.

MR TREVOR ANDREW MANUEL: Atul, yes but you know that that may have been what I thought I heard but I, I, because I do not know the individuals I do not think that I would ever attempt to distinguish between one and the other and, and I do not think it is material. I think the fact that there is an acknowledgement that ahead of Minister Mbalula's appointment that there was a discussion about the fact that he would assume a particular position or, because there is also a sense argued by, by, by Mr Ajay Gupta that he did not say it will be Minister of Sport but that you would go into

Cabinet. I think that is immaterial. How did he, how did he come by that knowledge I think is an important question.

ADV LEAH GCABASHE: I will get to that point in a minute, but can we just clear the issue of Sahara Computers in Midrand and Saxonwold. Your recollection, and really I am just placing this on record, your recollection is that Mr Mbalula said he had been summoned to Saxonwold?

MR TREVOR ANDREW MANUEL: Chair I, I do not think that I could assert the words summonsed or summoned, but certainly he was called to Saxonwold. That that, that is my recall of, of what he said.

10 **ADV LEAH GCABASHE:** The next area of dispute is whether Mr Ajay Gupta, this is his version, is correct when he says he simply read media articles and realised that Mr Mbalula was up for promotion and congratulate, congratulated. Wanted to congratulate and did in fact congratulate Mr Mbalula on his appointment to full Minister. He denies in his affidavit mentioning the portfolio of Sport and Recreation. Is that your recollection of what you heard?

MR TREVOR ANDREW MANUEL: Chair it is, it is, it is but my recollection over a long period that that Mr Mbalula said that he had been advised that he would assume the position, because it, it would not be, it would not be an unreasonable expectation for somebody who occupies a position of Deputy Minister say of International Relations to

20 aspire to occupy the Cabinet position. It would not be unreasonable, but where you have a kind of diagonal move where, where there is no, there is no evidence skill set. I think it is, it is, it is worth, it is worth recalling and that is certainly what Minister Mbalula or Mr Mbalula has seen to, to suggest about the engagement.

ADV LEAH GCABASHE: Of course if you look at page, paginated page 35 which is one of Ajay Gupta's annexures and you go down to three quarters down that page. It is

a Fin24 archive report. It reads as follows:

> "The Weekend Argus reported that Deputy Police Minister Fikile Mbalula was set to take up a full Cabinet post as a reward for leading the campaign that saw Zuma elected ANC President in 2007."

This is what Ajay Gupta's version is. He says a full Cabinet post. He did not mention Sport and Recreation. Again if you look at page 37. Again it is an annexure relied on by Mr Ajay Gupta. The top paragraph again speaks to:

> "Taking up a full Cabinet post as a reward for leading the campaign that saw Mr Zuma elected ANC President in 2007."

CHAIRPERSON: Of course Ms Gcabashe we have to remember that Mr Manuel was not there when there was that conversation. He only knows what on his recollection Mr Mbalula said at the NEC. So he probably might not be able to say what Mr Ajay Gupta may or may not have said to Mr Mbalula that what he certainly did here is what Mr Mbalula said at the NEC meeting. So I just mention that, but you might be wanting to say something Mr Manuel.

MR TREVOR ANDREW MANUEL: Chair I mean you know press speculation will also obtain. I would imagine that ahead of the elections on 8 May and, and subsequent to the announcement of results and so on the press will speculate Ranjeni Munusamy would put together a Cabinet. It is just, it is just a way this thing works but if, if Mr Egypt sees his name in Ranjeni's list it would, it would be quite extraordinary for me to call Mr Egypt and say well congratulations on your appointment. Why would I do that? What authority would I have to do it and I would not just call him on the telephone I would invite him to my home to do it and I think that gives the entire exchange a, a particular meaning and, and you know my reading of it is if, if you have the authority to

call somebody to your home to break that news unless he was going there for, for general shebeen activities but, but if you were called to the house to be told this there, there must have been a sense of authority and perhaps expectation from one side about how this would pan out.

ADV LEAH GCABASHE: Even if you were called to Sahara Computers in Midrand.

MR TREVOR ANDREW MANUEL: I think.

ADV LEAH GCABASHE: The same would pertain?

MR TREVOR ANDREW MANUEL: The same issues would apply.

ADV LEAH GCABASHE: In any event I really am just putting Mr Ajay Gupta's version to you and that version is contained in his statement which you find on pages 30 and 31 paragraphs 4, five and six speak to the issue that those newspaper reports speak to. So really this is just the Commission's effort and, saying to you Mr Ajay Gupta may not be here but he has given us a version and this is what his version records.

MR TREVOR ANDREW MANUEL: Chairperson I would like him to be here.

CHAIRPERSON: [Laughing].

MR TREVOR ANDREW MANUEL: I would like him to give up the hiding place in Dubai

CHAIRPERSON: [Laughing].

MR TREVOR ANDREW MANUEL: And be here and face consequences.

CHAIRPERSON: [Laughing], yes.

ADV LEAH GCABASHE: With respect to those media reports when Mr Mbalula addressed the, the, the NEC meeting in August he certainly did not make, and this is a question, did not make any reference to what he might have read in the October additions of various newspapers which are the ones that Mr Ajay Gupta relies on. This is a question.

MR TREVOR ANDREW MANUEL: Chairperson it is not my recall. My recall and, and,

and I mean the, the, the matter referred to as, as the emotional breakdown is about the fact that in retrospect he felt violated by being told. So it was not that I read in the New Age that I will be appointed Minister of Police and then I was not appointed Minister of Police. This was a different kind of exchange that then triggered the, the emotional response.

ADV LEAH GCABASHE: Yes. If you would then turn to, back to TAM page 4 just above paragraph 11. So we are looking at page 4 and these are the last few questions Mr Manuel. We are almost done.

MR TREVOR ANDREW MANUEL: Yes.

10 **ADV LEAH GCABASHE:** I, I, I really want to interrogate very briefly the annexures that you annexed to your statement. The paragraph I have a particular interest in is the second one. Well at the top really Mr Mbalula talks about newspapers that have all kinds of leaks and this is in his response to you. It is the very next paragraph that I have a particular interest in. If you would please read that into the record.

MR TREVOR ANDREW MANUEL: Thank you very much Ms Gcabashe and, and I quote from an open letter from Fikile Mbalula which is dated 11 June 2017 and I quote:

> "Manuel did not understand what my tears were about. He did not get the point that I am on record as stating that I have fundamental problems with the way capitalists operate and the
> 20 Gupta family show us how, just how ugly capitalism is. Indeed they abuse privately learned information to try to position themselves somehow. I was not about that which is why I was the first to report this to an open NEC. I am still not part of that. I do not stand for that. On the other hand Manuel was one of the people who at that NEC meeting did not agree with my

stance on the Gupta family."

ADV LEAH GCABASHE: Thank you Mr Manuel so the first part of that paragraph speaks to Mr Mbalula's what he calls his fundamental problems with the way capitalists operate. Was this the sense you got from his contribution at the NEC meeting?

MR TREVOR ANDREW MANUEL: Chairperson I, I would have to, I would really have to stretch the point to, to think that Mr Mbalula was taking an ideological point against capitalism. I do not think that that, that was articulated in any shape or form, because you know there is, there is a general capitalism and then there is the behaviour of the crudest kind of Rand seekers. Now I think in the minds of many the Guptas would be
10 categorised as crude Rand seekers and, and so, but you know to the best of my recollection Mr Mbalula was not articulating an ideological point. He was, he was upset about the exchange and, and as we, we referred to earlier the abdication of responsibility by the Head of State.

ADV LEAH GCABASHE: Thank you. The second part of that paragraph is, the very last sentence which reads:

> "On the other hand Manuel was one of the people who at that NEC meeting did not agree with my stance on the Gupta family."

Your comment?

20 **MR TREVOR ANDREW MANUEL:** It, it would be very strange. I mean I, I have never had any relationship or any brief for the Gupta family and I would not in any shape or form Chairperson countenance the idea that individuals should be the bearers of tidings to members who are about to be appointed into the Executive. It is in, it is in total violation of everything that I think the Constitution requires of the exercise of Executive Authority. Now when you have an NEC of 80 people and generally no time limit and

how long people can speak for the fact that another person does not speak on the same topic that does not mean that they disagree with the view articulated. You would only know that if you know I see, I saw Cheryl Carolus here earlier. She used to, we, we, oh she is still here. We served on the NEC together. I would never know what her views were on a particular matter unless she articulated those views, because this is not, this is not something that, I mean the NEC forums are not, are not arranged so that each of the individuals can articulate a view. So I mean this is, this is trying to; I think it is, it is, it is an attempt by Mr Mbalula to distinguish himself as a, as pure as driven snow but I, I mean you know.

10 **CHAIRPERSON:** Well in your letter to Mr Mbalula that we have here that, to which he responded in the Daily Maverick I think you raised the issue of what he said at that NEC meeting in a certain context and he responded in the manner in which he responded, but am I right so say part of what you are saying here about what he said at that meeting is that he was expressing an objection to being told by somebody outside of Government, being told by one of the Gupta brothers that he was actually going to be moved from being Deputy Minister to being a Minister. Am I correct to say you are saying he was objecting to that as, as you understood what he, what he said and what his crying was about?

MR TREVOR ANDREW MANUEL: Chairperson let me just, let me just try and couch it

20 in, in an understanding I have.

CHAIRPERSON: Yes.

MR TREVOR ANDREW MANUEL: In the circumstance.

CHAIRPERSON: Yes.

MR TREVOR ANDREW MANUEL: If Atul, Ajay what is the other brother's name, Tony?

ADV LEAH GCABASHE: Rajesh.

MR TREVOR ANDREW MANUEL: Rajesh, if any of them were to phone me and ask me to come and see them at home I do not think I would go. I have never been called so I, I, I do not have any, any, any grounds because it is not, it is not a resolve that has been tested in anyway, but if you do not have a relationship why would you go there? Whether it is Saxonwold or the Sahara Computers Offices in Midrand why would I go there and in the course of the exercise of, of Executive Authorities you have to meet business people and so on, but it is always very important to do certain things as I tried to do. If a business person wanted to see me I would ask them to indicate in writing and almost inevitably I would ask that the meetings take place in my office and so I am saying for me the context is important. If you did not have any relationship my question would be why did you go? What was, what was said to you as part of the invitation to go to wherever that exchange took place and I think that it is fair to presume a pre-existing relationship and so Chairperson the, the, the open letter I write is kind of to say to Fikile Mbalula do not pretend that you had no relationship, because you were in tears about this issue and I am trying to signal that there was a pre-existing relationship of whatever, whatever form because I was not privy to it.

CHAIRPERSON: Well there may, there may or may not have been a pre-existing relationship, but he spoke at the end is a meeting and I am just trying to and, to try and understand to check that my understanding of what you are saying is correct. Let us assume there was a pre-existing relationship. His crying and his raising this issue that he had been told for the first time by the Guptas that he was going to be made Minister before the President could tell him. From what you have said I understand that he was unhappy about that, about, about the fact that he was told by the Guptas before the President could tell him, is my understanding of what – of your understanding of is

attitude incorrect?

MR TREVOR ANDREW MANUEL: No Chairperson I concur with that, the question though is the one that Ms Gcabashe asked earlier, if those events took place in October of 2010 it was a very long gestation period before the remorse was felt, because the essence of it is he was at first elated at being told that he has now made it into cabinet and then in the cold light of day realises that there was something wrong with the way in which he was communicated with and by whom, so if there were signals of earlier remorse before that particular NEC meeting I wasn't privy to them.

CHAIRPERSON: Well part of what I am doing is because the approach would be where he or anybody expresses a view that is a good view, or takes a position that's a good position, you know it may be that you give credit, credit for that, but where or anybody takes a wrong decision, a wrong procedural position you deal with that and say but that was wrong but that was right. Now so I'm trying to see whether from your evidence I can say that he expressed unhappiness in the NEC that a situation had arisen where the Guptas knew in advance that he was going to be made Minister and he was saying this is wrong, or at least part of what he was saying, whether part of what he was saying was this.

MR TREVOR ANDREW MANUEL: Chairperson you know we – as Mr Mbalula says in his response to me that he was the first time to make such a declaration in the NEC and I would grant that point to him. The recognition of something that was fundamentally wrong, even though with the lapse of time I think it's an important point, because if the corridor speculation around the cabinet room and the NEC was correct at the time there were also a number of other individuals who had been called in the same kind of way and they have never made a similar declaration.

Yes Chairperson if the work had been done as the former public protector did

in her report of communication and presence because the GPS on our telephones would tell us who is in this room right now, if those things were done for a number of other individuals I would not be surprised if others were told at about the same time by the same individuals about the positions they'd occupy and you know it – because Chair for me it speaks to on the one hand the abdication of power and on the other hand a very public expression of power, supposing and you know it doesn't happen but supposing the President were to ask for my ear about a particular appointment I don't think that it would ever be my place to communicate to the individuals that we discussed. It's not my place. And unless we can conduct ourselves correctly with the confidences I mean I go back Chairperson and this is learnt behaviour when President Mandela said to me alright so I am going to appoint you, but don't go and discuss this thing with anybody. It's what you accept. I mean you – I think if you accept that you will serve in the cabinet system you must abide by the rules, and if outsiders come and demonstrate in a boastful way that they have access to information that they're not entitled to then I think it speaks to the violation, which is at the centre of an enquiry into capture.

CHAIRPERSON: Well I will allow Ms Gcabashe to continue and finish but after that I just want us to have quite some conversation about some of these issues because, one, they are very important, two, you served for a long time in government and you have a clear understanding of how government works and cabinet and so on, and you were in the NEC for a long time too, so I would like us to discuss that, but just to go back to the issue of what it is that you understood Mr Mbalula to be raising or to be crying about in the NEC. It's important and you have indicated that you would grant him that credit in terms of raising that issue, being the first one to raise that issue. It's important because in this Commission I have heard Mr Jonas who came here and gave

evidence and I know that there may be a challenge to his evidence, he might still be cross-examined and I will make a decision later at some stage but he gave evidence that was to the effect that he was offered a position of Minister of Finance by I say just the Guptas, it was one of the brothers, and he rejected it outright there and then so you might then have a situation where Mr Mbalula might not have raised any concern necessarily to the Guptas when they told him but maybe that it wasn't an offer, they were just telling him what they understood to be – what was going to happen as a matter of fact, you know that he was going to be made Minister, but then he on a certain understanding of his evidence he – of what he said he then raises it at an NEC and he says this is what happened to me and therefore brings it to the attention of the leadership of the governing party for them to know what has happened and then take it from there, but I am just mentioned that, I think Ms Gcabashe is finished we will have a chance to talk more about these issues.

Thank you, Ms Gcabashe?

ADV LEAH GCABASHE: Thank you Chairman, just one or two more questions. Mr Manuel if you go to page 3 of the paginated bundle to your paragraph 9 which is part of this exchange this open letter that you wrote, that's what I want to focus on, the very last sentence of the extract reads:

"Perhaps there are still a few debts to be called in by Saxonwold ".

Could you explain what you were communicating in this sentence?

MR TREVOR ANDREW MANUEL: Chair the vituperative of open letters are the creative juices generally of about three am. I go back to the way in which I tried to answer the question put by you Chairperson. I'm saying that my reading of it was that there must have been a pre-existing relationship. That's the gist of this, and a pre-existing relationship, I mean relationships can be based on all kinds of things. Perhaps

they are just general friendships. Mr Nyanda over there and I are friends and we meet occasionally and we have a chat and we have been friends and that would be – he doesn't need anything from me and I don't need anything from him, it's just a friendship, but the sense that I have of the way in which the Guptas have interacted was never about the need for friendship, it was a need for favours, and it's in my reading of that word of repurposing.

Chair let's go back to the portfolio that Fikile Mbalula was promoted into, Sport and Recreation to replace a person, the Reverend Makhenkesi Stofile, and the late Reverend and I have been friends and comrades for many years, his involvement in sport was lifelong. When as early as 1981 we tried to stop the Springbok Tour to New Zealand it was to the Reverend Makhenkesi Stofile that we turned to go and campaign because sport was his life.

So you take somebody who is a committed – well active sportsperson in his youth, active sports administrator as he grew a bit older, and you replace him with somebody in that portfolio who has no visible or no experience of participation in sport, apart from as we've seen flying to a Mayweather boxing match, you replace a person who has reached into the sporting fraternity because that's what's important about a portfolio like that than somebody who has no evident communication with the fraternity. These are actually important issues and so it's against that backdrop I ask if there are still some outstanding favours to be called in.

ADV LEAH GCABASHE: In that context there's an open source report I came across that suggests that Mr Mbalula was actually supposed, or the intention had been to appoint him as full Minister of Police and that for some reason somebody put the spanners in the works, my words, not the article's words, and he was then moved to sport and recreation. My question is, is this an issue that arose at the NEC meeting of

August 2011, which is what you are dealing with today?

MR TREVOR ANDREW MANUEL: No Chairperson it didn't arise, but let me just infuse into the question, my understanding of what you said may be a legal matter, the rational exercise of power, if – and you know with cabinet positions because they are itinerant you don't necessarily have somebody who has all the schooling in a particular portfolio, but to Ms Gcabashe's question I don't know and you're not meant to know if that speculation in your open source is correct what the criteria would be to evaluate that he might be an appropriate candidate to occupy the position of Minister of Police. Perhaps it's that he fears nothing, perhaps there's some other gift that he has that we are unaware of, but you know all I'm saying is that it's fundamentally important to look at how a power is exercised in a rational and objective manner.

ADV LEAH GCABASHE: Thank you Mr Manuel. Can I ask you to look at page 15 of your paginated bundle, at paragraph 2 thereof, page 15, this is what Mr Mbalula writes in response to our open letter and I really am only interested in the first sentence. He says I have asked before where were all these people when Trevor Manuel appointed or accept R J Gupta as cabinet advisor on economy and an ambassador of Brand South Africa during his tenure. I just want to focus on that and nothing else. What do you know about this particular allegation?

MR TREVOR ANDREW MANUEL: Chairperson in terms of cabinet advisor, cabinet doesn't have advisors. Ministers have advisors but cabinet doesn't have advisors so the position of cabinet advisor from somebody who was a cabinet minister he should know that it's a non-existent position so why he dredges up something that doesn't exist or attempts to dredge up something that doesn't exist I don't know, it's a question that he might be in the best position to answer.

The second issue that he draws attention to is that he served as an

ambassador of Brand of South Africa, I think the term ambassador is used very liberally. Now to the best of my recollection when (indistinct) was Minister in the Presidency one of the responsibilities he had was for Brand SA and generally ministers have the license to approach cabinet to appoint people onto boards, and in this context I don't know if it's Ajay or Atul and I don't want to be on the wrong side of these brothers, one of the Gupta brothers certainly sat on the Board of Brand SA. I do want to make the point that I have a sense that when the Gupta brother was appointed very little was known of their activities and if there were nefarious activities they were certainly not in the open. Chairperson in my limited experience there are people who were public servants, whilst
10 I was a Minister, for whom I had regard for their conduct and integrity and diligence and who later emerged for instance in the Madonsela report, but I didn't know that in that way, that happened in the fullness of time. And my sense is though I had no personal relationship with the Guptas as I've said before having somebody who has arrived in South Africa, appears to have a network of contacts and can assist in brand building would have been the motivation by a minister but it's not an ambassadorial position, it's serving on the Board of Brand SA, so to try and inflate the position as something that cabinet would have dealt with and handing over diplomatic passports and that kind of thing could not be further from the truth.

ADV LEAH GCABASHE: Thank you, thank you Mr Manuel. The remainder of the
20 annexures that you have relied on I do not think are particularly relevant to term of reference 1.3 and unless you can point to some relevance in that discussion that will assist this commission beside the question of appointments and dismissal and the influence on the decision maker by a family or by unauthorised persons I will pass on the rest of the content of those two annexures. I don't know if you think there are particular issues you want to draw on in those two annexures that you believe are

relevant to the reason that you are here today.

MR TREVOR ANDREW MANUEL: No there is nothing else Chairperson, I mean you know I've mentioned in passing that the notion of repurpose, and I have made reference to the appointment of Des van Rooyen, which is common cause, and his arrival in the Treasury with advisors, which I think may have evinced here as evidence by amongst other people Mr Lungisa Fuzile because all of that speaks to the same kind of cavalier use of power I'm afraid, so you know because trends set in and it's quite important to understand that.

Thank you Chair.

10 **ADV LEAH GCABASHE:** My really last question Chairman, it is really an open-ended one to Mr Manuel, are there any other matters that you would like to bring to the attention of the Chairman even if they are matters that don't fall strictly within the preserve of term of reference 1.3 but there may be matters that you would want to come back to the Commission to explore because they are matters that are germane to the discharge of the mandate of this Commission.

MR TREVOR ANDREW MANUEL: Chairperson there is nothing at the moment, but you know I am willing to make a commitment under oath that I would do whatever I can to assist with the success of the mission to you to deal with State Capture, I think all of us as rational South Africans need to be invested in the work that you're doing, we must

20 try and ensure not only that the evidence becomes public but I think that it's very important that there be consequences for those who were involved in wrongdoing, those who have wittingly been instruments of corruption and state capture need to be brought to book and the role of this Commission I think would be paramount in ensuring that justice is seen to be done on that matter, so in whatever small way I can assist Chairperson I want to give you the assurance that I would, thank you.

ADV LEAH GCABASHE: Thank you Chair, thank you very much Mr Manuel. Chairman I have no further questions for Mr Manuel.

CHAIRPERSON: Thank you. Thank you very much Mr Manuel, I did say that I still wanted to have an engagement with you in regard to a number of issues that are very important but before we look at how to handle that I am mindful of the fact that your statements, both statements, may have given the impression, they certainly gave me the impression that we might take a very short time with you, and we have taken much more and you may have made travelling plans that might be disturbed if we keep you for longer, so I just want to check how your situation is in terms of being around a little longer?

MR TREVOR ANDREW MANUEL: Chairperson having just declared my commitment to avail myself to the Commission I will have to stay here, I couldn't otherwise. Thank you.

CHAIRPERSON: Okay so maybe we might have to go into the lunch hour just so that when we release you then we are done, is that fine with you?

MR TREVOR ANDREW MANUEL: I would appreciate that Chair.

CHAIRPERSON: Thank you.

ADV LEAH GCABASHE: Thank you Chairman, may I take my seat?

CHAIRPERSON: Ja thank you. As I have said on a number of occasions before this Commission in terms of its terms of reference must among other things investigate allegations of State Capture, and whether or not those allegations are well-founded is something that I will decide much later, but should I decide that indeed those allegations are well-founded and that there was State Capture one of the things that I will have to look into is what recommendations I should make with regard to measures that may need to be taken to be adopted to try and make sure that State Capture never

happens again in our country, and in order to deal with that question I have to look at, in part I have to look at how did State Capture happen, how did it start, and how was it allowed to go on for X number of years and that question includes looking at the question of what organisation or what structure of Government or who could have had an opportunity to contribute to having State Capture stopped as quickly as possible, what could they have done and if they didn't do it what were the circumstances, so it seems to me one would have to look at all of those things in order to make very informed decisions, or recommendations.

Now I then want to hear what your views are in this regard, with regard to well maybe I should start by saying as far as you know when did NEC of the government party become aware that there seemed to be what everyone now calls State Capture, and if you are able you can just talk about how you understand they might have come to be aware of that, and it may be that you are not able to say as to when they became aware but you are able to say generally your view is that by a certain time you know many people within either the NEC or the MC had become aware that there was something happening which should not be happening that we have come to call State Capture.

MR TREVOR ANDREW MANUEL: Thank you Chairperson. The question you posed is difficult, because the – my own reading of the situation, and a lot of this is with benefit of hindsight of course.

CHAIRPERSON: Yes, yes.

MR TREVOR ANDREW MANUEL: Is that the period, I mean you know persons whom I was present for nine years, in the first five years it seemed as though at some point the institutions of government, because if one reads literature on State Capture then the role of the institutions is always fundamentally important, and those institutions

across government are very wide, and if you look at the institutions of the Criminal Justice System for instance there will be the judiciary because the judiciary has held up amazingly well and they've got a Judicial Services Commission etcetera, etcetera, that could in some way fetter the powers to appoint whomsoever the Head of State likes. But if one looks at the rest, if you look at – and there I know, I'm mindful of the fact that Makgoro Commission is sitting as we speak.

CHAIRPERSON: Yes, yes.

MR TREVOR MANUEL: But if you look at some of the events that transpired in relation to the National Director Of Public Prosecutions then there was clearly stuff that happened there that is – that weakened the institution. Now you can track back – you can track it back perhaps even into the administration and then look at the particular appointment and look at the subsidiary appointments. You can look at the police service and you can look at some of the occupants of the position of National Commissioner and some of the heads of the particular branches and if the police is rendered ineffective and the prosecutorial authority is rendered ineffective then the fact that there would be consequences for wrongdoers diminishes rapidly so. I allude to that big cabinet reshuffle of the end of October 2010. Now you have asked the evidence leaders to find ..

CHAIRPERSON: The listing.

MR TREVOR MANUEL: The extent of the changes and so on and so on it would be useful to look at those kinds of [indistinct]. And ask whether there were particular kinds of actions because of – because of changes of ministers. And some of the changes I mean you know you lay the basis over a period of time and some of them may actually only have been triggered after the 2014 election. You could also in a not dissimilar way look at some of the state owned enterprises or corporations. I mentioned the number of

CEO's of Eskom for instance and you could look at the boards of the state and corporations could the boards exercise governance over the management appointed? In senior executives of the organisation at what point did they start changing their behaviour? At what point does somebody trained as an engineer who understands generation at what point do they start changing and what is the inducement for change? I do not know the answers to these questions Chairperson. You could similarly look at Transnet, you could look at SAA, you could ask why it is that particular individuals were preferred to occupy certain positions in boards or in executives? And it is – you probably going to find Chairperson that if you paid very careful attention if there were
10 research done on the timelines of behaviour no. At Eskom we had power outages perhaps as early as 2008 when there were certain challenges that arose if my memory serves me at the nuclear power station at Koeberg. They were remedied. Eskom seemed to be able to cope – to deal reasonably and effectively with the period of significant growth in the economy. The economy in that period was growing at about four a half to five percent and because of we live in an energy intensive industrial country the demand for electricity grew. And it – Eskom could accommodate the increased demand and then certain things happened. And when those certain things happened certain skills were lost. Even employment for particular kinds of experts appeared to become almost impossible. They were driven away. And I think that the
20 timelines across even just the state owned corporations are going to be very different. But I have no doubt that in the appointment of certain persons to perform functions be this is chief executives and chief financial officers, be it as technical officers I think PRASA for instance or be it the ministers that gave license to certain things if I were to try and map this that is certainly where I would look and the one thing I have learnt in the past while is that some of the footprints and fingerprints that are left by things like

emails and so on do not lie. And so it should be possible Chairperson with appropriate expertise to begin to synthesise some of those things. And then you could say well if I am looking at say PRASA I know that it is not the _ it may not be the subject of the Madonsela inquiry at what point did certain changes happen? What I am aware of now is that the ability of PRASA to act as a reliable, safe, affordable commuter rail system for working people in this country is very seriously diminished. At what point did it happen and why? I mean I can – all I can offer you Chair is that that kind of analysis would be key to unlocking and if that were the case at what point did it happen and what may have been the chain of command that gave the licence to bad things
10 happening?

CHAIRPERSON: But in terms of when the NEC may have become aware that there were things happening that we now call state capture are you able to give an indication as to say well by a certain time surely you know most people were aware and therefore they should have been aware or are you not able to [indistinct].

MR TREVOR MANUEL: Chairperson I know that one of the ongoing discussions and debates in this country would be the role of party and state.

CHAIRPERSON: Yes, yes.

MR TREVOR MANUEL: The role of party in state.

CHAIRPERSON: Yes, yes. Actually that is where I am getting to – well let me – maybe
20 let me finish before because you have raised it before you answer. I would like to know what your views are about whether the governing party once it became aware of what we now call state capture whether if you would expect that it ought to have taken some steps to try and make sure that no further damage was done by state capture to the country, to the state or whether you take the view that well there is a difference between the state and the party and the party had – it could not do anything and I

would ask also the question so you could think about it, you could deal with it as well. Whether Parliament with its obligations of oversight of course which has got you know members of Parliament whether you think once they became aware whatever that time is they also should have or may have had to take some steps to try and make sure that state capture did not cause any more damage to the country as it may have done by that time? So and I know that some of these questions might not be easy questions. You might not have prepared to deal with them so just feel free to deal with what you are able to deal with and to answer what you can but your views might be very helpful because of the experience you have had both in – I mean in government.

10 **MR TREVOR MANUEL:** Thank you Chair. Let us start with your question about the National Executive Committee. I think the – the election to the National Executive Committee is always on the basis of seeming popularity and the choice of the four to five thousand delegates who assemble once every five years is quite material. There is a process of course that starts with branches and goes through regions and so on to produce lists of people but of course there are also slates within it. So you may well end up with the 80 members – the 60 members or so who were directly elected who merely happen to be popular or maybe one side of the slate and because these events are so fiercely contested it may overlook skilled people who happen to be on a different slate. It is just in the nature of how this happens and when the NEC is assembled I

20 think it is very important not to imbue it with an authority that it is not meant to have. Chair because you can look – you can look at the issues of state capture as described in the State Of Capture Report. And the kinds of information expressed in that report by former Public Protector is not information that the NEC would readily have. Because it is not – it is – I mean that deals with a particular set of state owned corporations but if you look at some other issues and let me just pluck out of the air some of the difficulties

in the distribution of grants and pensions and there are many people who would say when individuals in society are so vulnerable please do not take chances with their access to survival resources. But there is no voice – there is no place that this is articulated the NEC has committees but frequently the people who chair the committees and who are most active in the committees are also the ministers. So it does not – it does not – it is not very good at holding up a mirror to itself. So you need other mechanisms in society. I think if one looks at Parliament then as the second part of your question Chair the – the – I mean there are a number of issues where Parliament ought to have acted sooner. Not a secret because I have expressed it to
10 successive speakers of Parliament I think our Parliament actually spends very little time dealing with matters. If you look at how Parliaments across the world convene and how debates are managed and you look at the [indistinct] debate in our Parliaments I think we should be a bit concerned about it. Also as we prepare for the sixth Parliament from about May the question of the skill set that obtains there and whether there is sufficient independent mind on a range of issues. Now I think late in the day I was impressed by the way in which Parliament responded to certain challenges. The SABC the response to the State of Capture Report and the particular look at Eskom for instance. And one holds the hope that that could become the way in which Parliament functions however – however it is going to be important that there be consequences. I know that on both of
20 those reports there were very clear recommendations from the committees put to the prenery of the National Assembly. That may have been signal to – to what the prosecutorial authority and police should have done. It has not happened yet. One looks at other institutions I pluck out of the air also the example of VBS. There is a report; the Mortal Report is there and public and perhaps it is not read by a prosecutors, perhaps the police are not interested in it but I get very concerned about

this because if we act in a way where individuals who seize power by whatever way can act with impunity then the vulnerable in society are always punished. And if we go into this matter Chair the question is how – how does our constitution protect the vulnerable and create the kind of society that is articulated in the preamble to that constitution? How do you say to South Africans that we take serious the living standards of all citizens and we want to free the potential of each person? How do you do that when we have an education system that does not reach people? It is that kind of enquiry that I think because our commitments made in the constitution that we adopted in May of 1996 ought to be durable. And you can only deal with them if there are measurements – you know if you cannot measure it you cannot manage it as they say. How do you know – how do you look somebody in the eye and say your life today is better than what it was yesterday. Because that is what the constitution implies. But on other issues I mean I really and I have pondered the question Chair we have seen – we have seen the exercise of presidential power in the assembly of cabinets. There are not always automatic choices. I know that there were people who were unhappy with President Mandela when he appointed me as Minister of Finance because I was not a trained economist or anything. So it is not about ticking the boxes for academic success or otherwise. I mean I have said before as well when we appointed Pravin Gordhan as the Commissioner for the Revenue Service there was nothing self-evident about appointing a pharmacist to head the Revenue Service but I think that if you look back at his record in SARS it is impeccable. So it is a difficult call and I do not know how – how you advise in that call. Even the other issue that is frequently debated about political representation Chair where some people argue as the late Van Zyl Slabbert did that we should have a blended system that also brings in constituency representation which is the system we have in local government. But even there the

system does not provide the answers we are looking for. But I – you know my own sense is that the state – the state capture issues should in fact trigger and hopefully it is the kind of stuff that you can do in your report trigger a wider discussion about how we exist as a nation? What matters and what does not matter from people purporting to be religious leaders to children who murder a man in the street to all kinds of issues. There is something wrong in society and it is because it appears as though there are no consequences. So the word consequences has to be – has to have a particular weight in this judicial enquiry that looks at what went wrong in the functioning of government.

CHAIRPERSON: You may or may not have been still serving in the MEC when according to Mr Ramatlhodi the NEC or maybe not the NEC or but some members within – of the NEC raised the issue according to him with the former president of his friendship with the Gupta family. Mr Ramatlhodi said some of the members of the NEC raised the issue and he said not once he said many times and said to the former president "Why do you not terminate this friendship with this family because I am paraphrasing now it is not good for the parties, it is not good for the country or for government and he says that the former president's answer was something along the lines that the family – this family had helped I do not know whether his family or helped his children when nobody else could – was prepared to help them and as I understood Mr Ramatlhodi's evidence the matter would end there. And my con – so my question is whether that was ever raised when you were still a member of the NEC and my question that arises from that also would be how the NEC would think that that was an issue to be left there if this friendship as far as they were concerned was doing a lot of damage to the country or to government and maybe to the party as well? So you might not have been there but there is this evidence that we heard and I do not know if you are able to say anything?

MR TREVOR MANUEL: Chair these kinds of issues were raised by members of various parties. I would hope that one of the results of this commission would be – would encourage deep introspection. I am saying that whilst the exchange of letters between Fikile Mbalula and I appear to suggest the state of war between us. Ultimately – ultimately as I said we are on the same page and I commend him for having been the first to publicly raise that. The influence of the Gupta's and – now the issue was raised but I am saying the introspection that is necessary is what do you do – what should the NEC do when it observes that there is wrongdoing? Is it just left to the personality of the individual who occupies or the individuals perhaps the top six, is it just left to their personality? Or should there be approaches because part of politics is also persuading. It is not always about the formal disciplinary processes. The ANC has formal disciplinary processes. There is a national disciplinary committee and a national disciplinary committee of appeals and so on and so on that is very formal. But they key issue I think in a political movement has always been the value systems. And how do you work it that continuously because if somebody was good once how do you help them along the line if in the mind of General Nyanda I was politically okay when we first met and I veered off the path does he have the means to raise this matter and help me back? What is in the mind of an organisation like that? I had big fallouts about particular matters and I was declared a free agent but be that as it may I will not go there now. The in membership based organisations I think there has to be an ethos and a platform of values that binds people together. In the exercise of power in government Chairperson there would in my mind be two areas where the capture has happened. The first would be supply chain management. The procurement system. And my own sense retrospect and Ms Gcabashe gave me accolades for having worked on the PFMA I am compelled to ask where the PFMA which is based on outcomes to try

and move away from this kind of rules based system. Did not _ I mean was not designed for people who would always act together in common public could and we do not find ourselves – we do not find ourselves in a rather strange position where it has been grossly abused. Should the – should the PFMA be tightened up in certain areas? So that is the one side of what I see as risk. The other side is the employment of people. Now from 1994 there was a – there was a mammoth task to work to represent – to work for representivity and the development of skills in the public service. And so I think it would be understood that there may be certain shortcuts. But some of what has happened where people who have no competence and even less interest in the
10 positions they occupy have been appointed. You on an incredibly slippery slope and that might be an area where there might be an excursion into how you deal with these matters. And the last point I would raise in this regard Chair is black economic empowerment. I know that we need to retain BEE to ensure that we can have a more inclusive economy and greater participation. I know that – that the constitution requires of us in the Bill of Rights at Section 9 it allows us to tweak and to favour by discriminatory measures people have been historically disadvantaged and so that is the constitutional premise in my mind for having BEE but it has to be rules based. And so these are issues – and because we have started the journey and some of what should be told about what has gone wrong in state capture is that it was just BEE I think that
20 the measures are actually too precious for future generations to allow to be abused. And so you know if Mr [indistinct] and I set up a BEE partnership to sell airplanes to SAA neither of us I do not know about her but I do not know much about airplanes but we would add a premium onto what SAA can purchase airplanes at. Somebody has got to pay for it. The economy pays for it. That is very different Chair from encouraging individuals who have been historically disadvantaged from entering into industry and so

on and so on and then being able to pursue a growth path. So some of these things I think have lent themselves to abuse and I hope that we can have a discourse nationwide discourse about how to remedy some of these matters that have created the difficulties that we have. Thank you.

CHAIRPERSON: Maybe the last question would be this but before I put this question I go back to what you said about Eskom. You said that at one stage Eskom was one of the top entities in the world and I think you were not the first former Minister of Finance to say that. I think Minister Gordhan may have said the same thing either here or elsewhere and, and maybe one of the DGs or former DGs of, of National Treasury as well and you were drawing attention to where Eskom is now if you look at where it once was and of course we have to examine the question of how did all that happen. How did we come from up there to be where Eskom is now and what needs to be done to make sure that whatever caused that insofar as it may have been part of state capture does not happen again. So, but I just mention that because Eskom I think represents quite an example in terms of an entity that on your evidence and on what I have heard elsewhere was an entity that was quite high up internationally, but has had all kinds of problems, but the one issue that I want to ask is with regard to what Parliament could have done or could do with special reference to members of Parliament. When members of Parliament exercise oversight over the running of Government departments by Ministers and, and the President when they look at how they execute their Executive functions. There may be times when in the past they may have been called upon to stand up and say this is wrong and there should be certain consequences on a certain Minister or a certain President, but maybe they might have felt that their party did not want them to take that stand. Are you able to throw some light as to whether that is something that may have happened? You were a member of

a Parliament for a long time. That may have happened, because if it happened it might well have led to a situation where when certain decisions could have been taken were not taken because they simply were not enough Members of Parliament who stood for what many would have seen as the right decision to be made and, and, and to the extent that maybe it has been our constitutional arrangement in terms of how people become members of Parliament and so on that you have that tension. If you are able to indicate whether it is something that should be looked at for purposes of making sure if state capture reared its head again it was stopped immediately. Then you can indicate what you think.

10 **MR TREVOR ANDREW MANUEL:** Chairperson I think that that I would start from the premise that lives of our Members of Parliament is actually quite difficult, because they have to do so much without support. If one looks at, at Congress in the United States for instance I think every Congress person would have about 10 support staff. You can do the research. You can help them and so on and so on and that can happen without a caucus functioning. Just by the by I, I yesterday or the day before I heard a bit of a discussion on the radio where a member of an opposition party refers to what a member of the Government party said about a matter and he said ma'am there is just too much stuff to read. I did not read these documents. Now that would be that would be intolerable. So somehow we need to find something that recognises that our
20 Parliament represents I suppose what we are as a nation, skill set and so on and so on, but you cannot just leave that to chance and you do not just leave some officials with computers to write speeches for these MPs. We need to equip them to deal with issues differently. I am pretty sure that if we took Members of Parliament and taught some things, if we taught Members of Parliament for instance to read especially those who serve in particular Portfolio Committees like Public Enterprises or Finances and so on

what a balance sheet is, what it looks like, what the numbers there represent etcetera, what to look for and if, if you were to put out a call to accountants and you were to a ABASA, Association of Black Accountants of South Africa or you went to CICA and said can you put Members of Parliament through a course so that they can see what these papers are when [indistinct] report. You might actually get different lines of questioning. I mean I, I remain of the view Chairperson that you know as they say sunlight is the best disinfectant and if, if, if a delegation of any State Owned Enterprise arrives in Parliament and parliamentarians across the Board are asking questions along certain lines as you saw with the State Owned Enterprises Enquiry or with the SABC Enquiry in about the end of 2016. Then it changes the colour of the horse. Then these Executives cannot just come there with some pretence at Parliament because you can call people comrade. You are going to get away with stuff. I think that we need to empower parliamentarians to deal with the issues differently and I think we need to do the same in, in provincial legislatures. Chair you; it is outside of your, your terms of reference to look at Local Government, but I get very scared when I read about a contract to deliver storm water drains in Nelson Mandela Bay Municipality where 12 people have been shot because of disputes over contracts. We cannot live, we cannot live according to the laws of the jungle. We must empower our public representatives to act appropriately and, and I think that is a responsibility that needs a big and repeated call and, and I do not believe that we should, we should now try and change and, and ask for academic qualifications of people who go to Parliament, but I think we must ensure that there be an adequate investment in time and training to ensure that they are better equipped to do what they have to.

CHAIRPERSON: Well municipalities do fall within our terms of reference. They are.

MR TREVOR ANDREW MANUEL: Oh.

CHAIRPERSON: They are organs of State.

MR TREVOR ANDREW MANUEL: You may be here for a very long time Chair.

CHAIRPERSON: [Laughing]. No that is true, but your, your, your answer Mr Manuel relates to matters where somebody might just need some knowledge and in, in order to be able to make certain decisions, but there are very many issues where even if you do not have to read up any reports or do not have to be, to take less, lessons. You know what is right and you know what is wrong. If there is theft going on in a particular department you will, you will see that there is theft going on there and therefore as a Member of Parliament who must contribute to oversight you ought to be able to stand up and say there is theft going on here. This Minister or this Member of the Executive needs to be dealt with in a certain way. So, but, so when you look at that are you, are you, what would you say in terms of the ability to, to do what is right and not to be conflicted maybe between what your party might tell you and what you might think is the right thing to do.

MR TREVOR ANDREW MANUEL: Chair let me make two points. The first is when I read the Auditor-General's reports and that is quite important as a, as a kind of flag raiser of issues. There are a number of municipalities and I, if I, if I said somewhere between 20 and 30 who for a number of years have not completed any audits. The Auditor-General cannot audit them because there are no records. Why are there no records, because it is easier to destroy records than to have a negative opinion? We have tolerated this for a number of years. Surely we must embolden the Auditor-General. I know that there have been amendments to the Auditor-General Act or the Public Ordered Act that allow for actions, but we have tolerated these things for too long. That is one kind of example and I think similarly the Sections 85 and 86 of the PFMA that deals with, with financial wrongdoing in public enterprises. We need to

shore that up. We need to shore up the terms and conditions of the PFMA and you know it is, it is quite important I think to be seen to be taking action against people. The other thing that is necessary and I am not raising this begging to do things, when I look at any number of people Chair when occasionally when I turn on the TV and I see people who have appeared before this Commission whom I know whose skill sets I can vouch for. Almost without exception none of us are ever called to help out. Sitting over there is a retired General Nyanda. We know him from the work he did over many years in exile. We know of the risks that he placed himself and his family under. We know him as a, as a Minister. Why is it that his skills are not called upon as they would be in
10 any other society and the people we speak of are not people who think that is an opportunity to get rich, to get a tender. If one looks at, at, at former Presidents of our country who happen to be in the same party as the ruling party they cannot be *persona non grata*. Why did they govern in the way that they did? Why did they lead Government in the way that they did? What are the issues that go into consideration? I wish that that there could be consideration of how it was that Cabinets were put together that that operated successfully. Why is it that skills are not drawn upon? Is it because of insecurity? Is it because people think if I asked Trevor Manuel what did the, he, he might get my job. We can make declarations we do not want anybody's jobs, but skills that have been accumulated I say they are not my personal skills Chair. I do not
20 have proprietary, ownership of the skills I have. They should be put at the disposal of, of the country. I am not saying that that they are, they are faultless and flawless, but even if it is merely to facilitate discussion with people about what one is seeing and so on and so on. I think more people have been through the ranks need to be called upon to assist. We cannot be enemies. We cannot utilise our skills elsewhere. We, we are South African. We are, we have pledged allegiance to the Constitution and it was not

for purposes of getting a job as a Member of Parliament or as a Minister. It has to be a continuous pledge to the Constitution and that I hope is what we can look at to try and prevent what has happened over the past decade or so which I think imposes an enormous burden on successive generations.

CHAIRPERSON: No, thank you very much Mr Manuel. I, I really do hope that your appearance before this Commission will encourage many others who are former Ministers and current Ministers who can contribute and who know, who have knowledge of matters that fall within our terms of reference to come forward and take the attitude that the issues that this Commission is investigating are very important for the nation and that they would want to be part of those who make contributions to make sure that the work of this Commission is a success. Thank you very much. You are excused. We are going to take the lunch adjournment. I see that it is much, much later than I thought we would take, but these were important matters we needed to deal with. Mr Pretorius I see you are up. Do you?

ADV PAUL PRETORIUS SC: [Indistinct].

CHAIRPERSON: No, okay.

ADV PAUL PRETORIUS SC: [Indistinct].

CHAIRPERSON: Yes, yes as is normal. Yes. No thank you. I think we should take the lunch adjournment. It is now quarter to two and maybe resume at, resume at quarter to three. That that gives us the usual hour. Okay, we adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes Ms Sello.

ADV MAHLAPE SELLO: Thank you Chair, Chair with your leave we will present the

testimony of General Siphiwe Nyanda.

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO: Before he is sworn in Chair I would like to make a few preliminary remarks. The relevance of General Nyanda's testimony today concerns in particular Term 1.3 of the Terms of Reference and my learned colleague, Mr Bashu, referred to it previously, for the record I will state that it provides thus whether the appointment of any member of the National Executive functionary and/or officer bearer was disclosed to the Gupta family or any other unauthorised person before such appointments were formally made and/or announced and if so whether the President or any member of the National Executive is responsible for such conduct.

General Nyanda's evidence will then to a large part be confined to the specific term. Having submitted a written statement to the Commissioner General Nyanda had opportunity to reflect on some issues he considered pertinent to his testimony today, and in particular these are issues relating to the period after what 1.3 relates to, which is the alleged declaration by Mr Mbalula of the offer made to him and in that regard he has made available this morning certain documentation which is not in your file Chair, which I will beg leave to hand up when we get to that part of the evidence.

Against that background Chair then I would request that General Nyanda be sworn in.

CHAIRPERSON: Yes, registrar just swear him in now, administer the affirmation whichever the case may be.

REGISTRAR: Please state our full names for the record.

MR SIPHIWE NYANDA: Siphiwe Nyanda.

REGISTRAR: Do you have any objection with making the prescribed affirmation?

MR SIPHIWE NYANDA: I have no objection.

REGISTRAR: Do you swear then that the evidence you will give shall be the truth, the whole truth and nothing but the truth. If so please raise your right hand and say I truly affirm.

MR SIPHIWE NYANDA: I truly affirm

REGISTRAR: Thank you.

CHAIRPERSON: Good afternoon General Nyanda, I don't know I seem to understand that once a general always a general.

MR SIPHIWE NYANDA: Particularly in the Military.

10 **CHAIRPERSON:** Yes, so I just want to say before you start with your evidence thank you very much for coming forward, and I have called for past and present ministers to come forward and assist the Commission and DG's and past DG's, I thank you for coming forward to assist us.

MR SIPHIWE NYANDA: It is my pleasure.

CHAIRPERSON: Thank you.

ADV MAHLAPE SELLO: Thank you Chair. For the record Chair I will state that General Nyanda is unrepresented and he has dealt with the Commission directly and with the evidence leaders.

CHAIRPERSON: Yes, okay.

20 **ADV MAHLAPE SELLO:** General Nyanda you submitted a statement to the Commission have you?

MR SIPHIWE NYANDA: Yes I did.

ADV MAHLAPE SELLO: Chair Ms Gcabashe introduced Exhibit V to the Commission this morning and indicated that it is split in two parts, V1 and V2. The portion that relates to General Nyanda is under tab V2.

CHAIRPERSON: Ja, I've got that.

ADV MAHLAPE SELLO: General Nyanda you have next to you a file, on the spine it should be written Volume 2, by rights it should be Exhibit V instead of Volume V, please go to the second tab and turn over, you will find an index and that index indicates ...(intervention)

CHAIRPERSON: It looks like he is at the statement already.

ADV MAHLAPE SELLO: Okay.

CHAIRPERSON: Ja, I think he is ready for you.

ADV MAHLAPE SELLO: If you have located the statement it is the one that is paginated SN01 at the top right hand corner.

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: Okay, please consider that statement and confirm is that the statement you made to the Commission on the date reflected, which is the 2nd November 2018?

MR SIPHIWE NYANDA: Yes it is.

ADV MAHLAPE SELLO: Is that your Annexure appearing at the bottom of that statement?

MR SIPHIWE NYANDA: It is my signature yes.

ADV MAHLAPE SELLO: Do you stand ...(intervention)

CHAIRPERSON: I think you said Annexure

ADV MAHLAPE SELLO: Chair?

CHAIRPERSON: You said is that your Annexure.

ADV MAHLAPE SELLO: Your signature.

CHAIRPERSON: He corrected you.

ADV MAHLAPE SELLO: Oh, I am indebted to the General, I apologise, your

signature. Do you stand by the averments you have made in that statement?

MR SIPHIWE NYANDA: Yes, I do, I do.

ADV MAHLAPE SELLO: Now before you confirmed it under oath are there any corrections you would like to effect to that statements, any amendments, changes?

MR SIPHIWE NYANDA: In the statement I say that I swear under oath that I was a member of the African National Congress on the dates and that in a meeting of this committee the ANC following a cabinet reshuffle in which Mr Fikile Mbalula was appointed as Minister of Sport he said that the said Fikile Mbalula told the following meeting the things that I say there.

10 **ADV MAHLAPE SELLO:** Is there anything you would like to change in this statement currently?

MR SIPHIWE NYANDA: No, not in the statement except the dates I think in relation, I don't know whether they are here the dates that I state in the meeting about the meeting.

ADV MAHLAPE SELLO: No, we will get to that detail, it forms part of your statement, I just wanted to know if there are any corrections you would like to effect, before ...(intervention)

CHAIRPERSON: I think he is saying he is not sure about the dates, I think that's what he wants to say he is not sure whether he should correct. General is that what you

20 were trying to say or did I misunderstand you?

MR SIPHIWE NYANDA: It's just the date that I put I don't know whether it's in this affidavit about the exact meeting or the exact date of the meeting that took place.

CHAIRPERSON: Maybe do you want to – it's a short statement, do you want to just silently read it and see whether you will be in a position to say it's correct, there is nothing you want to correct?

MR SIPHIWE NYANDA: I said in the meeting of the abovementioned committee in early 2011 or thereabouts.

CHAIRPERSON: And that is correct, you stand by that?

MR SIPHIWE NYANDA: It may be that the date ...(intervention)

CHAIRPERSON: Ja, might not be accurate.

MR SIPHIWE NYANDA: It will not be early in 2011.

CHAIRPERSON: Yes, but do you want to leave it like that because you say thereabout, or do you want to change anything in that regard?

MR SIPHIWE NYANDA: I can leave it there, but having rummaged through documentation I realise it may not be actually as early as 2011, but it was 2011.

CHAIRPERSON: Okay, no that's fine.

ADV MAHLAPE SELLO: Chair just to inform you, this is an aspect I intend to deal with General Nyanda further on during his testimony, I just wanted to make sure that there no corrections, there are no errors contained in his statement.

CHAIRPERSON: Yes but he was indicating that he wasn't sure whether he might have made an error with regard to the dates, so you asked him is the statement correct, so he was looking at the dates and wanting to make up his mind whether he would say let's correct something about the dates or not and I think the two of you might not have been on the same page.

ADV MAHLAPE SELLO: I think we are clarified now. On that basis then you accept that the Chair can accept this statement as your correct version of events?

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: Chair as the Chair will note the statement itself is not numbered it's very short however, may I suggest for reference purposes that we number the main paragraph as paragraph one which would have the three sub-

paragraphs the next paragraph is two and then the last paragraph is three, just for ease of reference.

CHAIRPERSON: Well even if we don't number them it won't be a problem referring to, it's got only effectively four unnumbered paragraphs or maybe three if the one, two, three is part of the first one, it won't be a problem. It's a short statement.

ADV MAHLAPE SELLO: Thank you Chair. General Nyanda before we get into the detail of what's set out in your statement could you give the Chairperson a brief background to our service in Government, be it in Executive or legislature or any other form of employment you've held in Government, just very briefly.

10 **MR SIPHIWE NYANDA:** I was appointed in 1994 into the South African National Defence Force which was formed then, comprising of the various armed groups or armed formations which existed then from the homeland forces, from the old SADF, from (indistinct) Sizwe and Apla. I was appointed as part of the Command of the new SANTF. I was then Chief of Staff of the SANDF.

ADV MAHLAPE SELLO: Yes.

MR SIPHIWE NYANDA: Later on when General Meyering, who was the First Commander of the new SANDF was dismissed I became the Commander of the SANDF, it was 1996.

ADV MAHLAPE SELLO: Yes.

20 **MR SIPHIWE NYANDA:** Following I retired as the Chief of the SANDF in 1995 after serving seven years as the Commander of the South African National Defence Force, or the Chief of the SAND, and went into private business. In 2009 or in 2007 I became part of, I was reappointed to the - or re-elected to the MEC of ANC in Polokwane and in 2009 I became, I was appointed as Minister of Communications. 2010 I was dropped as Minister of Communications and became an ordinary member of Parliament and I

left Parliament in 2014, after the new elections, I did not elect to go back into Parliament and into Government service.

ADV MAHLAPE SELLO: Thank you.

CHAIRPERSON: I seem to have heard you to say you retired as Chief of the Defence Force in 1995, did I hear correctly.

MR SIPHIWE NYANDA: 2005.

CHAIRPERSON: Ja I think you meant because I thought it happened quite quickly but I think you said 1995, you must meant 2005.

MR SIPHIWE NYANDA: It was my mistake yes 2005.

10 **CHAIRPERSON:** Ja okay, thank you.

ADV MAHLAPE SELLO: Thank you Chair. Turning then to your statement you indicate, as you've just testified that you were appointed to the National Executive Committee of the ANC in December 2007 and you served until December 2012.

MR SIPHIWE NYANDA: No, in the National Executive Committee I served until 2014.

ADV MAHLAPE SELLO: 2014.

MR SIPHIWE NYANDA: The new Executive was elected in Bloemfontein.

ADV MAHLAPE SELLO: Please refer to your statement at SM1, SM01 to be precise, at the second line you state that I was a member of the African National Congress, National Executive Committee from December 2007 until December 2012. Would you

20 have a ...(intervention)

MR SIPHIWE NYANDA: No, this was in cabinet this 2012. 2012.

CHAIRPERSON: Well isn't the position that the ANC had its own elective conference in 2012 in Mangahong?

MR SIPHIWE NYANDA: No, it's 2014, so that is not correct.

CHAIRPERSON: Is it not the National elections in the country that were in 2014 and

the ANC National Elections, ANC Elections, not national, ANC Elections in Mangahong, 2012?

MR SIPHIWE NYANDA: Yes, it is, it is.

CHAIRPERSON: 2012 is ANC National Conference

MR SIPHIWE NYANDA: In December.

CHAIRPERSON: Ja, okay. And then the elections of the country in 2014.

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: Ja, okay.

ADV MAHLAPE SELLO: So you ceased to be a member of the NEC at that elective conference in December 2012?

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: According to your statement. You stayed now your statement to the Commission specifically refers to an announcement or declaration made by Mr Mbalula in a particular NEC meeting, is that correct?

MR SIPHIWE NYANDA: Correct.

ADV MAHLAPE SELLO: Now can you briefly state to the Chairperson which – at which NEC meeting was the declaration made?

MR SIPHIWE NYANDA: As I say in the statement Chair it was following the cabinet reshuffle of October 2010, I can't recall the exact meeting of the African National Congress, NEC where this meeting took place where Mbalula made this declaration but it was certainly in 2011 following that cabinet reshuffle.

ADV MAHLAPE SELLO: Now you sat through Mr Manuel's evidence this morning.

MR SIPHIWE NYANDA: Yes I did.

ADV MAHLAPE SELLO: Mr Manuel stated that that meeting was in August 2011, does that assist in prompting your recollection in any way?

MR SIPHIWE NYANDA: No it does not, I was rummaging through documentation following consultation about trying to establish exactly when this meeting took place, and I take notes, I used to take notes at NEC meetings, and I could not find th at meeting where Mr Mbalula said what he said at that meeting, except for the fact that I remember or through that documentation I established that there was a – there were elections in 2011 for the local government, there were local government elections and so it is unlikely that we could have sent through and discussed this matter so early in the year because normally meetings of the African National Congress Executive take place quarterly, but we do meet form time to time, we do meet either in December or in January to prepare for the January 8 statement and then we will meet again to prepare for cabinet Magutla, which is again just before there is the State of the National by the President to prepare for their cabinet, Magutla, we meet as the ANC to prepare for that so it's an extended meeting which involves Directors General who might be called to that meeting and the premiers who are ANC premiers to that meeting to prepare for the Cabinet Lagodla, which then involves premiums whether they are ANC or not ANC. So it is possible that we might have had more meetings which dealt with specific issues and did not delve into the issue that Mbalula raised at a subsequent meeting.

ADV MAHLAPE SELLO: Thank you Chair. Now before we get into the detail of Mr Mbalula's declaration could you briefly state how traditionally these NEC meetings were conducted?

MR SIPHIWE NYANDA: Well at the – I had been a member of the NEC before but that was before we went into government, I was elected into the NEC in Durban at our first conference of the African National Congress internally, so those meetings were different from the meetings which took place subsequently when I became a member of the NEC in 2007, December because then ANC was in government so these meetings, the

meetings in my recollection which took place when I became a member of the NEC again they were different from those that we had when Mandela was the President of the African National Congress. The meetings took place, there was a suggestion from some of the members of the NEC that the President opens the meeting and closes the meeting. There was some debate about it but some members of the ANC pushed for this that the President who was then Jacob Zuma opens the meetings and closes the meetings, it gives a political input and then we debate the political input, put our own inputs, discuss things that perhaps you may not have raised and then discuss them and then the President at the end of meeting then summarises for the salient points of that meeting to the rest of the NEC.

ADV MAHLAPE SELLO: And that method pertained right through the five years you served in the NEC?

MR SIPHIWE NYANDA: Exactly Chair.

ADV MAHLAPE SELLO: Now let's turn the actual declaration made by Mr Mbalula at the NEC meeting of 2011, I'm accepting that you don't remember exactly which one it was in 2011, you deal with that in your statement but just state in your own words what actually transpired?

MR SIPHIWE NYANDA: Well what transpired is that Mbalula told the meeting, I can't remember the context, in which this matter was discussed by him, or this revelation was made by him, except that he made such a revelation that he was approached by the Guptas and told that he would come Minister of Sport before he actually knew, before he was informed by the Executive Authority, by the President that he would become the Minister of Sport and indeed he was appointed to that position, and he was saying so because he was upset by such a revelation coming from people who had no business to know that he was going to become anything in cabinet because he had been Deputy

Minister of Police at the time that he was told that he was going to become Minister, the full cabinet Minister.

ADV MAHLAPE SELLO: Now we heard this morning the evidence of Mr Manuel that as he made that declaration Mr Mbalula cried and in an open letter, which is annexed to Mr Manuel's statement which was issued by Mr Mbalula he does not appear to deny that he cried at that meeting, do you have a recollection of that?

MR SIPHIWE NYANDA: No, I am not as sentimental as Mr Manuel and I have no recollection of tears there.

ADV MAHLAPE SELLO: Okay. Now is it your testimony that when Mr Mbalula made, informed the meeting as such that what he was informed of by the Gupta brothers was his impending appointment to precisely the Minister of Sports and Recreation or was it just generally to become a Minister.

MR SIPHIWE NYANDA: My recollection that he knew exactly where he was going, that he was going to become a Minister of Sport.

ADV MAHLAPE SELLO: And it's common cause that he subsequently was.

MR SIPHIWE NYANDA: Yes, that's what he was saying, that's what he told the meeting. They told me I was going to become the Minister of Sport and indeed I was appointed as Minister of Sport.

ADV MAHLAPE SELLO: And he was appointed to that position during a reshuffle in October 2010, on the 31st of October 2010 to be precise.

MR SIPHIWE NYANDA: Exactly Chair.

ADV MAHLAPE SELLO: At the time immediately prior to the reshuffle you were a serving Minister yourself?

MR SIPHIWE NYANDA: Yes I was a serving Minister.

ADV MAHLAPE SELLO: And for the record you were Minister of?

MR SIPHIWE NYANDA: I was a Minister of Communications.

ADV MAHLAPE SELLO: Could you tell the Chairperson what impact that reshuffle had on you?

MR SIPHIWE NYANDA: Well I was in Durban ...(intervention)

CHAIRPERSON: Maybe before we get to that one let's go back to Mr Mbalula speaking at the NEC. Are you able to remember how he came to talk about this issue at the NEC that he had been told by the Guptas that he was going to be made Minister of Sport, do you remember or are you not able to remember what gave rise to this – to him saying this or in terms of the issues that may be were before the NEC?

10 **MR SIPHIWE NYANDA:** I have no particular recollection of the context.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: As I said earlier on the President would open the meeting with a political input and then we would discuss as members of the NEC that point of input and also indicate things that the President perhaps would not have alluded to in his political input and perhaps it arose in that context. I have no recollection of the exact context, but what was remarkable to me was that Mbalula made this stunning revelation this what was actually a criticism of the way in which he had been informed about is impending appointment. He was in other words disturbed by it, that is why he perhaps cried although I don't remember the actual crying.

20 **CHAIRPERSON:** Well I can tell you that in his response to Mr Manuel's letter where Mr Manuel refers to this incident at the NEC and says he was crying in his response Mr Mbalula himself refers – seems to accept that he was crying because he says Mr Manuel didn't understand what is tears were about, or what he was crying about and then he goes on to say what he was crying about, so – but you simply say from your side you have n o recollection of the crying part but you remember what he said

ADV MAHLAPE SELLO: I remember what he said, I remember, one of the reasons I remember is because I myself was affected by that cabinet reshuffle and I had my own suspicions about what the reasons were for our dismissal from Cabinet and I had actually tried to engage or I had engaged the officials of the African National Congress to find out why it is that we were removed in the manner in which we were, and got no answers and also spoke to the President himself, why, but I didn't get any satisfactory answer, so when Mbalula said this in the midst of the undercurrents that were afoot then about the influence of this family in the affairs of government it was for me a confirmation that in fact this was the case, it was the first confirmation that people had been told before their appointment, and I believed that he was not the only one, and the general undercurrent then, was that people who had been called to the Guptas and told beforehand that they would become ministers, and we ourselves I had heard whispers about my possible removal from cabinet. So it was an important declaration that he made there.

CHAIRPERSON: So when Mr Mbalula made this disclosure it reminded you of what you had been concerned about yourself when you were removed, and subsequently that you were suspecting that maybe you were removed under circumstances that might involve people outside of Government, or not really.

MR SIPHIWE NYANDA: To me it was a confirmation that the talk that was going on about the influence of some people or they say the Guptas in Government affairs was actually corrupt, because it was a categorical statement by him, and I heard Mr Manuel making a point here about whether Mbalula was upset or not or whether he had been previously involved ...(intervention)

CHAIRPERSON: He had had a pre-existing relationship, mmm.

ADV MAHLAPE SELLO: Had a relationship with them, I did not know that at the time

and at the time that he made this confession, if you like I did not have any suspicion of him having had such interactions with the Guptas before and for me it was just enough that he was making this, this disclosure.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: To his comrades.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: At the highest level of the African National Congress about.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: What had happened.

10 **CHAIRPERSON:** Hm.

MR SIPHIWE NYANDA: And I thought it was, it was a genuine disclosure and I did not regard it as something that, of somebody who was just now showing remorse because of a relationship.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: That of course.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: Mr Manuel maybe correct in his.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: Own view, but my own view was that.

20 **CHAIRPERSON:** Yes.

MR SIPHIWE NYANDA: Mbalula was now at, at least.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: Unlike other people who may have been approached before

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: Making this declaration.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: To the African National Congress leadership.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: In order for them to deal with it.

CHAIRPERSON: Hm, hm. So your, your understanding was that in making this disclosure Mr Mbalula was genuinely concerned about the fact that he had been told by the Guptas that he was to be made Minister before the President could tell him?

MR SIPHIWE NYANDA: He was upset [intervenes].

CHAIRPERSON: He was upset about that?

10 **MR SIPHIWE NYANDA:** Yes.

CHAIRPERSON: Yes and, and, and then of course it confirmed to you as you have said that this family seemed to have quite some influence on Government matters?

MR SIPHIWE NYANDA: Yes, it did.

CHAIRPERSON: *Ja, ja.* Okay, thank you.

ADV MAHLAPE SELLO: Thank you Chair. In fact you have answered the question I had posed and just for the record that Cabinet reshuffle that saw Mr Mbalula appointed Minister of Sports and Recreation it is through that same reshuffle that you were dropped as Minister of Communications?

MR SIPHIWE NYANDA: That is correct.

20 **ADV MAHLAPE SELLO:** Now when Mr Mbalula makes this disclosure to the meeting did the President at the meeting give a response to this disclosure in any form?

MR SIPHIWE NYANDA: Not the President nor any of the officials were in that meeting and my recollection is that all the officials were in that meeting made any comment about that, but of course perhaps the *onus* would have been on the person at, at, at which, at whom these, these, these allegations were being made, because the person

who bore responsible for appointments to Cabinet is the President. So I expected that and also the, the President closes the meeting and summarises the salient points of the, talks to the salient points of the meeting and this was a very serious claim made by a member of his own Executive both in the African National Congress and in Government that in other words he was derelict. That he, he, he had given the role of informing if not deciding other people about pending appointments to his Cabinet to other people. So I expected that the President of the ANC when he closes the meeting, when he deals with that matter, when he comes to the closing of the meeting will deal with that matter at least respond to it, because it was a direct accusation to the President of the ANC.

CHAIRPERSON: How, how did the meeting; well we have heard that the President of the ANC then did not react. How did other people in the meeting react to this disclosure? Was there any reaction even if it is not everybody, some, some people?

MR SIPHIWE NYANDA: I think there were people. The, the, the way Chairman the meetings of the ANC are conducted. If perhaps Mr Mbalula was number 62 in the contributions that were being made at that time. So you will have perhaps only 18 other people contributing and it depends who they are whether they will feel emboldened to engage the point that Mr Mbalula made. I cannot recall how many people spoke after that, but as I said I do not, I, I; the President what I am sure about is that the President himself, because it is quite possible that that Mr Mbalula spoke right at the tail end of the discussion or it was just a shot from the sky that he spoke about this thing and it is quite possible that one or two people may have, but I cannot recall that. There were many people who spoke to that, because it was just a direct allegation against a President of the African National Congress who was sitting in that meeting and I do not, I do not know whether if Mbalula had spoken first or earlier other people

would have said no, Mr President we want you to address this question. We have just heard a serious allegation made against you. I think people expected the President himself to address the matter.

CHAIRPERSON: Well it is, it is, it is quite an important thing because I would have expected that it would have been regarded as a shocking allegation, you know. That is how I would have expected and maybe other people would have expected that. When some, a disclosure like that is made you know people would really find it quite something serious that needs to be dealt with, but you say certainly the President did not deal with it, did not react to, to it and you have no recollection of anybody reacting to it at the meeting?

MR SIPHIWE NYANDA: Yes. I, I think people just took it as here is something serious that is being alleged by a member of this National Executive Committee and it is directed specifically at the President and perhaps it is, it is too big for me who comes after Mbalula to speak.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: To engage with.

CHAIRPERSON: Yes, yes.

MR SIPHIWE NYANDA: We will wait for the President to, to react to, to such a, a statement that is being, such a claim astounding claim that is being made here in these halls.

CHAIRPERSON: You know Mr Ramatlhodi gave evidence here sometime last here and one of the things he said was that the NEC was quite concerned about the friendship between the former President and the Gupta family and was concerned that that friendship, I am putting it in my own words, was damaging the party as well as Government or the country and that some of the Members of the NEC at some stage, I

cannot remember which year he was talking about, but at some stage raised the issue with the former President at an NEC meeting. In fact he said not once, he said many times it was raised and he said those Members of the NEC who raised it were saying Mr President why do you not terminate this friendship with this family and, because it is not doing good to the party. It is not doing good to Government and he said his, his, the response of the former President was that well this family helped my children or helped my family. I cannot remember exactly which one, when nobody would help them or when they were, they needed help and he said that is where the issue would end each time. Do you recall anything like that during the time when you were a Member of the NEC and it maybe that it was after you had left the NEC, because I cannot remember when Mr Ramatlhodi said that was?

MR SIPHIWE NYANDA: When I was in, in the NEC the issue may have arisen and perhaps that is the context in which Mr Mbalula then made that claim, but I think Mr Ramatlhodi refers to an, an, a, a period at which I was no longer in the African National Congress Executive.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: But when we were pursuing the matters outside.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: Of the ANC, because I think the general members of the ANC, I think he, he refers to an, a later period.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: When we were also engaging with the ANC about what.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: We saw as.

CHAIRPERSON: Okay.

MR SIPHIWE NYANDA: The pernicious influence of this family.

CHAIRPERSON: Okay, okay, okay. No, thank you.

ADV MAHLAPE SELLO: Thank you Chair. Now at the time Mr Mbalula made this disclosure what was your understanding? Was it his attempt to place the matter officially before the highest body of the party to discuss the problem or what did you understand the purpose of this disclosure to be?

MR SIPHIWE NYANDA: For me it was just a disclosure, because I cannot recall the context.

ADV MAHLAPE SELLO: *Ja.*

10 **MR SIPHIWE NYANDA:** I just recall the, the actual statement that he made to the NEC. I, I cannot perhaps.

ADV MAHLAPE SELLO: Okay.

MR SIPHIWE NYANDA: Deal with that. For me the most important thing was that he made such a claim in front of and, and he made a claim about something that was being whispered in the corridors and everybody sat up when that happened to say at least here is somebody who is validating the things that are being said about the President and his relationship with the Gupta family.

ADV MAHLAPE SELLO: You, you indicated that in that meeting present were officials of the party. We, are we talking about the top six specifically? When you say officials

20 is that who you are referring to?

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: And to your recollection who was present at the meeting of the top six when this disclosure was made?

MR SIPHIWE NYANDA: All the officials.

ADV MAHLAPE SELLO: Serving at the time?

MR SIPHIWE NYANDA: Serving at the time, yes.

ADV MAHLAPE SELLO: And is the Chairperson to understand that none of them took up the issue when Mr Mbalula made the disclosure?

MR SIPHIWE NYANDA: None of them. Nobody took up the, the discussion except from the; and it would have surprised me if they took, took up the issue because the, the President himself was going to close that meeting and, and there was no push even subsequent to that for this matter to be discussed. This, this matter was never put on the table of the, on the agenda of the ANC Executive even sub, in subsequent meetings.

10 **CHAIRPERSON:** Well you, you have answered another question that I was going to ask you about whether subsequent to that NEC meeting the matter was ever raised again and, and as I understand you, you say it was not while you were a member of the, a member of the NEC. You do not recall that it was dealt with by the NEC as an issue. Is that, is that right?

MR SIPHIWE NYANDA: The issue of?

CHAIRPERSON: The disclosure by

MR SIPHIWE NYANDA: Oh.

CHAIRPERSON: Mbalula.

MR SIPHIWE NYANDA: It was never discussed

20 **CHAIRPERSON:** Yes. I, I, I am concerned about whether people who were at the NEC meeting including the ones you refer to as the officials of the party whether they regarded or would have regarded what Mbalula, Mr Mbalula complained about at the meeting as something that was wrong if it had happened. In other words if he was speaking the truth that he was told by the Guptas that he was going to be made Minister of Sports, whether they would have regarded the issue or they regarded the

issue as serious that something that should not have been known outside of Government got to be known outside of Government according to what Mr Mbalula said and whether they would then have wanted to follow up to say but this is wrong. We need to hear what the President has to say about it. How could somebody outside of Government and actually the Guptas against whom there were allegations and so on about their friendship with the former President that they would want to know what does the President have to say about it and once we have heard what he says we must see what needs to be done to make sure this kind thing does not happen again. So I am, I am concerned whether they may have been concerned about the seriousness of this allegation and therefore whether they would have wanted to follow it up even if at a later stage. You might or might not be able to say, but do you have anything to say about.

MR SIPHIWE NYANDA: No [intervenes].

CHAIRPERSON: About whether you, I must say about whether you, because you are a member of the NEC, whether you and the officials were concerned about the seriousness of this issue and whether you would have wanted this issue to be looked into and dealt with properly by the NEC or by some other structure of the party.

MR SIPHIWE NYANDA: We were obviously concerned. I think they also were obviously concerned, should have been obviously concerned the officials, but because I was not part of the officials I do not know whether they did.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: Discuss this.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: And, and discuss how to handle it, because normally if things are discussed and decisions have to be taken going forward with respect to anything

that is decided on at the NEC then it is the Office of the SG that pursues such matters, puts them on the table of the officials. I am, I can also say that I was a member of the National Working Committee. Even in the National Working Committee.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: It was not pursued.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: Yes, so and subsequent NEC meetings as I said Chairman did not pursue the matter. I think people took it as, as gospel that in fact this thing happened, but whether to engage in it was another matter for the people who occupied those positions in.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: In the National Executive Committee or .

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: In the NWC or.

CHAIRPERSON: Hm, hm.

MR SIPHIWE NYANDA: Among the officials themselves.

CHAIRPERSON: Yes. Thank you.

ADV MAHLAPE SELLO: Thank you Chair. You, you earlier testified that even before Mr Mbalula's disclosure there were suspicions or rumours regarding the role the Gupta family played in particular in relation to the President. I understood you correctly in that regard?

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: Now can you just give us the sense of what the rumours were or what the suspicions were in particular?

MR SIPHIWE NYANDA: Shortly that the, the, the, many of the decisions that are taken

are taken at Saxonwold. That they have got influence on the President, the Guptas and that therefore many of the things, chances that take place there in, take place in Cabinet are influenced by what is going on in Saxonwold or what those people in Saxonwold want.

ADV MAHLAPE SELLO: Now at the time of this meeting did you personally harbour those suspicions or had you heard those rumours?

MR SIPHIWE NYANDA: Yes, I, I heard those rumours. I was also dumped from, from Cabinet in, in 2010 at the same time as Mbalula was appointed and, and while I was in Cabinet, while I was Minister of Communications I had met I do not know which of the
10 brothers, because they would, they would be there in some of the gatherings of the ANC, but I met one of them who came to my office. They made an appointment and I gave them an appointment. They came with Duduzane Zuma the son of the then President and they, what they did was to introduce their, their company Sahara Computers and, and we had, I had the officials in that little boardroom that I kept next to my office and after that introduction they left and, and as I said Chairman I also had heard whispers about the impending Cabinet reshuffle and some of them were indicating that I might be dumped from Cabinet, but what I, what I know and I have said this publically that I have, I had that meeting with them and then subsequent to that they did try to, to see me again, but they did not want to see me in my office or that is
20 the impression I got, because they sent people. They sent emissaries and I will not talk about who those emissaries, but several people came to me to say these people want, the Guptas want to see you and I said they are welcome in my office. If, if anybody wants to discuss to me, with me about Government work they must come to my office. So as an afterthought because I did not, I did not suspect anything then, because there are many other people who wanted to see me. Perhaps some of them also privately,

but I always insisted.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: On people who wanted to do, to talk about my role in Government that those people needed to come, to come to my office. Except people who I was close to of course.

ADV MAHLAPE SELLO: Yes. Now.

CHAIRPERSON: Maybe before you proceed.

ADV MAHLAPE SELLO: Okay.

CHAIRPERSON: Now you, you were dropped from Cabinet at the end of October 2010. Is that right?

MR SIPHIWE NYANDA: Yes, Chair.

CHAIRPERSON: *Ja.* Do you remember roundabout what time, about when this approach was made to you by the Guptas and Mr Duduzane Zuma when they came to your office in relation to when you were dropped? Are you able to remember?

MR SIPHIWE NYANDA: No, I think it was quite early in my .

CHAIRPERSON: After your appointment?

MR SIPHIWE NYANDA: After my, my appointment.

CHAIRPERSON: Okay.

MR SIPHIWE NYANDA: But the subsequent.

CHAIRPERSON: And your, and your appointment was in 2009. Is that right?

MR SIPHIWE NYANDA: 2009.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: I served it for 18 months.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: About 18 months. I think it was the year 2009.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: And I think some of these approaches might have been in 2010.

CHAIRPERSON: Yes, okay. So on, on the occasion when you did meet with them in your office did they indicate what the purpose was for?

MR SIPHIWE NYANDA: They.

CHAIRPERSON: For them asking for a meeting with you?

MR SIPHIWE NYANDA: They, they were introducing their company, Computer Sahara.

CHAIRPERSON: Yes. So they.

10 **MR SIPHIWE NYANDA:** [Indistinct].

CHAIRPERSON: *Ja.*

MR SIPHIWE NYANDA: They just introduced.

CHAIRPERSON: They were just telling you what, what they are involved in.

MR SIPHIWE NYANDA: What they do.

CHAIRPERSON: Yes, what they do .

MR SIPHIWE NYANDA: *Ja.*

CHAIRPERSON: And the meeting ended at that level. They did not start talking about any, any future engagement in regard to your department and their businesses?

MR SIPHIWE NYANDA: I cannot recall Chair .

20 **CHAIRPERSON:** You cannot recall.

MR SIPHIWE NYANDA: Whether they said they would seek other meetings in future, except that those subsequent requests for meetings indicated that I needed to see them well, well.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: From emissaries' people who told, who told me that.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: The Guptas would like to see you.

CHAIRPERSON: Did, did they indicate whether they wanted you to go to their residence or offices or they wanted to come to your office or there was just no indication? There were just requests for a meeting?

MR SIPHIWE NYANDA: I found it strange because when they made the appointment to see me and I accorded them the respect to see them they did it through my office. They called my office. So I did not understand why other people who were not part of my office would want me to see, to go and see them.

10 **CHAIRPERSON:** Yes, yes, yes and you say there were quite a few of such requests. Is that right?

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: You cannot tell how many, but quite a few?

MR SIPHIWE NYANDA: I cannot even tell who.

CHAIRPERSON: Oh, even who, yes but you turned them down, all of them, those requests?

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: And it was on the basis that if they wanted to see you.

MR SIPHIWE NYANDA: Yes.

20 **CHAIRPERSON:** They must do as they had done before and just?

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: Communicate with your office?

MR SIPHIWE NYANDA: Yes, Chair.

CHAIRPERSON: *Ja* and you say it may be that some of those requests happened in 2010, but you are just not sure anymore?

MR SIPHIWE NYANDA: I think it was in 2010.

CHAIRPERSON: It was in 2010. Okay, thank you.

ADV MAHLAPE SELLO: Thank you Chair. You, you just indicated to the Chair that you cannot say who the emissaries were. I, do you mean that you do not know who they were or are you not willing to disclose their identities?

MR SIPHIWE NYANDA: No, I know who they, they are.

ADV MAHLAPE SELLO: You not willing to disclose their identities?

MR SIPHIWE NYANDA: No.

ADV MAHLAPE SELLO: Now in, in, in your contact when the emissaries, did they express to you what the Guptas had expressed as to the purpose of the meetings they were requesting?

MR SIPHIWE NYANDA: No.

ADV MAHLAPE SELLO: Did those emissaries impress upon you to honour the invitations at any point?

MR SIPHIWE NYANDA: You know those emissaries happened to be people who I am close or close to sort of. So, because I think they knew the people who I interact with on a social basis. So they would send somebody who, whom they know has got contact with me to say these guys want to see you and I would say no.

ADV MAHLAPE SELLO: Okay. So just to, so we understand the emissaries were simply delivering an invitation?

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: Or were they impressing upon you to honour the invitation?

MR SIPHIWE NYANDA: No, they were not impressing.

ADV MAHLAPE SELLO: Okay.

MR SIPHIWE NYANDA: *Ja.*

ADV MAHLAPE SELLO: Then.

MR SIPHIWE NYANDA: They know a, a lot about me to know that they cannot do that.

CHAIRPERSON: Apart, apart from, apart from the fact that if you, if they wanted to have a meeting with you, you wanted them to go the, through the normal channels and contact your office as they had done before. Was there any other reason why you might not have wanted to meet with them at that stage or that was just the only reason?

MR SIPHIWE NYANDA: Chairman I, I meet, if, if I see people especially people who are in business in my role as, as a Minister I think I should be careful how I, I do that. In the first place I would like to be with either my PA or, or my advisor or, or, or the DG of the party. More likely with PA. So that there is somebody who takes minutes or notes or who knows even if it is a verbal discussion and there is no, there is no note taking. Somebody who keeps a record of what the meeting was all about. So this meeting for instance that I am taking about there should be a record of it with them in the office there.

CHAIRPERSON: Okay, okay thank you.

MR SIPHIWE NYANDA: And at that time I, I must say that there is, there is not much that I knew about them that was negative.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: It is just.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: The question of the principle.

CHAIRPERSON: Yes, okay to say they must go through the channels?

ADV MAHLAPE SELLO: Yes.

CHAIRPERSON: Like everybody, okay

ADV MAHLAPE SELLO: Thank you Chair Now getting back then to that NEC

meeting to conclude on that. You indicated that nobody commented on Mr Mbalula's disclosure to your recollection and neither did the, the President respond directly thereto.

MR SIPHIWE NYANDA: What I recall is that the President did not touch on it.

ADV MAHLAPE SELLO: *Ja.*

MR SIPHIWE NYANDA: It may have been that one or two people.

ADV MAHLAPE SELLO: Okay.

MR SIPHIWE NYANDA: Spoke about it but my, my interest was, was that or rather my curiosity was, was served by that declaration itself. That Mbalula made that disclosure in that meeting. That I cannot forget.

ADV MAHLAPE SELLO: You, you informed the Chair that it was standard that at the end of the meeting then the President would summarise the salient issues that arose in the course of the meeting and the, the Chair should accept that in this particular meeting the President did summarise as was practice?

MR SIPHIWE NYANDA: Yes, the President did talk at the end of the meeting and spoke to most of the things that the meeting addressed, but did not touch on this very serious matter.

ADV MAHLAPE SELLO: Now the, the President's failure to touch on the matter as you term it did it have any particular significance for you?

MR SIPHIWE NYANDA: To me it was confirmation that the President was either uncomfortable to, to respond to this matter, because there was credence to it or that perhaps later on he would engage with Mbalula and, but the, the damage had been done. The whole National Executive Committee had listened and heard this and it was never addressed again in future. So that all of us then subsequent to that lived with the reality that the President was, was accused in a meeting of improper conduct and did

not deal with it.

CHAIRPERSON: Well let me confirm this, because I wanted to confirm. Your understanding, your understanding was that Mr Mbalula's statement included or was criticism on the part of the President in relation to this situation where he got told by the Guptas that he was going to be Deputy, he was going to be made Minister. Was that your understanding that it was, he was critical of whatever role the President might have played in a situation where ultimately the Guptas knew that he was to be appointed Minister or was he simply criticising or critical simply of the fact that the Guptas told him what maybe they should not have told him even if they knew or is that difficult to?

MR SIPHIWE NYANDA: No.

CHAIRPERSON: To say?

MR SIPHIWE NYANDA: To me it was very clear that he was saying the President is derelict of the President informed other people who informed him before.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: The President actually informed.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: And he was upset about that.

CHAIRPERSON: He was upset about that.

MR SIPHIWE NYANDA: That the President did not inform him first before he informed other people.

CHAIRPERSON: *Ja.*

MR SIPHIWE NYANDA: And that these people who, who were the subject of gossip or the.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: Subject, subject of undercurrent talk.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: Had so much influence on the President.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: So his, his declaration then.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: Or his, his claim then was actually saying that the President of the ANC and the President of the country did or according to his knowledge informed people before he informed him and that.

10 **CHAIRPERSON:** Hm.

MR SIPHIWE NYANDA: Really upset him.

CHAIRPERSON: *Ja*, okay, okay. Thank you.

ADV MAHLAPE SELLO: Thank you Chair. Now you; did you after this NEC meeting personally ever have discussions with any member of Members of the NEC about what Mr Mbalula had disclosed to the meeting?

MR SIPHIWE NYANDA: I think we were all as you say Chairman shocked and, and we discussed it amongst ourselves and we also discussed the fact that the President had not even alluded to it let alone address it during his closing remarks. I, I cannot recall who exactly I discussed with, but I, I, I know that I did discuss with Mbalula himself and

20 one of the members who sat next to me we discussed it as Mbalula was in, during the meeting of the, and even after the meeting to say it is, it is shocking that the President has not address this thing that Mbalula said. So it really does lend credence to what Mbalula is saying, because I could not understand why Mbalula would allege such a serious thing and not, and the ANC not get a response because it is serious not only for Mbalula but for the, for the NEC which at the time was beginning to, to worry about

some of these things as the large Cabinet reshuffle of October 2010 did.

CHAIRPERSON: Hm. Well I, I said earlier on that I would have thought that people who had this statement by Mr Mbalula would have been shocked. At least I am happy that you are saying you know you were shocked to hear, to see, to hear, to hear this because it must have really been something very serious, but my concern continues to be since this issue was raised at an NEC meeting the seriousness with which it should have been taken should have led to a situation where subsequently at least it was brought back to the NEC to say to the NEC on such and such meeting, at such and such a meeting Mr Mbalula raised this issue. We were very concerned about it and we want to hear what the President has to say about it or maybe some of us maybe the officials have raised the issue with the President and we are reporting back to the NEC as to what the, what, what the position is, but from what you have told us until you left the NEC no feedback whatsoever was ever given to the NEC while you were a member of the NEC?

MR SIPHIWE NYANDA: Chair first, the first issue is, is, is on the shock.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: The shock was not so much about the revelation that he made or the allegation.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: Or the claim that he made.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: People, because people had always suspected that perhaps.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: There is, there is truth in what is being whispered.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: I think what, what may then have upset many people is the second question that you are raising, about the President not having addressed the matter which set tongues wagging after the meeting and also that was a shock and also concern later like this matter never arose again and I think what I said earlier on that what perhaps happened was that perhaps people spoke to the President on the side or perhaps people spoke to Mbalula subsequently to that, but nothing happened and even I as a member of the National Working Committee did not raise it again to say President there was this allegation made. Can you discuss it because also there the agenda that is landed on the National Working Committee is processed through the
10 officials and they put the agenda, nothing like that arose and no, not that we were prevented from raising anything, but we did not raise it as well. So I think we were remiss as well as Members of the National Executive Committee in not at the subsequent meeting of the National Executive Committee not to ask the SG who puts that agenda to say but at this meeting, at the past meeting of August I think the next meeting would have been in December or perhaps the following meeting. At that meeting this was raised and it so serious as to have warranted a response from the President which did not come about and could we deal with it. Nothing like that happened.

CHAIRPERSON: Well I, I, I think part of what you have just said is quite profound is
20 because in the context of the, of that this Commission is about it is quite important that various bodies, organisations, people govern functionaries and so on that everybody should look at what this Commission is looking at in terms of state capture and being genuinely concerned about what may have happened and I will not keep on saying, I keep on saying that I, I, I, I am, I will only decide at the end of the whole thing whether there was state capture. I am asked to investigate whether, I will investigate allegations

of state capture, where there is something that they could have and/or should have done that may have assisted in one way or another in maybe stopping what we now call state capture earlier, earlier than a certain time and, and, and in doing so we, we, we need people who are going to be able to say I will, I may, I was part of this body and maybe we did not do something that we should have done or maybe say look I can see that we should have done this and we did not do it and it is, it is wrong that we did not do it. Maybe here are the circumstances that may have led to us not doing something, but at this stage we are able to acknowledge that having applied our minds yes we should have done something and we were remiss. We did not do it and, and I think that kind of approach would be very helpful. Obviously one is not saying people must take, must say they should have done something if they do not feel that they should have done something, but those who look at the whole situation, look at the opportunities that they may have had to do certain things and are able to say I think here I could have contributed and I did not. Maybe at that time the situation that was prevailing was such that the focus was on something else. I do not know, but I see that here I did not do this and I could have done. That is that is quite important.

MR SIPHIWE NYANDA: Chair.

CHAIRPERSON: Yes, yes.

MR SIPHIWE NYANDA: Perhaps one of the reasons why this was so, I said earlier on that at the time that I had a meeting with the, the company of the Gupta family.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: I had absolutely no inclining that the things that unfolded folded later on would.

CHAIRPERSON: Yes, yes.

MR SIPHIWE NYANDA: Would come to.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: The point at which they [intervenes].

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: Only later.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: Do we get to, to that point. Otherwise.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: We just took, took them as part of the business. Obviously people who, who are in business are warned to want to, to be close to the powers that be and normally at events that we organise as the African National Congress whether it is January, the 8th or something like that or it is elections or fundraising the people who have lots and lots of money want to sit next to, to the President of the country. Want to sit next to the Minister of Finance. Want to sit next to the Minister of this and that, the important and in fact they are allocated as such also depending on, on the importance of the contribution. I do not know now that the legislation is changing with, in terms of disclosure etcetera for contributions whether that will still be the, but I think it is the case worldwide that people who have financial muscle and I will do that myself if I had tremendous financial muscle. I would want to sit next to a President of the country. Not because I want to influence the President to appoint so and so and so and so, but because the closer to the ear of the President the better for, for me. Not necessarily to do wrong things, but for, for my company, the image of my company and also things that I might say that are not improper in any way. So I, I, I think that when, when the things were happening initially and we saw this happen or these people being close to the President. I think earlier on during Mr Manuel's testimony there was an eluding to a former Minister appointing of the brothers as, as part of the, of the, of Brain South

Africa.

CHAIRPERSON: Oh, yes.

MR SIPHIWE NYANDA: Board and so on. So.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: So those people were part of society, normal business people and so on, but only, only, only later did we realise that they, there was something really sinister afoot and perhaps if this thing of Mbalula was just a first indication that something was, was, was wrong that the President may, may have acted incorrectly, but it was not yet to us at least evidence of, real evidence of state capture. It was beginning to, to give worries about that possibility if people have got and it was actually the first indication of worrying about, about this family apart from things that were being [indistinct].

CHAIRPERSON: Okay, thank you.

ADV MAHLAPE SELLO: Thank you. Thank you Chair. Now if you could just go back very briefly. Can you tell the Chair about the circumstances of your own dismissal and how you got to lean that you were being released from your post as Minister of Communication?

MR SIPHIWE NYANDA: I was in Durban Chairman as I said and I was called by somebody from the Presidency to say that I need to go to [indistinct], the President's residence or state house. I cannot remember which and I indicated that actually in Durban it was in the morning, Sunday morning returning to Johannesburg, because I had been there for a weekend and then I got another call and I indicated that my flight was going to be in the afternoon. When I got the VIP lounge I got a call now from the President to say that I have been, I am being redeployed. That the officials have decided to redeploy me as Ambassador to Germany.

CHAIRPERSON: This was now the President speaking to you on the phone?

MR SIPHIWE NYANDA: The President speaking to me, yes.

CHAIRPERSON: *Ja*, hm.

MR SIPHIWE NYANDA: And I said I told him no, I am not there. I think that is why you are relaying this message, but I will come there and try to see you, but thank you very much for your appointment and I elected to go to the back benches of Parliament where I had been sent by the ANC.

CHAIRPERSON: But when you arrived in Gauteng coming back that same afternoon did you go and meet the President and maybe hear more or on anything of the subsequent days?

MR SIPHIWE NYANDA: No, because he had already relayed his message. I did not and see him except Lithuli House. I saw, I saw him much later where, because I wanted to find out from, from officials, because he said it said officials who decided.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: To do this thing and one of them I do not think I have the pleasure of saying who, but indicated that he, he knew nothing about it.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: And then I subsequently met the President, because I really wanted to find out what it is.

CHAIRPERSON: What happened?

MR SIPHIWE NYANDA: That.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: I would be, I would be redeployed and.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: I saw him in his office and he mumbled something about the

SABC which I did not quite understand, but I had, I had received some, some people, some gossip about people saying things about me that and I told him this that.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: I understand you say that I run a, a private, a private intelligence outfit and so on and so forth, but he said no, it is not true. He thinks this matter is related to the SABC, but I did not really understand what those matters were in relation to the SABC.

CHAIRPERSON: Hm, hm.

MR SIPHIWE NYANDA: Which was under my.

10 **CHAIRPERSON:** Hm.

MR SIPHIWE NYANDA: Watch as Minster of Communications.

CHAIRPERSON: Hm. So, so, the purpose, when you saw him you sought to understand the reasons why?

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: The officials decided to; that you should leave the Portfolio of Communication, Minister of Communications and be given an Ambassadorship and you sought to understand that from him?

MR SIPHIWE NYANDA: Not necessarily the, the officials, but him because he is.

CHAIRPERSON: He was the President?

20 **MR SIPHIWE NYANDA:** *Ja*, he is the President. I mean we serve at his, at his [intervenes].

CHAIRPERSON: Yes, yes.

MR SIPHIWE NYANDA: He has got the prerogative

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: To

CHAIRPERSON: So.

MR SIPHIWE NYANDA: Appoint and dismiss Ministers.

CHAIRPERSON: Hm. So you say you, you, you did ask him to try and understand and he?

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: In your words mumbled something about the SABC?

MR SIPHIWE NYANDA: *Ja.*

CHAIRPERSON: You do not understand what he was saying about it. You do not know what, what, what it was about [intervenes]?

10 **MR SIPHIWE NYANDA:** I did not understand what it was frankly.

CHAIRPERSON: Yes, but you, you left it at that?

MR SIPHIWE NYANDA: I left it at that and.

CHAIRPERSON: *Ja.*

MR SIPHIWE NYANDA: And informed him that I, I was going to, to go back to the.

CHAIRPERSON: You were going to go.

MR SIPHIWE NYANDA: To Parliament.

CHAIRPERSON: Back to Parliament.

MR SIPHIWE NYANDA: As a back bencher.

CHAIRPERSON: Yes, yes. You did not take up the offer of?

20 **MR SIPHIWE NYANDA:** No.

CHAIRPERSON: Being an ambassador, okay. Thank you.

ADV MAHLAPE SELLO: At the time that the President informed you of, of your dismissal and suggested appoint to an Ambassadorial position did you ever, did you question or did you have any basis to question the truthfulness of the reason why you were being removed from the post of Minister of Communications?

MR SIPHIWE NYANDA: I, I think this is what I have just being saying to the Chairman that I did try.

ADV MAHLAPE SELLO: No, I am; but my question if I may be clearer. At the time did you, sorry did you question the truthfulness of the reasons that were being advanced?

MR SIPHIWE NYANDA: No, I know, I knew that there was no truth in those reasons.

ADV MAHLAPE SELLO: Okay. Chair I see.

CHAIRPERSON: So, so just to understand that answer. He gave you some answer relating to the SABC which you did not understand, but you are saying as far as you were concerned that was not the true reason. Is that, is that, is my understanding.

10 **MR SIPHIWE NYANDA:** Yes.

CHAIRPERSON: Of what you are saying correct?

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: That was not the true reason.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: That was not the true reason.

CHAIRPERSON: *Ja*. Now did you know what the true reason was?

MR SIPHIWE NYANDA: I, I, I suspected because I did say to the Chairman, to the Commission that I heard whispers about.

20 **CHAIRPERSON:** Yes.

MR SIPHIWE NYANDA: A possible reshuffle in which.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: I would be affected.

CHAIRPERSON: *Ja*.

MR SIPHIWE NYANDA: But I, I, I actually did not believe those rumours because I

thought that I was doing quite well in my portfolio.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: I had introduced many things. I, there was a, a stable board of the SABC.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: There were of course fights in that SABC between Ngubane and, and, and the, and the CEO of the SABC.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: There were, but generally there was stability in most of the, of
10 the portfolios that were under my, my watch there whether it was SANTEC or, or, or the SABC. There was general stability and the, things were beginning to take shape. There was of course and issue between me and, which had just arisen, between me and the former Director General which I.

CHAIRPERSON: Of your department?

MR SIPHIWE NYANDA: Of the department.

CHAIRPERSON: Yes, huh-uh.

MR SIPHIWE NYANDA: And allegations that she made because we, I had suspended her on, on advice from, from and also on consideration of the things that were alleged against her and then of course she went to, the thing was before the Public Service
20 Commission.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: And then she went to allege things.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: That were not correct.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: And I went to the President also with respect to that, because the, the Minister of the Public Service is the one who is the custodian of all these things that.

CHAIRPERSON: *Ja.*

MR SIPHIWE NYANDA: *Ja* that is all and they were taking time and so on and doing. So.

CHAIRPERSON: Hm, hm.

MR SIPHIWE NYANDA: At that, at that point in time I thought that then we had, we had so many things in line and as far as the department is concerned [intervenes].

10 **CHAIRPERSON:** I am sorry General it may be that you need to speak a little louder or maybe [intervenes].

MR SIPHIWE NYANDA: [Intervenes].

CHAIRPERSON: I think the people at the people might not be hearing you.

MR SIPHIWE NYANDA: *Ja.*

CHAIRPERSON: Okay, *ja.* Yes.

MR SIPHIWE NYANDA: *Ja,* I was saying that I, I thought I was doing well and I was also receiving credit for the, for the chances that were taking place in that department or in relation, relation to the, to all the entities that resides under my watch.

CHAIRPERSON: Now my question was whether you knew what the reason was and

20 you in response talked about suspecting. So maybe I should ask whether you knew the reason or whether you had suspicions only of what the true reason was for your dismissal.

MR SIPHIWE NYANDA: No, I, I, I did not, I did not, because he did not provide the reasons I, I did not know.

CHAIRPERSON: Yes .

MR SIPHIWE NYANDA: I thought that he was creating space for, for somebody else to take, to take.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: My place.

CHAIRPERSON: Okay.

MR SIPHIWE NYANDA: Hm.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: Because subsequent to that maybe there were things that were put in place with respect to governance of many of these State Owned Enterprises or State Owned Companies changes began to take place as well.

CHAIRPERSON: Hm, hm.

MR SIPHIWE NYANDA: People began, people were shafted.

CHAIRPERSON: Hm, hm.

MR SIPHIWE NYANDA: Members that had appointed to, to boards, people began to move the other appointments whether it was Telkom.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: Or SANTEC or the SABC.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: Of course the SABC remained and Ben Ngubane stayed there, but then I, I, I can only say with hindsight that.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: There are things that took place after my removal which actually confirmed that some of these were the, these were the reasons why I was removed.

CHAIRPERSON: Well, well maybe you should articulate that if you have looked at

what has happened and it throws light as far as you are concerned on why you were dismissed just articulate them to say when I look at this and that and that which happened after I had left. I think it throws light and this is the light that it throws is that is the position. If that is not the position obviously do not say that. I just want to, I just want to benefit from your own understanding of issues or your own analysis of this, of the issues to say this is why I believe I was dismissed if that, if you.

MR SIPHIWE NYANDA: Hm.

CHAIRPERSON: If you know. If you do not know you say look I do not know. I can only speculate and obviously speculation is not going to help.

10 **MR SIPHIWE NYANDA:** Yes. That is what I said to the investigators or to the, the Commissions and evidence leaders.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: That I do not have, although I am a military man I do not have any explosives stuff or bomb shells.

CHAIRPERSON: Yes, yes.

MR SIPHIWE NYANDA: But I can, I can only.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: Surmise.

CHAIRPERSON: Yes.

20 **MR SIPHIWE NYANDA:** From what happened subsequently.

CHAIRPERSON: Yes, yes.

MR SIPHIWE NYANDA: That this, this may have been the reason.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: These were the reasons.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: But I, I have absolutely nothing and I.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: I must say also since I was appointed nobody came to me both in the, as Chief of the SANDF or as Minister of Communications, nobody ever came to me with an idea that I should do something wrong.

CHAIRPERSON: Yes, yes.

MR SIPHIWE NYANDA: Nobody came to me with a proposal that I thought was, was not correct [intervenes].

CHAIRPERSON: Yes, was improper?

10 **MR SIPHIWE NYANDA:** Yes.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: And I dismissed them as improper.

CHAIRPERSON: Yes, yes.

MR SIPHIWE NYANDA: So nothing.

CHAIRPERSON: Yes, yes.

MR SIPHIWE NYANDA: The only time some people came to me they wanted to buy shares from Eskom, from Telkom and, and I told them but Telkom is a listed entity. Why if, if, if you made this proposal public that if you expressed an interest then Government might even consider your proposal, because it would shoot, shoot up the value had you

20 made a, made a good [indistinct]. It would shoot up the value of, of, of Telkom and the value, because of that value you might even want to, to look at such a proposal, but you cannot come and make a proposal to me as Minister. It has got a Board although it is, the Government has got a significant stake in it, but it is a, it is a public entity.

CHAIRPERSON: *Ja*, okay. No, thank you.

ADV MAHLAPE SELLO: Thank you Chair. Chair it is after four, with your permission

may I request that we finish.

CHAIRPERSON: Let us try and finish.

ADV MAHLAPE SELLO: Yes.

CHAIRPERSON: *Ja.*

ADV MAHLAPE SELLO: Thank you.

CHAIRPERSON: Let us try and finish.

ADV MAHLAPE SELLO: You, you indicated to the Chair previously that after Mr Mbalula had made this disclosure none of the NEC Members to your knowledge and do you in particular raise this issue again in the NEC or with the officials. You stated such.

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: And you expresses your view that you may very well have been remiss in failing to do so.

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: Now.

MR SIPHIWE NYANDA: And also subsequent to that you know the ANC, when we were acting in other capacities now not in the capacity as Members of the NEC, because we, when the issues of Mcebisi Jonas and the 2015 dismissal from Government of Nene we wrote a memorandum to the ANC expressing disquiet at all these things and so and then subsequent to that they were called to the ANC offices and one of the things we, we were demanding was an enquiry, Commission of Enquiry and.

ADV MAHLAPE SELLO: May I interject?

MR SIPHIWE NYANDA: [Intervenes].

ADV MAHLAPE SELLO: I apologise with your permission. Chair what

General Nyanda has just testified to relate to the documents that I said he brought this morning. Perhaps it might be an appropriate time to hand them in and when he addresses those issues, because he would like to address himself to the documents.

CHAIRPERSON: That is fine.

MR SIPHIWE NYANDA: [Intervenes].

CHAIRPERSON: That is fine. That may be done, but I think he may proceed, because on Mr Mashigo's evidence I think that I have recollection of a memorandum that Mr Mashigo handed up which had a list of names of I think former Ministers and Directors-General if I am not mistaken. I seem to think I saw General Nyanda's name there. General did, was your name in that memorandum or do you know anything about it?

MR SIPHIWE NYANDA: You are.

CHAIRPERSON: You are not sure about that one?

MR SIPHIWE NYANDA: No, but we are talking about another memorandum.

CHAIRPERSON: Oh.

MR SIPHIWE NYANDA: Because.

CHAIRPERSON: Oh.

MR SIPHIWE NYANDA: The one from the DGs.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: Follows the one we wrote as Senior Commanders.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: Of Umkhonto we Sizwe.

CHAIRPERSON: Okay.

MR SIPHIWE NYANDA: Former Commanders of Umkhonto we Sizwe.

CHAIRPERSON: Okay.

MR SIPHIWE NYANDA: To the ANC.

CHAIRPERSON: Yes, okay. Let me, let me have that, *ja*.

ADV MAHLAPE SELLO: Thank you Chair. In fact there are three documents that General Nyanda made available this morning.

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO: We have numbered them SN02 to SN07, based on the date of their production.

CHAIRPERSON: Okay, thank you.

ADV MAHLAPE SELLO: And I beg leave to hand them in and Chair if you, if you could include them in your exhibit, this is for the witness, if you include then in your exhibit we will update the Chair's index.

CHAIRPERSON: *Ja*.

ADV MAHLAPE SELLO: To reflect their inclusion.

CHAIRPERSON: Hm. I am just thinking whether, so maybe we should, oh you have taken the liberty of marking them SN02 up to.

ADV MAHLAPE SELLO: Should be SN08, Chair.

CHAIRPERSON: *Ja*. Okay, no, no that is that is fine. Thank you.

ADV MAHLAPE SELLO: Thank you Chair.

CHAIRPERSON: You may proceed, *ja*.

ADV MAHLAPE SELLO: Thank you. Now you have been given a copy of these documents paginated SN02 to S N08, General Nyanda. The first is an email dated 18 March 2016 and according to this document it appears to be an email from Mr Mo Shaik to yourself and the subject matter is "Memorandum from Senior Commanders and Commissars of..." something to have been omitted there. You have the document.

MR SIPHIWE NYANDA: "...of the Military Wing of the ANC Umkhonto we Sizwe".

ADV MAHLAPE SELLO: Okay. Now you explain, is this the memorandum you were referring to initially when you, when you told the Chair; when you tried to distinguish between a document and the one that Mr Mashigo had referred to which is the memorandum of the General, of the DGs.

MR SIPHIWE NYANDA: Yes, but I was not actually referring to the memorandum. I was talking specifically, perhaps I am jumping.

ADV MAHLAPE SELLO: Okay.

MR SIPHIWE NYANDA: I was talking specifically about this issue of being remiss.

10 **ADV MAHLAPE SELLO:** Yes.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: Because.

CHAIRPERSON: Just talk about it, *ja*.

MR SIPHIWE NYANDA: At a sub, subsequent to all this the ANC leant us they are here in the form of the Secretary General and, and, and actually invited everybody to give evidence, to bring evidence to it. Instead of the Commission that we were requesting.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: And I am saying also because I am just took the question of

20 being remised, because even in that I think it is only Mashigo who went.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: So it was also another missed opportunity at least on my part.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: But here I was acting, I was heading a group of people

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: On my part, because I also was privy to that NEC.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: Now when the NEC, when the ANC says come and tell us about this state capture.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: I also did not go back to the ANC to say you remember SG this meeting of the NEC.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: This was said ·

10 **CHAIRPERSON:** Hm.

MR SIPHIWE NYANDA: And I would like to submit that is one of the.

CHAIRPERSON: Hm.

MR SIPHIWE NYANDA: It is an, it is evidence as one of this, the beginning of this state capture if it is, was not the, it was not the state capture itself the essence of it.

ADV MAHLAPE SELLO: Thank you, thank you General. Can we take these documents I would suggest by in date form so that we address them sequentially as they were produced? The first one you submitted as what appears as SN02 which is that email dated March the 18th 2016, and a reading of that document would suggest that it covers a number of issues including the removal of Mr Nene and that you will find

20 at paragraph 4, the rise of factions and sleuth within the ANC and that is contained at paragraph 7.11, various crises besetting the organisation at paragraph 12, and undue influence on decisions of the State at paragraph 14. Now of particular relevance to our conversation and the Gupta Family I seem to find these matters dealt with in paragraphs 7 to 9 of that document, do you see that?

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: Now can you tell the Chair therefore what the issues are in relation to the Gupta family that you raised as a concern on this document.

CHAIRPERSON: Maybe before he does that, which is specific to the Gupta family it might help if we were to give you an opportunity to say the thrust of this document that you sent to the ANC insofar as it might relate to the work of this Commission was t he following, one, two, three or whatever, and then you can focus after that on this specific one, but if the specific issue is actually the one that you want to focus on its fine.

MR SIPHIWE NYANDA: The specific issue that this memorandum deals with is the appointment of an independent Commission to look into the matters that arose out of (indistinct) disclosure that he was called to (indistinct) and told that he would become, that they would make him Minister if he accepted R600 000 and ...(intervention)

CHAIRPERSON: I think R600million.

MR SIPHIW NYANDA: R600million ja, and did certain things, I can't think in terms of figures.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: So that was the thrust to say we need to have a Commission set up because we thought that what was happening was undermining the African National Congress and we were just concerned about our movement that is why even if you look at the resolution about saying the ANC should call an independent commission to deal with these matters because we were discussing these things on a daily basis until such time as Xolisi made this claim. I can just give a background as well, I was driving from somewhere, Mabula Game Lodge when this thing came, I actually called all these people that are signatories to this thing while I was driving I asked somebody else to drive, to call these people to say we need to do something about this and all these were very senior people in the ANC and veterans of the Armed Struggle, because

to us this was now a public revelation not in an ANC NEC as it happened in the past, but public, a Minister, a Deputy Minister disclosing what he disclosed because his minister had been removed somebody else put in place for three days and then subsequently a redress sort of, of that situation when Bavim was then appointed. So we were saying this is a worry to us, with respect to what is happening in Government and also with respect to what is happening in the African National Congress

You will recall Chair that there had been elections, local government elections in 2014, the previous year ...(intervention)

CHAIRPERSON: 2016 was local government elections. Minister Nene was dismissed on the 9th of December 2015.

MR SIPHIWE NYANDA: Ja.

CHAIRPERSON: The local government elections were in August I think 2016.

MR SIPHIWE NYANDA: 2016 in 2014 the ANC's majority was reduced, significantly and we were worried about that.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: And so we were planning this because we knew that or we thought that there were problems in the African National Congress or factionalism and so on and so forth and we addressed these issues again in this, but ...(intervention)

CHAIRPERSON: Ja, I see that the memorandum is dated 18 March 2016.

MR SIPHIWE NYANDA: 2016.

CHAIRPERSON: Yes. You have covered what you think is important for us to highlight in this memo?

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: Okay.

ADV MAHLAPE SELLO: If I may read from the memo at paragraph 8 and please

correct me if I make a mistake, and in the context of the offer made to Mr Mbalula the memorandum state:

> "In the light of these revelations we demand to know what role if any did the Gupta family play in influencing the appointment of Ministers and to what end, which other ministers have been approached by them in this manner, what private arrangements if any have been made with the Gupta family, what is their role in the appointment of board members of State Owned Enterprises. Is the leadership of the ANC aware of these arrangements. On whose authority does the Gupta family act."

10 So this would be a specific issue brought to the attention that was central to the memo that you submitted on the 18th of March?

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: The bottom end as currently appears before us seems to be an email from Mr Moshaik to yourself. Now you speak of a memorandum, can you explain the following, to whom specifically was this memorandum addressed?

MR SIPHIWE NYANDA: It was addressed to the Secretary General of the ANC and the officials of the ANC and it went to them, I think Mo sent it to me and I sent it to the SG of the African National Congress.

ADV MAHLAPE SELLO: And the document would suggest at page SN04 that it is

20 signed by yourself on behalf of the list of people set out there, so the document is yours, basically, on behalf of those people, same document at page SN04.

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: Now can you confirm whether or not the Secretary General of the ANC did receive this memorandum?

MR SIPHIWE NYANDA: I can confirm that and I will also say Chairman that this

document somebody leaked this document to the media, so the Secretary General of the ANC or rather the leadership of the ANC were upset and reprimanded us when we met them about such a leak, so it was sent to them and received by them.

CHAIRPERSON: I suspect that the reprimand was about the leak and not about this type of writing expressing your view in this memo?

MR SIPHIWE NYANDA: Ja the reprimand was about the leak Chair.

CHAIRPERSON: Okay.

ADV MAHLAPE SELLO: Now following then receipt of that memorandum by the Secretary General, albeit the date is not clear, what did the Secretary General to your knowledge do about that memo, what transpired thereafter?

MR SIPHIWE NYANDA: We did meet the leadership of the ANC I think it was not just the Secretary General but the officials of the ANC, I can't recall who was present in that meeting, among the officials.

ADV MAHLAPE SELLO: And when you say we did meet, do you recall who you were with?

MR SIPHIWE NYANDA: A few people I think Moshaik was one of the people in that meeting, I think Kasha Bangu, let me see in my book. I think General Mngwena, Commission Rasigatla, Ambassador Sheik, I think I can recall those, there were about five of us.

ADV MAHLAPE SELLO: Now you submitted as part of the documents this morning an email yet again, which I have numbered SN052 SN 6, could you explain to the Chair the relevance of that particular email? It is dated Sunday April 3 2016.

MR SIPHIWE NYANDA: This email just talks to – this meeting that we held with the officials of the ANC and it also talks to that leak, the last paragraph of that page SN05, where I say

"Comrades as you now our last memorandum was leaked to the media by one of us. We were correctly criticised for this reckless action. I appeal to you please keep this communication confidential to ensure that no leak ensues."

And it spoke to the findings of the – we were asking the President to go.

ADV MAHLAPE SELLO: Can I draw our attention to – you drew the Chair's attention to the last paragraph on that page, can I draw your attention to the paragraph before that one.

MR SIPHIWE NYANDA: Yes, to say the President had agreed to meet us.

10 **ADV MAHLAPE SELLO:** So is it correct to interpret this to mean as at April the 3rd 2016 you were confirming that there has been an invitation to meet with the President on the matter that is reflected in your memorandum.

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: But the meeting was yet to be held.

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: Now was that meeting subsequently held as a matter of fact?

MR SIPHIWE NYANDA: My recollection yes.

ADV MAHLAPE SELLO: Do you recall what was discussed in that meeting?

MR SIPHIWE NYANDA: I have a – I have here what I was going to say to the

20 President.

ADV MAHLAPE SELLO: Okay.

MR SIPHIWE NYANDA: It is actually something, the notes that I prepared for that meeting.

CHAIRPERSON: And did you actually say these things that you say in this document when you met with the person?

MR SIPHIWE NYANDA: Yes, okay, thank you.

ADV MAHLAPE SELLO: Is that the document then that would be the third document in that series Chair, paginated SN07 to SN08, it's got a date there by manuscript 18.04.2016, is that the document?

MR SIPHIWE NYANDA: That's generated then.

ADV MAHLAPE SELLO: I see that it is addressed to the President.

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: And at the third paragraph they are numbered but the third paragraph you state, or it states:

10 "We really appreciate the time and wish we could have interacted long before matters reached this state. Some of us have made such attempts to reach you."

Now whose handwriting is it at the top there inserting the date 18.04.2016?

MR SIPHIWE NYANDA: It's mine.

ADV MAHLAPE SELLO: Is the Chair to understand that the date appearing there is the date on which you wrote this document, not the date necessarily on which you met with the President, you would have met with him ...(intervention)

MR SIPHIWE NYANDA: The date on which this was generated from my computer.

ADV MAHLAPE SELLO: Do you recall then based on that date ...(intervention)

20 **MR SIPHIWE NYANDA:** I can't recall the date that we actually met the President.

ADV MAHLAPE SELLO: You don't recall, okay. Okay is there anything in particular so is the Chair to understand that these are then your notes of what transpired at that meeting, would that be correct.

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: In summary then could you say, could you indicate to the

Chair what the key issues were that were discussed and their relevance to this Commission?

MR SIPHIWE NYANDA: No, I remember that it was going to be the President's birthday or something there and then we are saying there that we were really are saddened by what has happened and I – if I can just can quote what I'm saying?

CHAIRPERSON: Yes, briefly.

ADV MAHLAPE SELLO: Yes.

MR SIPHIWE NYANDA: I say:

> "We come here with pain and heavy hearts believing that our organisation is on a slippery slope. This is not only from our own observation but from what we also heard you say at the National General Council last year. There are people who believe it is beyond remedy, some of us think it is still possible to cure it's ills and nurture it back to health in spite of that being a monumental challenge. We are prepared to be part of such an effort. That will however require a complete detour from the practice of the past decade and a will form the leadership to unite with its investigators and drive such an agenda."

And then it goes into the resignation of Mcebesi Jonas.

ADV MAHLAPE SELLO: You may read that as well, you may continue reading that into the record yes please.

MR SIPHIWE NYANDA: I must read that.

> "President last month after the statement by the Deputy Minister of Finance, Mcebesi Jonas, we addressed a memorandum to the leadership on that issue. We believe that the issue of the Guptas and the attendant corruption involving the State machinery which was central to that memo has evoked such resentment from many in our ranks and the wider society that the ANC

is in danger of paying a huge price in future elections. We have since interacted with the SG and the some officials and ANC members, ANC members explaining the memo and signalling our intention to participate in the process that the NEC has decided in order to give our own evidence about what we know on the matter. We do not wish to rehash some of the issues we raised in that memo save to say that it among other things called for a special conference. We are not even sure that a special conference can resolve some of the many challenges we face, but we are shocked by the assertion by the SG that forcing the President to relinquish office would tear the ANC apart. We however wonder whose interest it would serve to tear the movement apart. We do not believe that you, President, would act in such a way as to deliberately wreck the movement in order to stay in power. That would be so un-ANC, but that is the impression we get when such statements are made. Things moved quickly since then, the Constitutional Court has now found that the President violated the Constitution for which he has since rightly apologised. That may be okay with us but that cannot be enough for the country's future. The ANC through the SG came out in support of the President and the SG repeated the same assertion in aid to ask in that discussion in that memo. All findings by the Constitutional Court set precedents, so too do the actions of those fingered in relation to those findings. Are we saying that all future adverse findings against incumbents will be satisfied by a mere apology? Are we not in so doing setting precedents for similar future conduct with which incumbents will expect to be satisfied by a mere apology? Are these the standards by which we want our hard won democracy to be measured? Is it not a better

response to take full responsibility and set an example that such adverse findings in future have more serious consequences? We are therefore of the opinion that more drastic decisions should have been taken on the Constitutional Court ruling on the Ghandla matter. We agree with the (indistinct) and Comrade Kathrada that our country would be better served where the President relinquish office as an example for those who follow. This would be put the country on a high moral pedestal and be an example for future leaders that there is a price to pay for such breaches. The President would set a good example for the ANC and the country. The opposite is the case were this not to happen. It would open the door to impunity, and we do not believe that the President would want that to result from his actions. We do not view this as punishment for the President but as a rich example of the respect he would leave for governance and the rule of law."

I don't know whether I must go on.

CHAIRPERSON: Well if you think what you have read captures the important points that's fine but if you think there is still something in terms of what you haven't read that you want to capture you can read it.

MR SIPHIWE NYANDA: No I think it does capture it.

CHAIRPERSON: It does, okay.

ADV MAHLAPE SELLO: Thank you General. Now this an interpretation that this is a recordal of the meeting you had with the President would be correct?

MR SIPHIWE NYANDA: Yes, yes.

ADV MAHLAPE SELLO: Now who besides the President was present in that meeting you said, apart from your delegation, who did you – who ...(intervention)

MR SIPHIWE NYANDA: I can't recall, I know part of the officials, I think Dr Mkizi was one of the people that I can recall, or the DSG of the ANC.

ADV MAHLAPE SELLO: At the time?

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: Now the document starts with the salutation "President" was this delivered to the President himself at that time?

MR SIPHIWE NYANDA: Yes.

ADV MAHLAPE SELLO: This document?

MR SIPHIWE NYANDA: Yes.

10 **CHAIRPERSON:** So in other words did you come to the meeting with it?

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: Oh and then you handed it over to him?

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: And then you discussed?

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: Okay.

MR SIPHIWE NYANDA: No, we discussed, these were my notes but we left them with a copy.

ADV MAHLAPE SELLO: Okay and so you discussed the notes, the issues that are

20 raised in this document?

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: I'm sorry, are we to take it that the sentiments expressed in this document by yourself reflected the sentiments of the _ over everybody that was part of your delegation when you met the President?

ADV MAHLAPE SELLO: Yes.

CHAIRPERSON: Yes and maybe a wider group than just those who came to the meeting in terms of your delegation.

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: In other words there was a wider group behind this.

MR SIPHIWE NYANDA: Yes, yes.

CHAIRPERSON: Okay and that group did it include the individuals that are listed in the other memorandum that we dealt with that – in SN02?

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: It included them?

10 **MR SIPHIWE NYANDA:** Yes.

CHAIRPERSON: But much more or just them?

MR SIPHIWE NYANDA: I think by then we had expanded because following our intervention ...(intervention)

CHAIRPERSON: Your first meeting.

MR SIPHIWE NYANDA: That memorandum which was made public, it leaked and we discussed with the ANC other people, other former DG's I remember they called me and said they want to – why don't we take this matter to the people who are serving currently because Ministers act through their Directors General, and that it may be a good thing for us because these were just commanders, these were veterans of MK,

20 some of them were DG's before.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: Somebody came with the idea that why don't we form a DG's group which would then concentrate on what is happening now in Government because we had so many who had served the ANC and had you know a view that the correct mindset and was serving Government and not our own interest that we now need to

bring it back to people who are serving currently and the one who that has to form this, which was then the basis of another group that subsequently was formed.

CHAIRPERSON: Okay.

ADV MAHLAPE SELLO: Thank you Chair. Now general did the president address any of the issues that you brought forward to his attention at this meeting at the time?

MR SIPHIWE NYANDA: The President was very unhappy about our call for him to relinquish office, and according to the President he is serving his term until the ANC _ because he is elected by the African National Congress and by the branches of the African National Congress.

10 **ADV MAHLAPE SELLO:** And did you specifically bring to his attention your concerns regarding the – the so-called influence of the Gupta family on him?

MR SIPHIWE NYANDA: Yes we did.

ADV MAHLAPE SELLO: And did he deal with that aspect in the meeting?

MR SIPHIWE NYANDA: No, I think that that meeting really did not address many of these issues as it should have done. The officials just decided that they were going to follow up on the matters that we were raising and come back to us, and they did take note of the concerns that we have and they informed us that the current NEC has got a mandate from the previous conference of the ANC.

CHAIRPERSON: Okay I just want to make sure I understand what happened. The

20 meeting that we are talking about which involved a delegation of which you were part and met with the President, did it meet with the President alone or were there officials of the ANC at that meeting as well?

MR SIPHIWE NYANDA: The one relating to the memorandum?

CHAIRPERSON: Ja, well the one relating to the letter, well it's documented letter which you said reflects your notes at the meeting.

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: Ja, that meeting.

MR SIPHIWE NYANDA: It is the one that I say my recollection is that there was the Treasury General of the ANC of the time Dr Mkezi and the Deputy Secretary General of the ANC.

CHAIRPERSON: Oh, your recollection that there were those it was the President plus those two officials of the ANC.

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: Okay, now the President you said were in regard to your suggestion or demand or request of your delegation that he should relinquish office responded on what you have said on the basis that he had been elected by branches of the ANC, I thought you – the office that you sought him to relinquish was that of President of the Country and not President of the ANC.

MR SIPHIWE NYANDA: Exactly yes.

CHAIRPERSON: So did he address the issue of relinquishing the office of President of the Country?

MR SIPHIWE NYANDA: No.

CHAIRPERSON: He did not address that one, did he misunderstand and thought that you were asking him to step down as President of the ANC?

MR SIPHIWE NYANDA: You know I cannot recall. Even the issue of the elections of the President I cannot recall whether it was him or the Deputy Secretary..

CHAIRPERSON: The official..

MR SIPHIWE NYANDA: Who addressed that.

CHAIRPERSON: Oh yes.

MR SIPHIWE NYANDA: Or one of the officials who addressed that.

CHAIRPERSON: Yes. But the only – what are the issues that you can remember were dealt with or responded to by the President himself in relation to the issues you raised if there are issues that you recall he dealt with this and this is what he said? Or you cannot tell? He might have said something or another official might have said you cannot tell who said what?

MR SIPHIWE NYANDA: Because the main thing was the issue of what the constitutional court findings.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: As well as the Mcebisi Jonas.

10 **CHAIRPERSON:** Yes.

MR SIPHIWE NYANDA: Issue.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: Which they said they were going to set up a commission.

CHAIRPERSON: Okay.

MR SIPHIWE NYANDA: To look into.

CHAIRPERSON: Oh.

MR SIPHIWE NYANDA: And that this matter – all these matters were going to be looked at – into by the leadership of the ANC.

CHAIRPERSON: Oh they supported the – they were happy with going along with the

20 idea of a commission.

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: No, not the commission.

CHAIRPERSON: Ja.

MR SIPHIWE NYANDA: They were – they set up their own commission.

CHAIRPERSON: Oh their own party commission?

MR SIPHIWE NYANDA: Yes party commission.

CHAIRPERSON: Oh okay.

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: So the meeting ended on the basis.

MR SIPHIWE NYANDA: Yes.

CHAIRPERSON: That they said all these issues would be dealt with in that party commission?

MR SIPHIWE NYANDA: Yes Chair.

10 **CHAIRPERSON:** Okay. And what was your – the attitude of your delegation to this way of dealing with issues namely the suggestion of a party commission?

MR SIPHIWE NYANDA: We were unhappy about it.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: We were unhappy about it but ...

CHAIRPERSON: Yes you waited to see.

MR SIPHIWE NYANDA: We said it is fine and then we asked those who had evidence.

CHAIRPERSON: Ja.

MR SIPHIWE NYANDA: Like Mr Masego.

CHAIRPERSON: Yes.

20 **MR SIPHIWE NYANDA:** To go before that – to go to the ANC and give that evidence ...

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: And Jonas who had concrete evidence ...

CHAIRPERSON: Yes, yes.

MR SIPHIWE NYANDA: And give that...

CHAIRPERSON: Evidence.

MR SIPHIWE NYANDA: Report to – their reports to the commission.

CHAIRPERSON: Okay thank you.

MS LEAH GCABASHE: And – thank you Chair for the record in your memorandum at paragraph 16 you record the following I can quickly read it into the record.

> "Accordingly we call on the leadership of the ANC to establish an independent commission of inquiry composed of eminent persons within the ANC and civil society to investigate all claims of undue influence especially by the Gupta family on the ANC and on the state"

10 When you say to the Chairperson that the meeting ended on an understanding that a commission of inquiry was going to be established was it to look into these issues that you have raised here in your memorandum specifically?

MR SIPHIWE NYANDA: No. In fact I think there were – there were other interactions with the – with the ANC leadership that are not spoken to by these documents.

CHAIRPERSON: H'm.

MR SIPHIWE NYANDA: The point at which the ANC then committed to have its own internal investigation and to get people and where they told us that they were needed to get. I think that decision in fact was taken even without the President if I recall because it was that day what the board of the boardroom of the Secretary General where we

20 were told that there is going to be an investigation – the ANC is going to set up its own inquiry and that members must need to come to that inquiry. That is what I said we also unhappy about. But we accept it because this is our organisation and we wanted as much as it is possible to cooperate with it without necessarily upsetting it. Because there are other things we were looking to. We wanted a national consultative committee who was going to negotiate many things and – and there were other subsequent

meetings which we held and I was also part of interactions with the NEC where the President was with the stalwarts and veterans not this grouping. Neither also the DG's. Stalwarts and veterans where they gave us audience to deal with the matters that related to us.

MS LEAH GCABASHE: Yes.

MR SIPHIWE NYANDA: All these things.

MS LEAH GCABASHE: Now earlier the Chair referred to a memorandum submitted into evidence by Mr Maseko. Chair for record purposes it is in Exhibit E which is Mr Maseko's bundle in particular at page 80. Now this is dated the 22 April 2016. What I have done General Nyanda is to put Mr Maseko's bundle next to you. Chair I have a copy here for your reference should you so require.

CHAIRPERSON: Ja, ja.

MS LEAH GCABASHE: But I do not expect to be long on this.

CHAIRPERSON: Ja no that is fine.

MS LEAH GCABASHE: Thank you Chair. Now this document at page 80 of Mr Maseko's exhibit E is dated the 22 April 2016 and if you look overleaf at page 81 it is signed by a number of people I think a grouper broader than your first memorandum and your name appears – the penultimate name in the first column on that page, you confirm that?

MR SIPHIWE NYANDA: Yes.

MS LEAH GCABASHE: Now it starts off by saying:

> "We the undersigned are former Director Generals in the Post-Apartheid South African Government."

Were you a Director at any point?

MR SIPHIWE NYANDA: A Director General office speciality.

CHAIRPERSON: I guess Chief of Staff is taken to be at that level or not? You were Chief of Staff in the...

MR SIPHIWE NYANDA: I was a Chief of the – I was the commander of the South African National {indistinct.

CHAIRPERSON: A commander ja. Is that what you are talking about when you say Director General of a special kind?

MR SIPHIWE NYANDA: Yes because I remember one time the former President Thabo Mbeki saw me at the birthday of the ANC in Durban after the event. I think it was the 90th birthday in Durban and then he says "Why are you here Chief?" I said "no
10 but you invited." DG says but you a DG of a special type.

CHAIRPERSON: [Laughing]

MR SIPHIWE NYANDA: So and even when I – even when I retired I could not be appointed a Director General because it is a special category of Director General.

CHAIRPERSON: Yes, okay.

MS LEAH GCABASHE: And now this document is dated the 22 April 2106 as I said. The last paragraph on page 80 states:

> "We therefore call for the establishment of an independent public enquiry then in terms of Section 41 of Paja"

You see that? So by the 22 April you were still calling for an establishment of the
20 inquiry?

MR SIPHIWE NYANDA: As part of this grouping yes.

MS LEAH GCABASHE: As part of this grouping?

MR SIPHIWE NYANDA: Yes.

MS LEAH GCABASHE: I see that letter is addressed firstly to the Minister of Finance Minister Pravin Gordhan, the Minister of Public and Service and Administration Mr

Ngoako Ramatlhodi and the President of the Republic of South Africa and the Deputy President. Was this particular letter delivered to any one of the addressees to your recollection?

MR SIPHIWE NYANDA: Addresses which?

MS LEAH GCABASHE: The Minister of Finance Minister Pravin Gordhan, Minister of Public Service and Administration Mr Ngoako Ramatlhodi, at the top there page 80 they are listed?

MR SIPHIWE NYANDA: Ja I was told so. I have no certainty about that.

MS LEAH GCABASHE: No personal knowledge of that.

10 **CHAIRPERSON:** I think Mr Maseko covered it if I am not mistaken.

MS LEAH GCABASHE: Now you personally or the grouping that you had been dealing with thus far did you receive a response to this letter at all in writing or in any form?

MR SIPHIWE NYANDA: No.

MS LEAH GCABASHE: Did you make submissions any to the subsequent inquiry that was established by the ANC on matters that you had requested that be investigated?

MR SIPHIWE NYANDA: You not talking to this.

MS LEAH GCABASHE: I am just saying generally. Following your request.

MR SIPHIWE NYANDA: No I did – I did say that perhaps because the ANC won – I said earlier on that there was nothing that I could offer any inquiry or any commission

20 because I was never approached to do anything untoward.

MS LEAH GCABASHE: So you did not have any personal knowledge on those matters and you did not submit any evidence on that?

MR SIPHIWE NYANDA: I did say that I was – I said also that in relation to the matter of Mbalula perhaps I should have gone back to.

CHAIRPERSON: Yes.

MR SIPHIWE NYANDA: That inquiry which was an internal one to say yes you want an inquiry whereas I know then Mbalula said this thing and you never addressed it.

MS LEAH GCABASHE: But you confirming that you did not bring that particular.

MR SIPHIWE NYANDA: No.

MS LEAH GCABASHE: Mr Mbalula's issue to the inquiry's attention okay.

MR SIPHIWE NYANDA: No.

MS LEAH GCABASHE: Now is there anything else relevant to terms 1.1 and 1.3 as you have read them in the terms of reference to getting appointments and dismissals that you would like to bring to the Chair's attention that perhaps we overlooked and did not deal with today?

MR SIPHIWE NYANDA: No I think I have alluded to those.

MS LEAH GCABASHE: You have covered everything? Chair unless there are questions from you that is the testimony of General Nyanda.

CHAIRPERSON: General thank you very much for coming to assist the commission. We really appreciate it. We – if we need you to come back I have no doubt that you will have no hesitation to come back and assist us. But thank you very much and unless there is something else you want to say I will be ready to excuse you but I think you want to say something and I must give you a chance to say it. Maybe when you say it I must just say this if you are able to encourage any of the other people who were part of the groups of which you were a member that expressed certain concerns about issues of state capture if you want to take this opportunity to encourage them to come forward that would highly appreciated and any other matters that you would like to deal with as we close.

MR SIPHIWE NYANDA: Thank you Chair I will encourage others to come on board. Obviously I support the commission because a lot of what has happened has affected

many of us that is why we interacted with the movement the way we did and I sit here now talking about things that are internal to the organisation. Meetings of the African National Congress where certain things that may be [indistinct] to the inquiry are dealt with but things that are internal to the organisation. But I must say that this issue of Mbalula was in the public domain even before it. I mean after it came I mean it was leaked somewhere to the public and that – therefore I do not feel constrained to talk about it. The ANC also has encouraged members of the – of the cabinet, members of government, public servants, ANC members who maybe *au fait* to things that they think are relevant in the state capture commission to come on board and give evidence to the commission. So I think it is in that spirit that I come to the commission because my organisation as well supports the commission in my understanding. I thank you.

CHAIRPERSON: No thank you very much I certainly believe that the governing party supports the commission. I believe the government supports the commission. I believe many civic organisations and many people in the country are very supportive of the commission. But thank you very much once again for coming forward.

MR SIPHIWE NYANDA: Thank you.

CHAIRPERSON: Thank you. You are excused. We are going to adjourn now. Tomorrow we will start at the usual time namely ten o'clock. So we will adjourn for the day. The commission adjourns.

MS LEAH GCABASHE: Thank you Chair.

INQUIRY ADJOURNS TO 1 MARCH 2019

V3(d)1

Video Clips

Video of interview with Fikile Mbalula on eNCA

COMMISSION OF INQUIRY INTO STATE CAPTURE

Video to be played during hearing

COMMISSION OF INQUIRY INTO STATE CAPTURE

V3(d)2

Video Clips

Transcript of video of interview with Fikile Mbalula on eNCA

COMMISSION OF INQUIRY INTO STATE CAPTURE

CERTIFICATE OF VERACITY

I, the undersigned, hereby certify that in as far as it is audible the aforegoing is a true and correct transcript of the recording provided by you in the matter:

TRANSCRIBER	:	B Masinga, Investigator (State Capture Commission)
DATE OF TRANSCRIPTION	:	20 March 2019
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Notes:

1. At times poor recording with soft sound and lots of background noise.
2. No stenographer notes were supplied, hampering accurate identification of parties.

COMMISSION OF INQUIRY INTO STATE CAPTURE

Mbalula interview on News24

Interviewer: Personally will you be going to the state capture commission of inquiry

Mbalula: I mentioned there, at the state capture and I'm talking to the investigators so at a given point in time and date agreed I think I will be called upon to give an account of what I probably said in the NEC about the Guptas, and I've got no fear about that. I went to Thuli Madonsela, I explained to her what exactly what happened so eeh she knows what actually happened so eeh so if I'm called upon like it is going to happen I will be there, so our party has given us a green light to go to the state capture and give an account when we are called upon to do so, I will. I'm ready, anytime, with or without a lawyer I will be there to explain exactly what happened eeh and so on. I think it's a necessary process eeh that we have embarked upon that many people agreed that it must come to life, the ANC have been brave enough to allow this to happen, we are on it now there is no turning back, lets go.

Interviewer: Did the Guptas offer you the police ministry?

Mbalula: Well, the Guptas did not offer me the police ministry, I'll give an account when I get to the state capture.

Interviewer: what did they offer you?

Mbalula: Well eeh eeh, I will give a full account about our conversation, with the Guptas and that led to me actually standing in the National Executive Committee of the ANC expressing disdain eeh to this a long time ago and explaining that this thing will land us into trouble because we can't outsource our mandate in relation to this issue. So eeh, don't pour cold water on it now, allow that process and when I go there as it is required to explain my side of story in relation to the state capture issue that is being probed by Justice Zondo.

Interviewer: were you a frequent visitor to Saxonwold?

Mbalula: No I was not a frequent visitor because I was not a friend but I've been to Saxonwold. I've met with Ajay Gupta at Saxonwold, eeh to discuss some of the issues that arose out of the very same issue that you are asking me about. So, I've not been a frequent visitor in a sense that I was a friend and all of that. I was invited to their wedding eeh in Sun City eeh but what made me not to go that wedding is their landing at Waterkloof, shocking stuff. So I mean, that's it

V3(e)1

Video Clips

Video of interview with Fikile Mbalula on News 24

COMMISSION OF INQUIRY INTO STATE CAPTURE

Video to be played during hearing

COMMISSION OF INQUIRY INTO STATE CAPTURE

V3(e)2

Video Clips

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COMMISSION OF INQUIRY INTO STATE CAPTURE

Mbalula interview on News24

Interviewer: You are willing to go to the state capture inquiry?

Mbalula: The question of willing and non-willing never arose in my vocabulary and I think it has just been an administrative mishap in terms of how this things have got to be followed up and I have cleared that with my lawyers and the commission, we are on it. It can never be my intention not to cooperate with the commission that our organization have directed us from Nasrec that we must establish and cooperate with, so if my name is called and things are raised not even because it is called but because I can give a full account of those events. There is nothing that Trevor Manuel said about me in relation to that meeting and what I said is untruthful, and I think he has said it the way he did, it is up to me to amplify and to put it into context and I'm ready to do that, so eeh to hell with state capture it must never happen in this generation and many generations to come. And to hell with state capture it must be fought in all avenues, parts and even in its manifestation.

The African National Congress, the vehicle for fundamental change in this country, 25 years of service and still surging on is leading a fight and a difficult one against corruption, against perceived state capture to bar it at once. There is our democracy, it was fought for. There is nothing that will be flushed and be put under the carpet, we are directed by the congress of the ANC from Nasrec to match on and we are ready to do that. And I'm not going to be an accomplice of an anti-congress resolution on the Zondo Commission. Zondo Commission with all its ramifications and difficulties for us, it is a necessary process that we must honor and appear before it, if necessary and basically lay matters to rest, because that is required of us by our membership and the general South African population, so, I'm ready there is no issue about it and I will stand up an cooperate and give the commission what I need to give them and whatever that they require from me and that is it, and give a full account of what happened on that day. Whether it was cries, whether it was emotional, whether whatever it is, that is the platform and we'll have a date.

COMMISSION OF INQUIRY INTO STATE CAPTURE