



JOINING THE DOTS

Capture of the criminal justice system

Report by: Paul O'Sullivan

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THE PEOPLE

Zuma	Jacob Zuma, State President, awaiting trial on 783 counts of fraud and corruption.
Nhleko	Nathi Nhleko, Minister of Police, appointed by Zuma on 26 May 2014.
Ntlemeza	Lieutenant General Mthandazo Ntlemeza, Head of the Directorate for Priority Crime Investigation (DPCI) or the Hawks , was unlawfully appointed by Nhleko on 10 September 2015. ¹
Mokotedi	Major General Prince Mokotedi, Head of the Hawks in Gauteng, was unlawfully appointed by Nhleko on 3 February 2016, previously resigned whilst on suspension as Head of Integrity Management of the National Prosecuting Authority (NPA) for gross insubordination and 'bringing the NPA into disrepute'. ²
Moonoo	Lieutenant General Vinesh Moonoo (retired), former Divisional Head of Detectives.
Mdluli	Lieutenant General Richard Mdluli, controversial Head of Crime Intelligence, awaiting trial on multiple charges of fraud and corruption, as well as for his alleged involvement in the murder of his mistress' husband. Arrested and charged in April 2011, and has been on suspension for the past five years and seven months. Multiple come-back attempts have failed due to the intervention of public benefit organisations such as Freedom under Law and the Helen Suzman Foundation. The unlawful attempts to shield Mdluli from prosecution led to Jiba and Mrwebi being struck from the roll of advocates. Mdluli is a self-confessed loyal supporter of Zuma, in breach of his oath of office. ³
Phiyega	General Mangwashi (Riah) Phiyega, suspended (by Zuma) Commissioner of Police.
Abrahams	Advocate Shaun Abrahams, National Director of Public Prosecutions (NDPP) of the NPA.
Mrwebi	Lawrence Mrwebi, currently on 'special leave' as Director of Public Prosecutions in charge of Commercial Crime Prosecutions nationally and struck from the role of advocates.
Jiba	Nomgcobo Jiba, currently on 'special leave' as Deputy of the NDPP and struck from the role of advocates.
Moyane	Tom Moyane, controversial Commissioner of the South African Revenue Service (SARS), appointed by Zuma; his late sister, Kate, was married to Zuma. He is the Complainant in the alleged trumped-up case against the Minister of Finance, being Brooklyn CAS 475/5/2015.

1. State Capture: Keeping up with No 1, Hawks boss asks for a jet and more money <http://www.dailymaverick.co.za/article/2016-04-10-state-capture-keeping-up-with-no-1-hawks-boss-asks-for-a-jet-and-more-money/#.WBXeStV97IU>

2. Appointment of Mokotedi as Head of Gauteng Hawks is fatally flawed <https://www.da.org.za/2016/02/appointment-of-mokotedi-as-head-of-gauteng-hawks-is-fatally-flawed/>

3. Charges against Mdluli to be re-instated <http://www.sabc.co.za/news/a/ab8e668043abb3f882a7d2239b19c088/ChargesundefinedagainstundefinedMdluliuundefinedtoundefinedbeundefinedre-instated-20141704>
Mdluli 'asked Zuma to intervene' <http://www.iol.co.za/news/mdluli-asked-zuma-to-intervene-1056197>

Xaba	Brigadier Nyameka Xaba, member of the SAPS's Crimes Against the State Unit.
Dramat	Lieutenant General Anwa Dramat (retired), former Head of the Hawks, unlawfully suspended by Nhleko before being offered a golden handshake to retire early, subsequently charged with alleged trumped-up charges of fraud by members of the PCLU.
Sibiya	Major General Shadrack Sibiya, former Head of the Hawks in Gauteng, unlawfully suspended by Ntlemeza before being unlawfully dismissed and charged on alleged trumped-up charges of fraud by members of the PCLU.
Booyesen	Major General Johan Booyesen, Head of the Hawks in KwaZulu-Natal, investigated corruption charges against Zuma's ally, Thoshan Panday, and was unlawfully suspended by Ntlemeza and is being prosecuted on alleged trumped-up charges by the PCLU.
McBride	Robert McBride, Executive Director of the Independent Police Investigative Directorate (IPID), unlawfully suspended by Nhleko for 20 months and charged on alleged trumped-up charges of fraud by members of the PCLU.
Pillay	Ivan Pillay, former Deputy Head of SARS, whose contract was unlawfully terminated by Moyane and is being prosecuted on alleged trumped-up charges by the PCLU.
Loggerenberg	Johann van Loggerenberg, former Head of Special Investigations at SARS.
Gordhan	Pravin Gordhan, former Commissioner of SARS and current Minister of Finance, has been charged with alleged trumped-up charges of fraud by the PCLU, on a case opened by Moyane.
O'Sullivan	Paul O'Sullivan, author of this report and outspoken critic of corrupt state employees, having opened numerous dockets of racketeering, fraud and corruption against many such persons including, but not limited to, Selebi, Mrwebi, Jiba, Mokotedi, Ntlemeza, Moonoo, Myeni and Lucky Montana. O'Sullivan has also been charged with alleged trumped-up charges of fraud and other offences by the PCLU.
Huang	Jen Chih Huang, a convicted murderer and a Chinese national with links to the import and distribution of counterfeit goods and allegedly involved in various SARS violations. Business partner of Khulubuse Zuma and friends with Zuma, having accompanied Zuma on at least one trip to China, in 2010, on a private jet. ⁴
Kajee	Yusuf Kajee, a Pietermaritzburg based co-owner of Amalgamated Tobacco Manufacturing, also a business partner of Edward Zuma, facing multiple charges by SARS for customs violations pertaining to undeclared tobacco duties.
Bhanas	Fazel and Solly Bhana, previous owners of Amlac, which was fined R12 million for insider trading. Business partners with Khulubuse Zuma, both found personally liable and sequestered by liquidators of Pamodzi and Aurora Mines.

4. Ex-con is Khulubuse's link to Chinese deals
<http://mg.co.za/article/2011-01-07-excon-is-khulubuses-link-to-chinese-deals>

Myeni	Dudu Myeni, controversial Chairperson of South African Airways (SAA), Founder of the Jacob Zuma Foundation, and mother of one of Zuma’s children, Thalente Myeni.
Guptas	Members of the Gupta family, from India, with close ties to Zuma and the subject of various corruption and state capture investigations, having fled South Africa for Dubai in 2016 after state capture allegations became public knowledge and all their bank accounts were closed.
Vearey	Major General Jeremy Vearey, Deputy Western Cape Provincial Commissioner for Detective Services.
Hofstatter	Stephan Hofstatter, a reporter with the Sunday Times.
Wa Afrika	Mzilikazi wa Afrika, a reporter with the Sunday Times.

COMMON DENOMINATORS

1

Huang, Kajee, the Bhanas, Myeni and the Guptas all have close personal ties directly to Zuma or Zuma family members. All have dockets for serious offences opened against them, including fraud and corruption.⁵

2

Huang, Kajee and the Bhanas all have close personal ties to Moonoo, who had ‘blocked’ certain criminal investigations into their alleged criminal activities. Moonoo’s daughter was employed by Huang, until the employment became public knowledge. She now works for the law firm that looks after Huang’s interests.

3

Abrahams, Mrwebi, Jiba, Ntlemeza, Mdluli and Mokotedi have all publicly and/or covertly (but de facto) demonstrated loyalty to Zuma, in breach of the oath of office of their respective state entities.

4

Dramat, Sibiya, McBride, Gordhan and O’Sullivan have all been charged with alleged trumped-up charges by the PCLU, under the control of Jiba and Abrahams.

5

Dramat, Sibiya, McBride and O’Sullivan were all pursuing corruption investigations against persons directly connected to or persons related to Zuma.

6

Gordhan imposed restrictions on the board of SAA which effectively prevented Myeni from uncontrollably spending the airlines’ funds. Gordhan’s predecessor, Nene, was dismissed by Zuma shortly after blocking an unlawful attempt by Myeni at restructuring the Airbus deal by appointing an unqualified ‘middleman’.

7

Nhleko, Ntlemeza, Mokotedi, Xaba, Abrahams and the other members of the PCLU are the main ‘team’ driving the agenda to silence corruption allegations against Zuma and/or his family and/or his associates.

8

The terms ‘Zimbabwe Rendition’, ‘SARS Rogue Spy Unit’ and ‘Cato Manor Death Squad’ are all terms created and given high publicity to by Sunday Times journalists, Hofstatter and Wa Afrika.

5. Corruption and capitalism: Exposing the rot
<http://www.dailymaverick.co.za/opinionista/2016-03-02-corruption-and-capitalism-exposing-the-rot/#.WBxoiNV97IU>

The Role of the Media

9

On 15 May 2012, Freedom Under Law launched an urgent application to stop Mdluli from returning to work. At paragraph 85 and 86 of Annexure 'FA1' to the application, an internal memorandum from Colonel Roelofse, it said the following:

85 The investigating team have also been informed on 10 October 2011 by the member that on the same evening that he was taken to Major General Lazarus's house he heard them discussing the placement of a newspaper article relating to Lieutenant General Dramat and Major General Sibiyi. He stated that the Major General Lazarus wanted to use sources within the media (journalists paid by CI) to write a story in order to take the focus away from them. This according to the member is a strategy employed to cast suspicion on those they perceived to be a threat.

86 This newspaper article was published in the SundayTimes on 23 October 2011. Lieutenant General Mdluli has made representations to the National Prosecuting Authority earlier that month and uses the above mentioned [sic] article to cast suspicion on Lieutenant General Dramat and the investigating team.

A copy of the above memorandum is annexed hereto with its original file name being retained, which is 'FUL v NDPP (Gen Mdluli) - Annexure FA1.docx'.

10

The terms 'Zimbabwe Rendition', 'SARS Rogue Spy Unit' and 'Cato Manor Death Squad' are all journalistic terms that predicated the unlawful suspensions of Dramat, Sibiyi, Pillay, van Loggerenberg, Booysen and the unlawful attacks against Gordhan.

The Order of 'Capture'

11

In order to effectively 'control' the criminal justice system, certain (deemed to be honest) personalities had to be removed from office:

NPA – Taking Control

12

In July 2014, Zuma commenced the process to remove the then NDPP, Mxolisi Nxasana, after convening an enquiry to determine his fitness to hold office. This took place within weeks of Nxasana asking Zuma to suspend and dismiss Jiba for unethical conduct relating to her unlawful attempts to clear disgraced Richard Mdluli, Head of Crime Intelligence, on serious fraud and corruption charges. In May 2015, Zuma

agreed to let Nxasana resign. He was payed R17 000 000,00 – the balance of his ten-year contract. Clearly Jiba was part of Zuma's long-term plan and Zuma did not need her to be suspended or dismissed. The payment by Zuma should be treated as unlawful, as Nxasana stood in the way of Zuma controlling the outcome of charges against him.

13

On 16 June 2015, Zuma announced the appointment of Abrahams as NDPP. Within months, in a de facto display of loyalty to Zuma, Abrahams had procured the dropping of all criminal charges against Jiba and she was then promoted to Deputy NDPP, a newly created position which made her the most powerful prosecutor in the NPA, after Abrahams.

14

This effectively gave Zuma control of the NPA and the PCLU, which would be the key structure to be used against the soon-to-be 'victims' of the abuse of power by Zuma and his appointees. The PCLU was indeed very useful in this regard, as it gave Abrahams an opportunity to 'control' the prosecutorial decision-making process. Without the PCLU, the prosecutorial decisions would have had to be made at various DPP levels and it is unlikely that the Hawks and/or Abrahams would have been able to obtain buy-in from different personalities that may have been reluctant to abandon their oath of office.

15

Having secured the control of the NPA decision-making processes, Zuma now needed to get control over the investigative components of the criminal justice system. The natural choice would have been the Hawks, as well as 'neutralising' Phiyega, the Commissioner of Police.

The Hawks – Taking Control

16

At the same time that Zuma started the process to get rid of Nxasana (mid-2014), he replaced the then Minister of Police, Nathi Mthethwa, with Nhleko. Nhleko – it would turn out – would be ready, willing and able to serve the preference of Zuma, when he was appointed Minister of Police.

17

In the preceding period agent provocateurs reporting to Mdluli, and working hand in glove with reporters from the Sunday Times, published multiple stories linking Dramat and Sibiya to 'rendition' cases involving fugitives from justice in Zimbabwe. The false stories included placing Sibiya at the scene of the rendition and alleged that those 'rendered' back to Zimbabwe were tortured and/or murdered upon their repatriation. The stories were later proven to be false. The stories were initially started as a red herring tactic of Mdluli, but then became the special purpose vehicle of Nhleko, who was quick to jump on the bandwagon.

18

On 24 December 2014, Nhleko unlawfully suspended Dramat, whilst a campaign was being run, implicating Dramat in the renditions. Nhleko had no evidence to base the suspension on and the suspension was declared unlawful by the High Court. Dramat, however, was fed up, so he resigned and took a financial package to leave.

19

Nhleko appointed Ntlemeza as Acting Head of the Hawks on the same day. However, as will become clear later, that was part of the strategy to take control of the Hawks.

20

In January 2015, a few weeks after his appointment as Acting Head of the Hawks, Ntlemeza suspended Sibiya, quoting the same rendition case. On 20 February 2015, the Pretoria High Court held the suspension to be unlawful

and unconstitutional. Ntlemeza ignored the court order and prevented Sibiya from returning to office, pending appeal. On 22 March 2015, High Court Judge Elias Matojane said of Ntlemeza, whilst dismissing his application to appeal the earlier ruling in favour of Sibiya: "I am of the view that the conduct of the third respondent shows that he is biased and dishonest. To show that the third respondent is biased and lacks integrity and honour, he made false statements under oath." Notwithstanding this finding of dishonesty, Nhleko not only kept Ntlemeza as Acting Head of the Hawks, but six months later, on 10 September 2015, unlawfully appointed Ntlemeza as Head of the Hawks. A few weeks later Sibiya was unlawfully dismissed from the Hawks.

21

In February 2016, Nhleko appointed Mokotedi (a self-proclaimed Zuma supporter) as Head of the Hawks in Gauteng. This appointment was unlawful as Mokotedi had no security clearance, has left the NPA under a dark cloud of dishonesty to avoid being dismissed and would not have passed probity tests, as he had High Court judgements against him in excess of R1 100 000,00.

22

During the same period Ntlemeza unlawfully suspended Booyesen, Head of the Hawks in KZN, who had (coincidentally) arrested and charged other Zuma associates for corruption. Jiba and the PCLU were also running the alleged trumped-up charges against Booyesen during the same period. During the same period, the duo at the Sunday Times published sensational stories under the banner 'Cato Manor Death Squad'.

23

Nhleko (Zuma) now had control of the Hawks, and by implication, the outcome of all dockets against Zuma family associates.

24

Since Mdluli has been sitting at home for more than five and a half years, and was already implicated in using Crime Intelligence funds to allegedly bribe journalists relating to the rendition stories. This would explain why Jiba and Mrwebi risked their jobs to protect him, thinking that Zuma would then ensure their protection if things went wrong. However, not Jiba, Mrwebi, Zuma nor Abrahams factored in the rule of law and the application to court by the General Council of the Bar.⁶

6. The Police Commissioner's dirty secrets <http://showme.co.za/lifestyle/the-police-commissioners-dirty-secrets/>

Hawks Dockets of Interest

25

It is clear that unlawfully suspending Dramat had some other benefits to the political masters of his replacement. Dramat's office had been working flat-out on certain high profile dockets against Kajee and Huang. Once Dramat was out of the way, it was easy to have the Huang and Kajee dockets transferred to Moonoo's office, where they could sit in a corner, gathering dust.

The following Daily Maverick extract is relevant:

<http://www.dailymaverick.co.za/article/2016-04-10-state-capture-keeping-up-with-no-1-hawks-boss-asks-for-a-jet-and-more-money/#.WCNRqJWtSM8>

Dramat was suspended by Nhleko in 2014. It was a suspension that Judge Bill Prinsloo found on 23 January 2015 to have been illegal and invalid. The court also found that Nhleko's decision to appoint Ntlemeza was unlawful and invalid. Nhleko spent taxpayer's money challenging the ruling but lost, with costs. Dramat later accepted a "settlement," a decision that was described by Helen Suzman Foundation director Francis Antonie as "corrupt."

Dramat, who was investigating several "sensitive" cases, including the public spending on Nkandla, was forced to hand over all his dockets to Lieutenant General Vinesh Moonoo, Divisional Commissioner of the South African Police Service's Detective Service. ...

Another of the dockets handed to Moonoo relates to Zuma family fixer, Taiwanese-born businessman, Jen Chih "Robert" Huang, CEO of the Mpisi Group. The Mpisi Group's services include freight forwarding, import and export customs clearing, project cargo management, warehousing, consultancy, and ocean, land and air transportation.

A SARS investigation found that Huang, his wife and at least eight companies owe more than R1 bn in tax. Huang accompanied President Jacob Zuma on a state visit to China in 2010 and is also a former business associate of the president's nephew, Khulubuse Zuma.

In 2012 the Hawks in KwaZulu-Natal (remember, Johan Booyesen was once the Head) secured a warrant for the arrest of Huang in relation to his alleged links to a multibillion-rand racket at Durban Harbour.

A forensic inquiry into Moonoo's daughter, attorney Manitha Naran, revealed that the telephone number she listed for her workplace turned out to be for Huang's offices. She has subsequently joined the legal firm, Chen & Lin Attorneys, where according to the firm's website she is "is currently involved in advising clients in a matter where the disputed claim is in excess of R500,000,000 (Five Hundred Million Rand)." The client in this claim, says a source close to the investigation, is Huang. The law firm is located in the same building as Huang's Mpisi group in Bedfordview.

Humbalani Innocent Khuba ('Khuba')

The Smoking Gun (the links – Ntlemeza, Mdluli and Xaba)

26

In the unlawful attempts to keep Sibiya and Dramat out of the Hawks so that Ntlemeza and Mokotedi could rule the roost, other casualties came under the spotlight. These were McBride and his assistants at the IPID. McBride reviewed a draft report on the renditions before the report was finalised, and had the errors fixed. Once the errors were fixed, both Dramat and Sibiya were exonerated from any wrongdoing.

27

This did not suit Nhleko, who was most annoyed at the upset of his plans to neutralise Sibiya. He therefore decided to unlawfully suspend McBride. He then proceeded, through Israel Kgamanyane, the Acting Director of IPID, to suspend Sesoko and Khuba – all of whom had worked on the rendition report. Nhleko needed the prosecution of Dramat and Sibiya in order to justify his prior unlawful actions in suspending Dramat. Nhleko also secured that Ntlemeza and the PCLU would go after McBride and his colleagues on alleged trumped-up charges of fraud, falsely alleging that the rendition report had been 'doctored' by them to falsely exonerate Dramat and Sibiya. Nhleko had to do this, as he was forced to rely on the draft report to go after Dramat and Sibiya. By this stage Dramat was already history, but the main target was Sibiya, as will become clear later.

28

Accordingly, Nhleko recklessly proceeded with the unlawful suspension of McBride, promptly followed by the appointment of a stool pigeon Acting Head, who then suspended any McBride subordinates that might throw a spanner in the works. However, what Nhleko did not reckon on, was a 'warning statement' that would be given by Khuba, whom had previously worked on the rendition report.

Khuba's warning statement is damning in every sense of the word, as it implicates Ntlemeza and Mdluli in a plot to get rid of both Dramat and Sibiya and, by inference of Nhleko in the same plot, whom Ntlemeza describes as his political masters. A copy of Khuba's statement is attached hereto with the file name 'Warning Statement - I. Khuba 2016-03-03.pdf'.

The Importance of Khuba's Statement

29

Attention of the reader is drawn to the following paragraphs:

29.1

Paragraph 1:

Khuba names three police officials. It is no coincidence that these same persons were engaged in an unlawful detention in his office, of Mr Vlok Symington, a Senior Legal Officer at SARS.

29.2

Paragraph 2:

Khuba makes it clear that a colonel of the DPCI offered him a 'gratification' as defined in Act 12 of 2004, namely his job back, if he would depose to a sworn statement implicating McBride in wrongdoing. This amounts to the offence of corruption and defeating the ends of justice. Mahlangu should be charged accordingly, to establish who granted that authority to Mahlangu.

29.3

Paragraph 4.3:

It is clear from this paragraph that the 'rendition' case was founded on sworn statements by Crime Intelligence – Mdluli's contacts. It appears that much of the case was simply fabricated.

29.4

Paragraph 5.1:

Evidence that Koekie Mbeki unlawfully instructed Khuba to allow Crime Intelligence to assist Khuba with the rendition investigation. This instruction is ultra vires the IPID Act, it adversely affects the 'independence' of the IPID and allowed the investigation to be tainted by outside interference.

29.5

Paragraph 5.2:

Evidence that Crime Intelligence were themselves involved in the 'rendition' if a rendition even took place at all.

29.6

Paragraph 5.3:

Khuba names Mosing and Moeletsi, both members of the PCLU, mentioned above, and therefore under the control of Abrahams/Zuma. It should be noted that these two had been 'guiding' the investigation from inception. This gives a strong indication that a politically driven witch-hunt was

underway.

29.7

Paragraph 5.4:

Koekie Mbeki unlawfully instructs Khuba to keep the investigation away from Khuba's line manager, Sesoko, and to only disclose information to Crime Intelligence.

29.8

Paragraph 5.5:

Koekie Mbeki unlawfully instructs Khuba to keep the unlawful involvement of Crime Intelligence 'secret'. This amounts to the offence of defeating the ends of justice and she should be charged with this to establish the root of the manipulation.

29.9

Paragraph 5.6:

Khuba was instructed by Colonel Moukangwe to send certain documents during the investigation to unofficial email addresses. The documents then formed the basis for a scandalous story in the SundayTimes on 13 October 2013. The journalists who penned the story were the self-same journalists mentioned above, namely Hofstatter and Wa Afrika.⁷ It is therefore clear that Mdluli's people were engaged in what can best be described as a hatchet job on Dramat and Sibiya, and 'utilised' the SundayTimes to achieve that purpose. At this stage in time, it appears that this was simply an attack by Mdluli against Dramat and Sibiya, as revenge for Mdluli being arrested and charged by Sibiya, at Dramat's instruction. This later became the most useful weapon in Nhleko's arsenal.

29.10

However, what is of more concern is that Moukangwe of Crime Intelligence implied that the 'leak' was condoned by the then Minister of Police and Koekie Mbeki. This shows a deeper and more sinister plot. Moukangwe's conduct amounts prima facie to a contravention of Section 70 of the South African Police Service Act, 1995 (Act No. 68 of 1995), which states:

70 Unauthorised disclosure of information

Any member who willfully discloses information in circumstances in which he or she knows, or could reasonably be expected to know, that such a disclosure will or may prejudicially affect the exercise or performance by Service of powers or the functions referred to in section 215 of the Constitution, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

Charging Moukangwe may help reveal the underlying conspiracy.

29.11

Paragraph 5.7:

Ntlemeza (incorrectly spelt as Nhlemeza) demonstrates unlawful interest in the case. I say unlawful, because IPID is supposed to be independent from the police.

29.12

Paragraph 5.8:

More evidence of Ntlemeza's unlawful involvement in the IPID investigation is seen, including Ntlemeza participating in interviews with possible witnesses.

29.13

Paragraph 5.9:

Khuba disturbingly notes that Ntlemeza claims 'control' over Colonel Madilonga and that Madilonga possibly gave false testimony in his second sworn statement, relating to the 'rendition' report. Khuba also mentions that Ntlemeza wished to use Khuba's wife's telephone number going forward, no doubt to conceal the fact that Ntlemeza was in unlawful (de facto) control of an investigation that he should have nothing to do with.

29.14

Paragraph 5.10:

Khuba notes that Ntlemeza has told him that, as of September 2013 "his political principals want him to head the Hawks ..." If this is true, and there is no reason to doubt the testimony of Khuba, then as far back as September 2013 a plan had already been hatched by politicians to place Ntlemeza in charge of the Hawks. The logical conclusion to be drawn is that the then Minister of Police, Mthethwa, was not able or not willing to take unlawful steps in suspending Dramat. Ultimately, to carry the plan through, Mthethwa would have to be replaced with Nhleko.

29.15

Paragraph 5.11:

Ntlemeza decided not to risk using the phone to convey important information and visits Khuba at home. Ntlemeza then informs Khuba that Mdluli is 'looking after' Khuba. This confirms the earlier suspicions, as voiced by Colonel Roelofse, that Mdluli is behind the 'rendition' allegations, despite being on suspension and awaiting trial for very serious offences. This paragraph also indicates that Ntlemeza is becoming impatient to see the rendition report submitted so that the grand plan can move to the next stage, which could have involved Ntlemeza taking over the Hawks.

7. Hawks boss implicated in rendition scandal. <http://www.timeslive.co.za/local/2013/10/13/hawks-boss-fingered-in-rendition-scandal>

29.16

Paragraph 5.12:

Further indication of unlawful ministerial involvement in the IPID investigation.

29.17

Paragraph 5.13:

This is the most disturbing of all that Khuba had to say, in that it is now clear that Ntlemeza already knew (where the information could only have come from Nhleko or Zuma) that Dramat would be 'removed' somehow and he, Ntlemeza, would step up to run the Hawks.

29.18

Paragraph 5.14 through 5.17:

It is clear that Khuba was under pressure to submit an incomplete report to Adv. Mosing of the PCLU.

29.19

Paragraph 5.18:

This must be a typographical error on the part of Khuba, as McBride's appointment was announced on the same date, but in 2014, not 2015.

29.20

Paragraph 6.2:

It is clear that there was also a strong desire to see Sibiya charged, despite there being no prima facie evidence to warrant such charges, in respect of alleged trumped-up charges by the same reporter, Wa Afrika.

From all the above understanding of what Khuba is conveying, it suggests that Khuba was simply 'collateral damage' that would be sacrificed to achieve the desired outcome, namely that Sibiya be drummed out of the Hawks, for whatever reason. However, the Zuma team had not reckoned on Khuba having evidence against Ntlemeza that may come back to bite him.

Why Target Sibiya?

30

To understand why Sibiya was being urgently targeted, one needs to understand who would benefit from Sibiya being removed. It is clear that the following persons would benefit:

31.1

Yusuf Kajee

Sibiya had exposed Kajee's criminal conduct, as well as the fact that Moonoo had unlawfully taken possession of all the Kajee dockets, thereby preventing Kajee from being arrested and/or prosecuted.

31.2

Moonoo

There is already ample evidence that Moonoo was in a corrupt relationship with Kajee, Huang and others. Dockets had already been opened in this regard, and quietly swept under the rug. Sibiya was onto Moonoo by this time.

31.3

Edward Zuma

Zuma's eldest son, who was in business with Kajee.

31.4

Huang

Because Moonoo was protecting Huang and if Moonoo fell, so too might Huang.

31.5

Khulubuse

Khulubuse Zuma was in business with Huang and would also be a casualty if Huang was taken down.⁸

31.6

Zuma

By implication, if Khulubuse and Edward went down, Jacob Zuma would have a lot of explaining to do.

32

Accordingly, Kajee, Moonoo, Huang, Edward Zuma, Khulubuse Zuma and Jacob Zuma himself would therefore have a considerable motive to see Sibiya removed.

33

To understand more fully how deep and systemically corrupt the relationships between these individuals was, which Sibiya was trying to get to grips with, cognisance needs to be taken of the following four documents:

33.1

A letter dated 9 October 2014, from Brigadier Jonker, addressed to Kajee's attorney, Jasat, concerning Kajee's refusal to cooperate with an investigation by giving a warning statement. Jonker also queries the legal basis upon which Jasat wants the cases against Kajee to be investigated by Moonoo, which is a red flag for corruption. A true copy of this letter is attached, with file name 'Brig Jonker letter 2014-10-09.pdf'. The case mentioned in the letter is not a highly important case. It was on the periphery of the main cases against Kajee, which involved tobacco smuggling; fraud; forgery and uttering; and customs and excise fraud. It was obviously just one of the investigations being carried out by

8. Ex-con is Khulubuse's link to Chinese deals. <http://mg.co.za/article/2011-01-07-excon-is-khulubuses-link-to-chinese-deals>

the Hawks, into the multibillion-rand illicit tobacco industry, together with officials from SARS. Curiously, the illicit tobacco industry was one of the main motivators behind the exposé done by the same two journalists at the Sunday Times, where they coined the phrase ‘SARS Rogue Unit’. Accordingly, everything is inter-linked. In this regard, a certain press article is relevant.⁹

33.2

A letter dated 14 October 2014, from Kajee’s lawyer (Jasat) to a sergeant at the Hawks, making it clear that he, Jasat, wants the investigation to be removed from control of the Hawks and placed under the command of Moonoo (with whom Kajee has an alleged corrupt relationship). It is notable that all the cases against Kajee have simply ‘evaporated’ and no-one has been brought to justice, despite volumes of prima facie evidence.

33.3

A letter dated 3 November 2014 from Sibiya to Dramat, regarding Jasat. A true copy of this letter is attached, with file name ‘Letter DPCI GP ref Jasat letter 2014-11-03.pdf’. Sibiya made it clear that Jasat was ‘out of order’ with his audacious complaint. Sibiya also notes the involvement of Moonoo, who by that time was already the subject of multiple criminal complaints for inter alia corruption, one of said complaints being his alleged corrupt relationship with Kajee.

33.4

An internal memorandum prepared by Colonel Botha of Moonoo’s office, in January 2015. A true copy of that Memorandum with file name ‘Information Note.pdf’ is attached hereto. Although Botha prepared the memorandum for Moonoo, it was a major problem for Moonoo, as he himself was behind the delays of the investigations into Huang and his criminal associates (which included Khulubuse Zuma) and did not want this fact to become known. This is while Moonoo’s daughter was employed by Huang.

33.5

Curiously (but of no surprise) Huang’s company, as is clear from the memo, had become the subject of a very serious criminal investigation by the same SARS people, later accused (by the SundayTimes duo) of being part of the ‘SARS rogue spy unit’.

Why Target McBride?

34

This question is succinctly answered as follows:

35.1

Firstly, McBride had to be ‘removed’ because he was not prepared to see an incomplete report, which implicated innocent people (being used by Nhleko and others loyal to Zuma) as part of their mission to get rid of Dramat and Sibiya so that control could be had of the Hawks, enabling disposal of the multiple cases against Moonoo, Kajee, Huang and others close to Zuma.

35.2

Secondly, McBride had satisfied himself, through investigations being carried out by IPID, that Moonoo was engaged in multiple corrupt relationships, to the extent that Moonoo flatly refused to allow McBride to see certain dockets that McBride had requested.

35.3

Thirdly, McBride sealed his fate when, in January 2015, he advised Nhleko that he believed Ntlemeza had a case to answer to in respect of defeating the ends of justice. It is expected that this would have ruined Nhleko’s plans to have Ntlemeza lead the Hawks and would have prevented Zuma taking control of the criminal justice system.

36

McBride was unlawfully suspended by Nhleko a few weeks later, resulting in millions of tax-payers’ rands being subjected to fruitless and wasteful expenditure, notwithstanding the other offences I will detail later.

37

On 14 April 2016, McBride deposed to a sworn statement confirming two of the above. A true copy of the statement is attached under the file name ‘Sworn statement RJ McBride 2016-04-14.pdf’.

38

On 1 November 2016 at the Regional Court in Pretoria, the PCLU’s Adv. Sello Maema had to embarrassingly admit to the court that after 18 months from McBride being charged, the case could not be prosecuted as there was no hope of winning. The charges were unceremoniously withdrawn.

9. <http://www.iol.co.za/news/politics/sars-nails-zumas-son-over-fraud-1647788>

Why Was Ntlemeza’s Appointment Unlawful?

39

There were several reasons, and it is best to include these in this report so that it can be clearly seen that Nhleko acted unlawfully in appointing him in the first place. If it can be clearly proven that Ntlemeza’s appointment was unlawful, as it can, then all actions of Ntlemeza whilst acting as Head of the Hawks would also be unlawful and the status quo ante should be restored. The principal reasons are:

Fit and Proper Person?

40

Sections 17A through Section 17L of the South African Police Service Act, 1995 (Act No. 68 of 1995), deal specifically with the setting up and terms of reference of the DPCI (the Hawks). Accordingly, any conduct inconsistent with these sections would be ultra vires and therefore unlawful.

Section 17CA states:

17CA Appointment, remuneration and conditions of service

The Minister, with the concurrence of Cabinet, shall appoint a person who is-

- a. a South African citizen; and
- b. a fit and proper person,

with due regards to his or her experience, conscientiousness and integrity to be entrusted with the responsibilities of the office concerned, as the National Head of the Directorate for a non-renewable fixed term of not shorter than seven years and not exceeding 10 years.

41

Yet, Ntlemeza has four inexplicable events that show him not to be a fit and proper person:

41.1

Firstly, as is clear from Khuba’s sworn statement, Ntlemeza was engaged – together with disgraced and suspended Head of Crime Intelligence, Richard Mdluli – in driving an unlawful agenda to have Dramat and Sibiyi removed from office. Ntlemeza’s conduct was not only the offence of defeating the ends of justice, but as is clear from Khuba’s statement he carried out this unlawful activity in a secretive and covert fashion. He did this so that he could personally

benefit from his unlawful conduct, as he was vying for the position of Head of the Hawks as well as the promotion, prestige, power and increased benefits that came with the position.

41.2

Secondly, we have the scathing comments of Justice Elias Matojane against Ntlemeza:

“I am of the view that the conduct of the third respondent shows that he is biased and dishonest. To show that the third respondent is biased, lacks integrity and honour, he made false statements under oath.”

41.3

Thirdly, the Daily Maverick published an article on the state capture wherein it exposes Ntlemeza’s knowledge of, and alleged protection against, whistle-blower, Vytjie Mentor’s ‘Mentor’ affidavit implicating three Cabinet Ministers and the Guptas. Per the article in **June 2016**, Mentor deposed to a detailed affidavit blowing the whistle on three Cabinet Ministers and the Guptas which has formed part of the Public Protector’s ‘State of Capture’ report. Ntlemeza denied that the Hawks were investigating Cabinet ministers and/ or the Gupta family. Later both Vearey and Western Cape’s Crime Intelligence boss, Major General Peter Jacobs, were demoted.

41.4

Finally, we have the High Court (SARS debt) Judgement (which took place post factum the appointment, but the circumstances giving rise to the judgment MUST have taken place prior to the appointment.

This judgement is a very serious matter: The judgement itself is from SARS, which indicates that Ntlemeza did not disclose all his income. Since he is in a salaried position, that

Judgements	
Date	20160291
type	JUDGMENTS (3)
Captured date	20160312
Amount	R131 055.00
Name	Intlemeza Berning Mthandazo
ID number	5611125217082
Date of birth	19561112
Plaintiff name	SARS
Case number	19548 16
Attorney Info	SARS (011 876 3000)
Court name	Pretoria
Court type	Supreme (\$)
Administration info	No Admin Information Available

means he received (undeclared) income outside his salary. What is of even more concern is that when a visit was made to the High Court in Pretoria to inspect the file (which is a public document) the file was nowhere to be found. Only one person would benefit from the file being stolen.

42

It is submitted that any one of the above four events should have been sufficient to have disqualified Nhleko from appointing Ntlemeza. It is clear that on a best-case scenario, Nhleko failed to apply his mind and, on a worst-case scenario, deliberately ignored the red flags, because Ntlemeza was the ‘chosen one’ because of the future work he had to perform for Zuma. As evidence of this fact, we have Abrahams having to embarrassingly admit to parliament on 4 November 2016 that Ntlemeza was insistent that he (Abrahams) did not drop charges against Gordhan, thereby committing an offence by ‘interfering’ in breach of Section 31 of the NPA Act.

See <http://www.timeslive.co.za/politics/2016/11/04/Hawks-head-Ntlemeza-pleaded-with-me-not-to-drop-Gordhan-charges%E2%80%9A-Abrahams-tells-Parliament>

The Age Factor

43

At the time of his appointment, Ntlemeza was 58 years old and was appointed just less than nine weeks before his 59th birthday. Let us look again at Section 17CA (1) and (2):

17CA Appointment, remuneration and conditions of service

The Minister, with the concurrence of Cabinet, shall appoint a person who is-

- a. a South African citizen; and
- b. a fit and proper person,

with due regards to his or her experience, conscientiousness and integrity to be entrusted with the responsibilities of the office concerned, as the National Head of the Directorate for a non-renewable fixed term of not shorter than seven years and not exceeding 10 years.

(2) The period referred to in section (1) is to be determined at the time of appointment.

The above section must be read together with Section 17CA (15) (b), which states:

(15) The Minister shall with the consent of the National Head of Deputy National Head of the

Directorate, retain the National Head, or the Deputy National Head of the Directorate, as may be applicable, in his or her office beyond the age of 60 years for such period which shall not-

- a. exceed the period determined in section 17CA; and
- b. exceed two years, except with the approval of Parliament granted by resolution.

Taken together, the effect of the above is that Nhleko could NOT have appointed Ntlemeza for less than 7 years, or more than 10 years and could NOT have appointed him without a resolution from Parliament, if the term of the appointment took Ntlemeza past his 62nd birthday.

Since it is common cause that Ntlemeza was appointed for seven years, then his appointment would reach its term 9 weeks before his 66th birthday. It is also common cause that there was NO parliamentary resolution, to allow Ntlemeza to serve past his 62nd birthday and that therefore his appointment is ultra vires the Act and is therefore unlawful. Notwithstanding the above, and to avoid scrutiny of the unlawful appointment, Nhleko committed fraud by NOT advising Parliament of the appointment with the required period of 14 days, hoping that the matter would be forgotten.

Government Gazette

44

Section 17CA (8)(a) states:

(8) (a) The remuneration, allowances and other terms and conditions of service and benefits of the National Head of the Directorate shall be determined by the Minister with the concurrence of the Minister of Finance, by notice in the Gazette

Despite a diligent search, no entry could be found in the Government Gazette. The logical conclusion is that Ntlemeza’s appointment has been shrouded in secrecy, without compliance with the law and with no publication in the Government Gazette. On top of this is the fact that Ntlemeza is clearly NOT a fit and proper person.

45

Nhleko’s conduct as previously mentioned was not only wrong in law, it was criminally wrong as Nhleko unlawfully and intentionally appointed Ntlemeza because of the Zuma associated activities Ntlemeza was expected to carry out after being appointed, including, but not limited to getting rid of Sibiya, and mounting malicious criminal investigations into Dramat, Sibiya, McBride, Sesoko, Khuba, O’Sullivan and Gordhan, among others. During the same period, no

steps have been taken by Ntlemenza or his accomplices to advance the criminal investigations launched against Khulubuse Zuma, Edward Zuma, Vinesh Moonoo, Richard Mdluli, Yusuf Kajee, Jen Chih Huang, Dudu Myeni and many others associated with Zuma or his family. In fact, such investigations have been ‘frozen’ or filed away, to protect the well-connected.

Conclusions – Criminal Sanctions

46

In the absence of any other plausible explanation it is clear that the following persons should be considered for prosecution:

46.1

Zuma

Racketeering, corruption and defeating the ends of justice, in that between an unknown date in 2013 up to and including the present time, at a place and/or places unknown, he unlawfully and intentionally and in conspiracy with others ‘captured’ the criminal justice system of South Africa, so that criminal charges against himself, his family members and criminal associates of his family members, would be derailed.

46.2

Moonoo

Racketeering, corruption, defeating the ends of justice, in that between an unknown date in 2012 and up to and including the present time, at a place and/or places unknown he unlawfully and intentionally received ‘gratification’ as defined in The Prevention and Combating of Corrupt Activities Act, 2004, (Act No. 12 of 2004), to wit cash and other forms of gratification such as employment for his daughter, overseas trips and the like, in return for which he would unlawfully obstruct and/or derail investigations against Zuma and/or Zuma family members and/or their criminal associates.

46.3

Ntlemenza

Racketeering, corruption, defeating the ends of justice, in that between October 2013 and up to and including the present time, at a place and/or places unknown he unlawfully and intentionally received ‘gratification’ as defined

in The Prevention and Combating of Corrupt Activities Act, 2004, (Act No. 12 of 2004), to wit enhanced employment conditions (promotion to the rank of Lieutenant General and Head of the Hawks) in return for which he would unlawfully derail criminal cases against Zuma, Zuma’s family and/or criminal associates whilst contemporaneously mounting false and malicious investigations against many persons, including, but not limited to; Gordhan, McBride, Dramat, Sibiya and others.

46.4

Mokotedi

Racketeering, corruption, defeating the ends of justice, in that between February 2016 and up to and including the present time, at a place and/or places unknown he unlawfully and intentionally received ‘gratification’ as defined in The Prevention and Combating of Corrupt Activities Act, 2004, (Act No. 12 of 2004), to wit employment (appointment to the rank of Major General and Head of the Hawks for Gauteng) in return for which he would unlawfully assist to derail criminal cases against Zuma, Zuma’s family and/or criminal associates, whilst mounting unlawful malicious criminal investigations.

46.5

Nhleko

Racketeering, corruption, defeating the ends of justice, in that between October 2013 and up to and including the present time, at a place and/or places unknown he unlawfully and intentionally received ‘gratification’ as defined in The Prevention and Combating of Corrupt Activities Act, 2004, (Act No. 12 of 2004), to wit employment (in the position of Police Minister) in return for which he would unlawfully conspire with unlawful appointees to derail criminal cases against Zuma, Zuma’s family and/or criminal associates whilst contemporaneously mounting false and malicious investigations against many persons, including, but not limited to; Gordhan, McBride, Dramat, Sibiya, O’Sullivan and others. Furthermore, that he unlawfully and intentionally offered ‘gratification’ in the form of unlawful employment contracts to Ntlemenza and Mokotedi, in return for which the said Ntlemenza and Mokotedi would abstain from or prevent the investigation of cases against the Zuma family and associates whilst simultaneously mounting unlawful investigations against Dramat, Sibiya, McBride, Sesoko, Khuba and Gordhan, amongst others.

46.5.1

Nhleko (2)

Fruitless and wasteful expenditure of public funds, on wasteful and vexatious litigation, as follows:

Dramat R828 943,33

Booyesen R2 897 331,11

Booyesen R403 095,98

McBride R6 718 838,56

Sibiya R6 392 946,93

R 17 241 165,92

In, the above regard, refer to the attached parliamentary questions and answers, using file name 'RNW2202-161029.docx'. Nhleko should be personally held liable for the above costs, since the vexatious litigation was as a result of his abuse of power.

46.6

Abrahams

Racketeering, corruption, defeating the ends of justice, in that between June 2015 and up to and including the present time, at a place and/or places unknown he unlawfully and intentionally received 'gratification' as defined in The Prevention and Combating of Corrupt Activities Act, 2004, (Act No. 12 of 2004), to wit enhanced employment conditions (promotion to the position of NDPP) in return for which he would unlawfully derail criminal cases against Zuma, Zuma's family and/or criminal associates whilst contemporaneously allowing false and malicious prosecutions against many persons, including, but not limited to; Gordhan, McBride, Dramat, Sibiya and others.

47

The conduct of Mdluli since being placed on suspension and shadow control of Crime Intelligence should also be properly investigated, including the failure of the police to dismiss him.

48

The role of Wa Afrika and Stephan Hofstatter should also be investigated.

Finally

49

Since the criminal justice system has been effectively 'captured', it is extremely unlikely that any criminal sanctions will flow from this document, if filed only with the police or any other law enforcement agency.

It is therefore suggested that copies of this report be made available to:

- The Honourable Deputy President;
- The Public Protector;
- The Executive Director of IPID;
- The General Council of the Bar;
- All Parties in Parliament;
- The Helen Suzman Foundation;
- Freedom Under Law;
- The media; and

Paul O’Sullivan CFE





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