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**The Rise of Fascistic Politics and
How Judge Nicholson Handed
Mbeki's Head on a Platter to the
Zuma Brigade**

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THE RISE OF STALINIST/FASCIST POLITICS IN POST 1994 SOUTH AFRICA

Introduction

The hallmark of fascist politics is its extreme intolerance of views which contradict and differ. Fascist politics is unable to debate and discuss rationally and usually seeks to win an argument by violence or threats of violence.

Exposure of its illegitimate activities is something which this brand of politicians cannot stand.

You will usually find the fascist politician foaming and fulminating against opposition parties, branding them in the most hated terms, usually linking them with the hated former oppressive regimes.

The press which has the power to transmit information and the skill to craft that information in the most effective manner and which has an army of investigators and writers called journalists and reporters comes in for special hatred. The press, more than others, is able to ferret out sensitive information, obtain confidential documents and has access to the most hidden secrets of people in power or positions of influence in the State, in politics, in industry or the church.

Between the might of the state, the powerful groups and vested interests and the individual or civil society stand the law courts of the country. In a constitutional democracy, the law courts uphold the constitution. Through its judgements and orders, the law is applied and enforced. Although the courts do not have a standing army to enforce their judgements, the entire might of the state and all its resources are available to the courts, provided the major political players agree to that arrangement.

Julius Malema, “a F@#\$king mindless Idiot”

Professor Richard Calland of Idasa clearly took great pleasure in repeating a description of Julius Malema by an ANC cabinet minister who had been in exile. This description of Malema, namely, “Malema is a F@#\$king Idiot”, was in reaction to Malema’s statement that he would shoot and kill if Zuma was made to appear in Court.

Before that, Fred Khumalo. Columnist of the Sunday Times, described Malema as a person who suffered brain injury when he was a child. This

was also in reaction to Malema's "shoot and kill if Zuma was made to appear in court."

Both these gentlemen, with their highly deprecatory descriptions of Malema would have elicited chuckles from readers who have no love for what they regard as an obnoxious and irresponsible young man.

However, there are more than chuckles involved.

If one looked away from Malema for a second, *one would have noticed that Jacob Zuma was sitting right next to Malema when the latter made the "shoot and kill" statement.*

Zuma did not try and stop Malema. Nor did he reprimand Malema immediately or any other time thereafter. This can only mean that he approved of what Malema said. So is Zuma also a mindless F@#\$ing idiot? Or was he also dropped on his head when he was a child?

And what about Vavi? And Gwede Mantashe?

We believe that there is far more than meets the eye. If we look around and if we examine the past, we will notice a discernible and alarming trend of using threats of extreme violence or the actual acts, to press forward a political agenda.

Let us then examine the past:

1. Intolerance and violence on the part of the oppressed people towards other oppressed people manifested themselves prior to 1994.
2. We saw during the **Consumer boycotts** when those who defied the boycott to purchase household necessities like cooking oil, chicken etc. We will recall how these ordinary people were made to drink raw cooking oil and eat uncooked chicken for defying the boycott imposed on the population by *an undemocratic minority*. We will also recall how already during those days people were threatened with death for defying a consumer boycott.
3. The intolerance, the violence and the absolute lawlessness reached its pinnacle in the notorious necklace killings. Members of the liberatory movement who were active watched and said nothing, thereby condoning and encouraging this horrendous practice.. Thus it was Mrs Mandela who made the monumentally irresponsible statement about achieving freedom through **match boxes and necklaces**.

4. In the early days most strikes by black workers were illegal and invited criminal sanctions. Thus industrial strikes were in fact political battles with the police representing the state in the interests of the capitalists. For such times, it was essential to obtain maximum unity. Those who did not join the strikes were regarded as traitors, not just non- strikers. They were often beaten up and sometimes killed.
5. We find the continuation of that tradition in the **strike of the security guards** in 2006. Death visited those who did not go on strike. 62 persons were murdered for failing to go on strike. We are talking about 2006, not the 1950s. The security guards are organised as a COSATU union. Can you recall how many of those murders have been brought to court?
6. **Racialism and racial slurs** against minority groups take place with impunity. The culprits do so in the confidence that there will be no sanctions, no prosecution:

a) There was the notorious song, *Amandiya* by **Mbongeni Ngema** inciting the killing of South Africans of Indian origin.

b) Thus **Peter Mokaba** (now late) was able to incite with his notorious slogan of “Kill the Boer! Kill the farmer!” This slogan was interpreted by the many millions as: “Kill the Whites!” Whites have been and still are being referred to as “Boers”¹

c)) When Fikile Mbalula came to the Pietermaritzburg campus of the University of KZN Natal last year, he exclaimed that the place reminded him of **Bombay**. The racial slur is directed at what Mbalula believes as too many South Africans of Indian origin on the campus. How many are too many? What is to be done with the excess?² Professor William Magkoba, the Principal, an avowed Zuma supporter and CV

¹ That is what Judge Motata is alleged to have called Baird, an English speaking urban White after the Judge ploughed his car into Baird’s garden wall.

² Mbalula ignored three vital facts: 1) There are more African than Indian students on the campus in question. 2) KZNatal has the largest concentration of Indian people. 3) The Indian population has a very strong culture and tradition of dedicated learning and advancement through education.

falsifier, refused to come to the defence of his Indian students. Mbalula was more important!

d) When the High Court in a recent case declared the South African **Chinese community** as being entitled to the benefits of Black Economic Empowerment, the Minister of Labour, **Shepherd Mdladlana**, responded to the news of the judgement ungraciously. He made disparaging remarks about the local Chinese community and attributed to them the unlawful labour practices of certain Taiwanese factory owners. He, occupying the important post of Minister of Labour in a democratic parliament, reduces himself to a lowly stereotypist.

In all four cases **no action was taken against these racialisists**. It is either because those with the power to do something, agree with the slurs and thus are racialisists themselves or they are just spineless - like the Human Rights Commission. The other explanation is that those in power do not wish to alienate the racialisists for the sake of a non-African minority!

7. The recent strike by Civil Servants, especially the teachers and nurses saw the intended peaceful practice of picketing transformed into plain intimidation, thuggery and violence. The strikers did not go as far as the security guards on strike, in that they did not directly kill anybody, but were responsible for the deaths of persons who needed medical care and were denied access to it by the picketers.

The most revolting aspect of the picketers' / strikers' activities was their act of ***punishing the guiltless*** for what they believe to be the crimes of the government.

In the first place, the strikers targeted government schools and state hospitals.

By and large only the poor go to the state schools and to state hospitals.

The well off and the elite do not use these facilities. They send their children to private schools. If they need medical care they go to private hospitals.³

³ **We are not unmindful of the fraudulent and disgusting practice of a section of the well-off who go or are conveyed to public hospitals for treatment in luxury**

When and how will any of the strikers or picketers who harassed, intimidated and assaulted the innocent be able to justify on moral, religious or logical grounds targeting and punishing the poor, when the *latter have no say whatever in determining the amount of salary the strikers receive?*.

Why storm the schools of the poor and terrify innocent children? If the strikers and picketers feel strongly about government indifference to their salaries, why did they not march to the Government buildings and storm the offices of the relevant ministers? And of course, take the consequences.

There is something very cowardly and morally reprehensible about their actions. Something directly opposite to the actions of an enlightened and revolutionary working class or intelligentsia who will consider it an honour to treat the sick and educate the young and be protective of them at all times. There is something vile, inhuman and callous about the actions of the strikers and picketers which remind one of Stalin's gangsters and the Nazis and their storm troopers.

One final point about the Civil Servants Strike. It was clearly designed to dovetail with the forthcoming ANC elections for its president and other important positions. A flood of anti-Mbeki propaganda was let loose by targeting Ministers Fraser-Moleketi and Tshabalala-Msimang. If memory does not fail, the strike was called off as soon as the ANC Branch nominations were finalised. By that time the true purpose of the strike had been served.

8. Polokwane Conference: The Mbeki and Zuma factions came within an inch to violence, so determined they were to defeat each other.

9. When Zuma was presented with fresh charges after the Polokwane Conference, **Zet Luzipho**, the secretary of COSATU (Natal) declared that there would be bloodshed if Zuma was brought to Court .

cars. They do not mind waiting for hours in the queues for medical treatment at drastically reduced rates. They would have worked out the economics of it all.

10. **Julius Malema**, president of the ANCYL stated that he would shoot and kill if Zuma was brought tot Court.

11. A few days later, **Vavi**, Secretary of COSATU and appropriately described as Malema's "elderly parrot",⁴ more or less repeated the same words.

12. Eugene Hadebe the **chairman of the Transport Alliance** threatened that vehicles transporting workers in defiance of a COSATU stay -away "would go up in flames."⁵

13. **The South African Communist Party** has threatened to create a "black week" to coincide with Zuma's appearance in court on the 4th August 2008. It has promised to do "anything possible to ensure that the charges are withdrawn." But the spokesman was not prepared to say what he meant by "anything" lest he be "hailed before the Human Rights Commission"⁶.

14. To whip up emotions and to rally the population in a blatantly unlawful strategy to intimidate the Judge hearing Zuma's matter, COSATU has again resorted to a stay away. This time it was not for higher salary but against the increases in food and fuel price.

NB The pro-Zuma faction led by the SACP has become **astute**. They have learnt to dovetail people's genuine demands with spurious and illegitimate campaigns like seeking to undermine the judiciary so as to obtain acquittal or dropping of charges against Zuma when there appears to be an avalanche of evidence of wrong doing against him.

In the latest march, Vavi, who seems to be enjoying the centre stage called for the abolition of VAT on certain basic foods. Instead of simply making the demands and spelling out the options if the demands are not heeded, Vavi sought to be colourful, to gain applause, by threatening to grab Trevor Manuel by his testicles!

As it happened, Vavi was made to look the fool because out of the five items of food he wanted to be free of VAT, four already were zero rated!

⁴ In a letter to the "Times" by Kgetsa a Gosebo on 18/7/08

⁵ The Witness: 9/7/08

⁶ The Witnes: 24/7/08.

“MAMPARAS!” screamed the front page headline of “The Times” referring to Vavi’s blunder and Malema’s latest threat.

Calling such people “mamparas”, brain damaged, mindless and other pejoratives is all well and good in a heated polemic. But that does not explain what is happening. Each incident of shocking behaviour cannot be examined in isolation and left at that. Remember, there is a pattern developing and one needs to obtain a bigger picture, a whole picture to know what is behind the pattern.

Revolution and Counter Revolution: Revolutionaries vs. Counter – revolutionaries

All the undemocratic practices and all the assaults on the institutions of our democracy – the judiciary, the Press, the Opposition parties, the Human Rights Commission – are a desperate attempt to remove obstacles to a free reign of terror, to corruption, to patronage, to abuse of power, to failure to perform or effect service delivery.

These assaults can only be justified in defence of something so precious that nothing must stand in their way.

We know from history that in defence of a revolution i.e. a civil war won at tremendous cost in human life, the most drastic action at times is acceptable. In defence of a revolution, the most hallowed institution, if a shelter for those against the revolution, must be attacked, rubbished and, if necessary, destroyed.

But there has been no civil war in this country. Dramatic political change was a result *not of a revolution* but of a *negotiated settlement* for which both Mandela and de Klerk jointly received the Nobel Prize for Peace!!

Christopher Merrett, columnist of “The Witness” in a cogently argued article blows to smithereens the “myth of revolution.”⁷ We respectfully recommend that the reader reads the article if that has not been done already.

As a supplement to the theme of his article we make the following points:

⁷ “Stoking the myth of revolution” By Christopher Merrett , The Witness
10/7/06

1. The ANC, MK, SACP et al⁸ were the best organised and strongest of the various segments of a weak and relatively powerless South African liberation movement.
2. However, compared with other liberatory movements involved in the armed struggle, the ANC et al were the *least effective* in the armed struggle.
3. One of the reasons for its lack of effectiveness was the muzzle the Soviet Union placed on the ANC to honour the unwritten gentleman's agreement between the Soviet Union and the leading imperialist countries when they partitioned the world into zones or spheres of influence at the end of World War II. The general idea was that a major power did not interfere or meddle in an area which fell within the zone of influence of another major power. South Africa fell within the zone of influence, initially of Britain and later of the United States of America. Hence there was never a proper armed confrontation between the Russian-backed ANC and the South African oppressive regime.
4. With the collapse of the Soviet Union, the ANC was left without its most important and generous patron. It was left with no option but to enter into negotiations for a political settlement.
5. The local oppressive regime for its part was also under pressure by the overseas investors and financiers to bring stability in the Southern African region by, inter alia, allowing black majority rule.
6. The Nationalist Party negotiated from a position of great physical strength.
7. The reader will recall how the ANC had to *seek permission from De Klerk* to recruit and send for military training fresh MK members in Angola and Tanzania so as to make the MK component of the new Defence Force look reasonable- sized!
8. The reader will also recall that during negotiations, how Chris Hanu irritated the De Klerk government on some matter and then had to flee to the Transkei to avoid arrest.
9. Thabo Mbeki and his fellow exiles were legally permitted to be in South Africa as a result of an annual proclamation allowing them to be here legally. This prevailed right until the 1994 elections.

⁸ The ANCYL featured no where during the domination of fascism from the early 1960's,

10. When the ruling class came to hear of “Operation Vula” , it simply arrested and lock up all those known to be involved. This included Mac Maharaj, Billy Nair. Mo Shaik. The unbanned ANC and the president–to-be, Nelson Mandela, could not do much about it.

So if the facts are so obvious that there was no revolution which brought the ANC to power why go on and on about a LIE?

They do so because they want to brand certain people and institutions as COUNTER- REVOLUTIONARY! You can only have a counter-revolutionary *if there is/has been a revolution in the first place!* “Counter-revolutionaries” are fair-game for killing and assassination.

What is ironical is that those who want to kill to save the revolution were nowhere in the front line of struggle facing detention and death.

Neither Malema, nor Vavi nor Mantashe!

Malema’s fondest ambition was to lead the youth of our nation in perpetual ignorance and endless vandalistic demonstrations.

SHELTERED TRADE UNION ACTIVITY FOR VAVI AND MANTASHE

Vavi and Mantashe cut their teeth in politics in SHELTERED activity – trade union activity. This was the time when the Nationalist Party government was in the process of legalizing trade unions for Africans. South Africa then became a member of the International Labour Organisation (ILO) and was thus bound by the Conventions and Recommendations of the ILO. At the heart of these Conventions and Recommendations lay the freedom of association. The Nats could therefore not afford to make trouble for trade union officials since that would have meant having to answer to the ILO. There is no record of either Vavi or Mantashe being arrested for fomenting a revolution or for any political activity for that matter! It is therefore not open to them to talk about *saving the revolution*.

During the Court hearing of the 4th August 2008 in Pietermaritzburg, part of the Zuma supporters were members of the Veteran Mkhonto weSizwe Association, dressed in military uniform with berets to match. What were they doing there? What was the purpose of their presence. If you call on military men to support you, you are saying that these people have been trained to kill and they will kill in defence of Zuma.

We have said above that the MK was the least effective of all the military formations in the non South African liberatory movements. The probabilities are overwhelming that those MK “veterans” strutting around had not fired a single shot at the enemy.

THE CONSTITUTION - AN OBSTACLE TO THE STALINISTS/ FASCISTS.

The principal source of danger to the democratic constitution is the ANC and its Alliance partners. They also constitute the *principal* source of tension, fear and threat of violence. Not the criminals – the rapists, robbers and murderers- but politicians who claim to be socialists and committed democrats.

Let us for the sake of argument, and for argument only, accept that there was a revolution, how then can the trial of *one man* and how can the probable imprisonment of that one man for fraud, money laundering, racketeering and corruption **endanger** the so-called revolution? At no time in history has the removal of a single person from government brought about the defeat of the victorious class or sections of society which took part in a revolution. The idea is totally unscientific and contrary to all that history teaches us. So all this talk about revolutions and counter-revolutionaries is plain **phrase-mongering**. It is a smokescreen to hide the unpalatable fact that the anti-Mbeki faction has nailed its flag on Zuma’s head. He has become the rallying point of anti-Mbeki forces which consist of

- the Slovo/Mandela faction of the SACP,
- the tribalists of KZ Natal,
- the trade union bureaucrats,
- the greedy new elite who believe that they did not get a sufficient share of the loot /spoils flowing from office in government, and or sufficient black empowerment enrichment,
- the disgruntlement of the new aristocrats of labour whose real slogan on life is: **Maximum pay for minimum or no input at all!**

Zuma fortuitously fell into the lap of the Anti-Mbeki faction when Mbeki dismissed him as Vice-President of South Africa.

Up to that stage there was no Zuma faction. Zuma himself was considered to be a lovable simpleton who could interact with the common person as against the aloof and relatively reclusive Mbeki. Up to the dismissal there was no public factional support for him; there was no sympathy because there was nothing to sympathise for. *The day he got fired as Vice President was the day that the Zuma faction was born.* From that time onwards, the sentiments of sympathy grew exponentially until it really became a “tsunami”⁹ which swept Mbeki, Essop Pahad and their clique from power in the ANC.

The SACP and COSATU are landed with Zuma. He is the horse they chose to ride and even when they realised that the horse had numerous defects, they decided to stick with him since he was irreplaceable. There was no other person who would be able to garner support on the basis of sympathy, persecution, tribalism and plain demagoguery.

Fascism does not need a leader a person with very high numbered IQ.

Quite the contrary.

Joseph McCarthy, was described as an “obscure Senator from Wisconsin” with an “uninspiring reputation.” But that did not prevent him from engaging in shenanigans amounting to corruption. He too had engaged in practice which breached the taxation laws.

When he was challenged in the American Senate to justify his wild and incredible claims that officials of the State Department were Communists he put up:

“... a flabbergasting performance...Scott Lucas interrupted him sixty-one times , mainly to make McCarthy straighten his mixed-up figures. Brian Mc Mahon ..made thirty-four vain attempts to have MCarthy submit to a testing of his claims against reason and evidence. Other senators tried, too, but it was useless. He could not explain, he could not amplify, he would not qualify..”¹⁰

⁹ Vavi’s description of the extent of the anti-Mbeki sentiments.

¹⁰ A Curtain of Ignorance by Felix Greene page 60, Jonathan Cape 1964

It was such a muddle headed fool who had gripped the United States by the throat for four years! He was feared throughout the length and breadth of the U.S. On his own he was nothing. He became a man of power because he was backed and promoted by the very powerful China Lobby which was functioning in the United States.

Zuma, too, on his own is no force. He has become what he is because he has the backing of those organisations and forces mentioned above.¹¹ For fascism/Stalinism to thrive and flourish there is the additional requirement of a supine and unthinking population together with the demagogue.

Dora Taylor writing about the advent of fascism of the late 1930s and 1940 makes the point:

“The most depressing – the most hopeless thing – about modern society is the existence of a mass of docile , uncultured men and women, unable to think, unable to realise that they are being exploited a prey to false beliefs and prejudices.” (*Trek* 19 December 1940:14)¹²

SUPINENESS AND THE FAILURE TO GOVERN

The Stalinist/Fascist elements in the pro-Zuma camp have taken over the organizational positions of the ANC, The SACP and COSATU because the so-called democrats within those organisations, the upholders of human rights and the Constitution and the mass of the so-called decent ANC/SACP/COSATU *have all been conspicuous by their silence*. There is increasing evidence of spinelessness, lack of moral fibre and absence of elementary courage which allows the fascistic elements to call all the important shots. All one has to do is to examine how Malema and Vavi treated the Human Rights Commission. Here is a **Chapter 9** body of our Constitution designed to protect and uphold human rights. We saw how both Malema and Vavi subjected the HRC to outright contempt. Malema’s apparent withdrawal of the word “kill” and undertaking not to use it in future was eagerly grasped by the HRC as a victory, only to find

¹¹ On page 10 above.

¹² From Chapter 3 “Dora Taylor: South African Marxist”, from a book in the making by Dr Corinne Sandwith

that Malema has a handful of synonyms, like “eliminate” which he proceeded to use. One can imagine the derisory laughter at the gullibility of the HRC. Vavi’s case was worse. He gave no undertaking. Only regret that the word “kill” affected sensitive people. That too satisfied the HRC. Rightfully the HRC ought to be closed and thus save millions of the taxpayers’ money. Or let its officials confess that they find the temperature too hot and that they would rather confine their activities to tracking down racists in the tonsorial business.

While the HRC has disgraced its office, the biggest culprit is the government. It has no will to govern. It has no heart to face the mobs unleashed by COSATU and the Youth League. Even a fool knows that the subterfuge of lending moral support to Zuma is in truth an occasion for mob intimidation of the judiciary and the peace-loving people.

MOB BEHAVIOUR

1. On the 10th September 2008, the ANC and its partners were given permission to engage in a march in Durban in support of the demand to have charges against Zuma withdrawn. The march was directed at the National Prosecuting Authority
2. What was intended to be a peaceful demonstration converted Central Durban into a “war zone”.
3. According to Police Superintendent Vincent Mdunge:¹³
 - The demonstrators did not follow the proposed route; they came from all angles
 - They intimidated people
 - They looted
 - They damaged property
 - They pulled motorists from their cars and forced them to join the march.
 - They stoned the Durban University of Technology
 - A taxi blockade took place with the police impounding more than 30 taxis.
 - The police then used rubber bullets against the aggressive marchers.

¹³ **The Times 11September 2008**

The ANC regional secretary, John Mchunu sought to stir up *anti-white* and *anti-Indian* feeling by claiming that “*racist white and Indian policemen*” starting shooting rubber bullets.

But Superintendent Mdunge dismissed Mchunu’s claims by stating:

“All police officers acted within the law. The issue of racism is non existent.”

This country has been subjected to a deluge of threats of chaos and bloodshed if Zuma’s trial proceeds. There is far greater stress and fear today in South Africa than under the Nationalist party rule. While that too was fascism there was no threat of mindless mobs running amok. Daily there is talk of killing, of counter-revolutionaries, of eliminating opposition. Day in and day out there are threats of violence which is terrifying the peace-loving population.

Yet there was not a word of condemnation from rank and file ANC members. No assurance came from the government. Mbeki was too busy salvaging rags of his reputation by being totally immersed in the Zimbabwe talks.

Where was Charles Ngqakula, the Minister of Safety and Security hiding?

Dave Dalling, former ANC MP and Chief Whip wrote an article¹⁴ which was captioned:

“Why are they silent?”

Below that headline appears the following subheading:

“Where are the voices of reason in the ANC?”

In the penultimate paragraph he states ominously:

¹⁴ **The Witness 1/8/08**

“Make no error, the behaviour of senior ANC office bearers poses a threat to our constitution, the integrity of the courts, the Human Rights Commission¹⁵ and the rule of law.”

ZAPIRO AND THE JUDICIARY TO THE RESCUE

1. This highly talented satirist who expresses himself through cartoons is also a talented artist when it comes to drawing. His cartoon which appeared in the Sunday Times of the 7th September 2008 came as bomb-shell! The entire reading public, whether it agreed with the message or not, stopped in its tracks and gave it due consideration.

The beauty of the cartoon, though presented harshly, *captured exactly what has been going on in the country - Justice was being raped!!*

Predictably there was a howl of enraged protest from those depicted as accomplices. Two of the most despicable were:

1. Julius Malema has threatened to shoot Zapiro if he persisted in criticising Zuma and others
2. That unspeakable speaker of the Parliament, brainlessly accuses Zapiro of presenting in his cartoon, blacks raping a white woman who represents justice. One has merely has to look at the supine figure of “Justice” to see that Zapiro had depicted her as a black woman. *It was as if he anticipated the racialisists.*

Zapiro, a single individual with the backing of his brave editor Mondli Makhanye succeeded in doing what not one of the many organisations concerned with upholding the rule of law and the constitution and the impartial administration of justice organisation were able to do.

With a single cartoon - just one pictorial expression - he was able to graphically and dramatically present the whole process of the rape of the justice system..

2. Judges Swain and Nicholson delivered a stinging indictment of the abuse of power and the skullduggery by former Premier of Western Cape, Ebrahim Rassool and the unlawful conduct of the Western Cape

¹⁵ **In fairness it must be said that when it came to damaging its integrity, the HRC did not need much assistance from anybody.**

Commissioner of Police, Mzwandile Petros, and Judge Nathan Erasmus in assisting Rassool by passing information to him in breach of the law. This relates to a Commission of Inquiry unlawfully set up by Rassool and whose real purpose was to bring about the downfall of the alliance of parties led by the DA in the City of Cape Town.

3. The Constitutional Court has taken active steps to bring Judge President John Hlope to book by reporting his brazen and unconscionable conduct in seeking to influence the decision of two Constitutional Court judges in Zuma's favour. Hlope has been a disgrace to his profession and has a long history of engaging in activity which would have justified impeachment and removal as a judge years ago. Sadly, he escaped justice because of protection he received from persons like Chief Justice Pius Langa and other judges based purely on racial consideration and a false sense of solidarity, namely, "African must stand with African regardless of the circumstances."¹⁶

4. Judge Chris Nicholson publicly flayed Mbeki, Dr Maduna, Ms. Mabandla (Minister of Justice) and the former head and acting head (Bulalani Ngcuka and Mpshe) of the National Prosecuting Authority for their allegedly flouting of the provisions of the constitution pertaining to the independence of the NPA and its ability to act without fear or favour. Here the essence of the condemnation was abuse of power by the executive (Mbeki) which undermined the independence of the judiciary. Where the independence of the judiciary is undermined there can be no democracy.

The Judge turned the spotlight on abuse of power by the Executive in pursuit of unlawful political objectives.

However, there is a clear absence of evenhandedness. The attack on the rule of law and the violation of the independence of the NPA and judiciary cannot be attributed only to the actions of President Mbeki and certain highly placed individuals in the Justice Department and the NPA.

What of the sustained campaign by the Zuma brigade of brazen threats of violence, killing and chaos in the event of Zuma being charged and

¹⁶ **It is the same approach enunciated by President Mugabe at signing of the agreement of national unity. He chided the president of Botswana by declaring: "I would never attack an African head of state in public."**

brought to court. The members of the Zuma brigade are the ANCYL, COSATU, a section of the ANC and the SACP.

- The first threat of violence made public came from Zet Lizipho, the leader of COSATU in KZ Natal. Remember his words? “There will be blood shed in court the day Zuma is charged.”
- The repeated threats to take up arms and to kill for Zuma if he is charged
- The repeated reference to Judges, especially those of the Constitutional Court, as being counter-revolutionary and other disparaging terms.
- The assembly of thousands of Zuma supporters on the day of his court appearances, both menacing and clearly designed to intimidate the judge hearing the matter. Has anybody asked why was it necessary for thousands to descend at the venue of the hearing and cause immense trepidation and fear in ordinary law-abiding citizens? How does moral support become enhanced if the thousands are literally breathing down the neck of the judge dealing with the matter?
- Two days before Judge Nicholson delivered his judgement, the “no trial for Zuma” brigade staged a special show of force in Durban. Its purpose was to intimidate the NPA. The reader is referred to pages 13 and 14 above.
- Clearly there was the campaign which was designed to prevent Zuma from being charged *at all costs*. In the process the judiciary and the NPA which are key components in upholding of the rule of law and the constitution came under severe attack. (Zapiro’s cartoon)

The question then is: Why didn’t Judge Nicholson take the opportunity while asserting the independence of the judiciary and the rule of law and while castigating Mbeki and his lieutenants for “political meddling.. to a sufficiently egregious degree” in the prosecution of Zuma, also condemn in very strong terms the open campaign by the Zuma brigade to subvert the judiciary, the prosecuting authority and the rule of law?

The “activism” of Judge Nicholson provided the excuse for the Zuma faction which has been baying for Mbeki’s blood, to remove Mbeki as president of the Republic of South Africa. It has also provided the opportunity for Zuma to be elected as the next President of this country. Here is a man who has, inter alia, 783 charges of accepting bribery in an amount exceeding R4 million from 1995 to 2005 who is going to be the President of South Africa. The Zuma brigade has much to thank Judge Nicholson for the ascendancy of their man to presidency. ***Judge Nicholson has to accept the responsibility of the bizarre turn of events.*** It can be said that it was his one-sided approach which was to condemn only Mbeki and his lieutenants that provided the Zuma faction the opportunity to depose Mbeki. Had he with equal force, if not stronger, condemned the Zuma brigade, the latter would not have lightly chosen to use Nicholson’s remarks against Mbeki since its own members would also have been castigated.

Whatever severe criticisms one has about the Mbeki faction, and there are numerous, there is one thing which cannot be said. It cannot be said that Mbeki allowed his faction to organise mobs to intimidate and instill terror in a defenceless civil society.

Conclusion:

The Zuma faction of the ANC, SACP, COSATU and ANCYL have embarked on a deliberate campaign to inflict fear in and terror on the population. Whatever happens, Zuma must never be brought to trial. They all know that he is guilty and does not have a snowball’s chance in hell to escape conviction. So there is a no-bars-held campaign to undermine the independence of the judiciary, the rule of law and the prosecuting authority. Not one of their members has been disciplined for seeking to undermine the constitution.

Yet to subdue fears of oversea investors, they will make statements like the following:

“As the ANC, we reiterate and affirm our belief in the rule of law, the independence of the judiciary and the constitutional mandate of our judiciary to be the final arbiters in disputes. We will never undermine these institutions, we seek to protect and strengthen

them, as the ANC has always done since 1912.”¹⁷

What can be more hypocritical?

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¹⁷ ANC Today Vol 8, No 36 12-18 September 2008. Letter from the President.