

Towards a Second Republic – Open letter to SA democrats

By reader CatsBell

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Part 1: A second *what?*

Dear democrats

Some of you may remember me as a news commenter way back, roughly in the period 2008-12. During that time, I also wrote an open letter to the ANC Youth League.¹

Time constraints forced me to stop commenting, but really, 2017 turns out to be such a momentous year for our country that one cannot stay on the sidelines, then complain about the way things turn out.

And nightmare visions of how bad things may turn out are not all that motivate me to write to you. I also think that we could actually arrange something pretty good for ourselves and our descendants here in our neck of the woods, while also playing our part to make the world a more pleasant and less dangerous place.

By confronting the issues that ruined *our* democracy, perhaps we can help point a way for fellow democrats the world over, in developing and developed countries alike, who are also asking themselves the same kind of questions we ask about the capture of democracy. Democracy is redefining itself everywhere at the moment, and our country is in a good position to span global divides.

If one really insists on looking on the bright side, one could argue that we were to some degree lucky that our captors filled our pot with boiling water, to use the “boiling frog” metaphor, prompting our current scramble to get out fast, instead of getting us used to gradually heating water. I suppose one could say that gradual heating has been taking place for years, but fact is that we're not cooked yet, on the contrary: we're performing some very fine jumps to get out of the pot at the moment.

The purpose of the letter is to propose a common-sense, doable solution to free our state from capture. The proposal depends very much on the input of fellow democrats, though, for correction, expansion and even for dismantling: the only goal is to find the quickest, most effective way to get our democracy back. So please comment if you have a contribution to make.

But first, let me reassure you about the title: I have no intention of proposing that SA be divided in two. I mean “Second Republic” in the sense that the French use the term, signalling major shifts in the way they define their democracy by changing their laws and constitution, throughout its 225 year history of ups and downs since their First Republic (established during the French Revolution).

They're at their Fifth now (in place since 1958) - and counting: one of the top contenders in the recent French presidential elections ran on a ticket of changing the constitution and ringing in the Sixth Republic.

I'll come back to the subject, but for the moment suffice it to say that my call for a Second Republic has nothing to do with secession and everything to do with making a clean break with a political dispensation that put the ridiculous trio from Saharanpur in charge of our country. (The humiliation, LOL! We'd have to make a pretty spectacular comeback to live this one down. But don't worry, we can. Read on.)

¹ A summary was published in the Timeslive.co.za section, but the link is no longer available. However, I've posted the text on my blog [here](#), or you can see a screenshot [here](#). The full version is available [here](#).

Here's how I'm going to go about it:

In **Part 2** of the letter I argue that we **no longer live in a democracy**, and that calling oneself a democrat means endeavouring to change that state of affairs.

In Parts 3 and 4 I look at **what needs to be changed** to get our democracy back.

Part 3 deals with what I see as the main obstacle: **political funding**.

Part 4 outlines what I see as the four **other obvious causes of state capture**:

- [Internal party elections](#)
- [Electoral representation](#)
- [Insufficient checks on the power of the president](#)
- [Business interests of state employees](#)

Because all the obvious causes of capture relate to the laws on our statute books (including our supreme law, the Constitution), the only way to remove them peacefully is through the ballot box.

In **Part 5: How many votes are we looking at?** I try to determine **which of the essential changes require changes to the Constitution**, which in turn requires a two-thirds parliamentary majority.

In **Part 6: Any chance of a super-majority?** I look at whether there's any chance in the near term of **buy-in from the ANC** to make the changes to the laws that captured us, and keep us captured.

Part 7: How about a simple majority? is central to my proposal. I argue that an ANC loss in 2019 is far from certain, and that another five years of undemocratic rule is simply not an option for democrats.

I therefore propose that democrats turn the 2019 elections into a **“referendum” for a mandate to free our state from capture**. I argue that opposition parties can not form a meaningful coalition if they stand on their full set of policies, yet a coalition is what is needed to defeat the captors.

So what I propose is that the broad spectrum of parties, organisations and individuals opposing state capture unite around a single issue, a single promise to voters - to change the laws that keep our state captured. Nothing else. No privatisation, no nationalisation, nothing else than the promise to give us our democracy back.

Then, once that is done, to call new elections where normal party politics resume under the new rules. That must be the deal with voters. The only way to get a broad enough consensus is to focus only on what all democrats agree on: to stop state capture in its tracks.

Part 8 consists of **three “sub-letters”**: open letters that still form part of my open letter to democrats, but are addressed to political role-players who are directly linked to my proposal.

They are:

- [The ANC NEC](#)
- [Opposition politicians](#)
- [ANC parliamentarians](#)

In the final part of my letter, [***Part 9: Towards the Second Republic***](#), I argue that only a clean, conscious break with our captured present will make it possible for us get our democracy back. I also look at some tactical challenges we are likely to face in the process.

Part 2: We no longer live in a democracy

The first step in solving a problem is to acknowledge that it exists. Alcoholics Anonymous devised a formula to take care of this step: in group meetings AA members introduce themselves with the words: “Hi, I’m so-and-so and I’m an alcoholic.”

In the same way, us South African democrats would do well to look our problem straight in the eye and acknowledge that we no longer live in a democracy.

One of the defining principles of democracy is equality before the law – a political system that doesn’t have that, simply does not conform to the definition of democracy. And you and I are not allowed to land our wedding guests at a military facility.

This is only one of the many manifestations of our government brazenly flouting the most basic tenets of democracy, but it’s enough. So even if we don’t introduce ourselves with “Hi, I’m so-and-so and I no longer live in a democracy”, that’s the problem we should be acknowledging.

We still have elections, of course, and judging by our Local Government Elections last year, the Independent Electoral Commission (IEC) is still working well, but what’s the use of elections if our elected government puts a band of unelected scoundrels in charge of our country - people whose interests are in direct opposition to ours? That’s no democracy.

“But is that really how it is?” you may ask. “Are we really captured? Nobody’s been found guilty of crimes relating to state capture, after all? And the ANC was legitimately elected by the vast majority of SA voters? Anyway, aren’t all states to some extent captured?”

You would be right to ask. Each of these questions deserves a response. We’re speaking about serious matters here. Heaven forbid that one embark on a frolic because of a misconception.

However, it’s also true that many of you would already have made up your mind about at least some of these issues, so those responses won’t be very useful to you. So what I will do is respond in separate sub-sections of this part of the letter, and let you decide what you want to read.

[2.1 Are we really captured?](#)

[2.2 What about innocent until proven guilty?](#)

[2.3 Aren’t all states captured?](#)

I recommend that you read at least Part 2.3 though, because it leads into Part 3 of the letter ([**The main problem: political funding**](#)).

As for the question about the legitimacy of the elections that put the current crop of our country’s leaders in place, I come back to it in [**Part 4.1: Internal party elections**](#).

For those of you who want further evidence of capture and loss of democracy, you can read far more competent accounts elsewhere. The report published by the State Capacity Research Project titled *Betrayal of the Promise: How South Africa is Being Stolen*² is a good place to start. Or simply follow the daily stream of leaked email revelations in the press.

If your research doesn’t convince you, and if you feel that my judgement on state capture and/or loss of democracy is incorrect, please comment below. I’ll try my best to respond.

The offer is only open to democrats though, who are genuinely not convinced. The hordes of shills hired to defend state capture will always find a way to do what they’re paid to do. It’s clearly a

2 [Betrayal of the Promise: How South Africa is Being Stolen](#)

waste of time to try to reason with them – they *can't* be convinced for as long as the pieces of silver they're paid for the betrayal of their fellow South Africans don't run out.

By the way, once in a while it's good to revisit the audacity of the concept of first “capturing” our tax money, then using some of that same money – to the tune of millions per month³ - to target us with outrageous, pernicious lies to get us off their scent.

“Radical economic transformation⁴” indeed, LOL! As if meaningful transformation of any kind, even “socio-economic” - and no matter how chaotic - can take place while the resources meant to achieve it disappear by the billion.

I mention “chaotic” because we're still officially trying to achieve the aims set out in the National Development Plan,⁵ remember? There hasn't been any integrated development plan to replace it, just the random swings of a desperate and dangerous state-supported public relations campaign designed to perpetuate looting, used as a substitute for what deserves serious planning if it were to serve the interests of South Africans.

Now concluding that we no longer live in a democracy is pretty alarming, I know. It means, among others, that every person who calls herself a South African democrat is immediately handed a huge responsibility: to take back our democracy.

After all, “the people shall govern” has no qualifiers. It's not “the people shall govern until our country is hijacked”, or “until there's a coup”. It's an injunction to bring about - and safeguard - the rule of the people, through force of arms if there's no other option. That's the way it is with democracies everywhere.

Fortunately we're not speaking about armed resistance here. We're not there and I believe we're unlikely to get there.

An armed struggle is by far the least desirable way to fight for democracy. It's the option of last resort. Not only because of the death, destruction and destabilisation it causes, but because it may create a new generation of liberation heroes, with the risk that their “brand” would again be hijacked by crooks to get their claws into our state.

So how do we get our democracy back then?

Unfortunately I can't tell you that it will be easy, or that it will happen overnight. All I can say is that we won't get it back until we change and expand a few laws relating to how our democracy functions. It's common sense, really: if our current laws can't safeguard our democracy, they clearly need to be improved.

And nothing short of that will do, unfortunately. Because even if we bring a new governing alliance to power in 2019, it will also find itself deeply in debt to vested interests and in a position to repay those debts, in all sorts of crooked ways, from our public coffers.

In [*Part 3*](#) (*The main problem – political funding*) and [*Part 4*](#) (*The four other obvious causes of capture*) I look at what rules need to be changed to give us our democracy back.

3 the Bell-Pottinger contract alone was worth £100K plus expenses per month.
https://en.wikipedia.org/wiki/Bell_Pottinger

4 [Scorpio and amaBhungane #GuptaLeaks: How Bell Pottinger sought to package SA economic message](#)

5 <http://www.gov.za/issues/national-development-plan-2030>

Part 2.1: Are we really captured?

To reply to this question, I'm going to use two examples of the numerous prominent recent news reports of state capture.

In neither example has anyone been found guilty of anything in a court of law, but simple logic applied to the undisputed facts of the cases makes it clear that whoever are in control of our state, are not managing it on our behalf, but on behalf of an entirely different set of stakeholders. Stakeholders with interests that run 180 degrees counter to our own. People above the law of our land. Special people. Rulers.

2.1.1 Brian Molefe

In spite of:

- the Public Protector's *State of Capture* report⁶ that presents *prima facie* evidence that Mr. Molefe was deeply involved in state capture, evidence that led to his resignation as Eskom CEO to “to clear his name” and
- subsequent credible news reports linking him to state capture⁷,

he was first appointed as ANC member of parliament, and then went back as the Eskom CEO.

All of this as if he didn't owe us, the public (who are supposed to be his actual employers, remember, for both Parliament and Eskom) any explanation at all for the credible allegations that he facilitated the theft of massive amounts of money from us.

That's clearly because the SA public are not his real employers. What employer in her right mind would re-employ someone who has resigned to clear his name after allegations of massive corruption – and then cleared nothing at all?

But in the eyes of his real employers he was doing just fine, thank you, ripping us off on their behalf. As far as they were concerned, he had to be retained in positions of influence at all costs. In fact, they threw all caution to the wind to return him to Eskom after the failed bid to appoint him as Minister of Finance, risking the public outcry that was sure to follow.

I'm not speaking about whether Mr. Molefe is guilty or not. All I'm referring to are his appointments to positions of influence despite the huge cloud which undeniably hangs over his head. Even the (ANC-led) Parliamentary Committee on Public Enterprises questioned the decision:

“In response to the presentation by Eskom and the Minister of Public Enterprises, the Committee questioned what pressurised such a strategic institution to hire someone where a question mark has not been cleared based on the Public Protector’s State of Capture Report.”⁸

And at long last, the largely captured ANC National Executive Committee (NEC) could also no longer ignore such a clear manifestation of capture.⁹

6 <https://mg.co.za/article/2016-11-02-breaking-read-the-full-state-capture-report/>

7 [How Brian Molefe ‘helped’ Gupta Optimum heist, How Lynne Brown misled Parliament](#)

8 [Committee Concerned about State of Governance at Eskom](#)

9 [Mantashe: NEC wants Brown to rescind Molefe’s Eskom appointment](#)

Could there be any other explanation for this sequence of events than that the interests that Mr. Molefe was deployed to serve were not ours? That he was in fact deployed to *harm* our interests in favour of those of a small cabal of captors?

2.1.2 Strategic fuel stock

The new Energy Minister recently admitted that her predecessor sold off our strategic fuel stock without authorisation from the Treasury (illegally, in other words, and predictably at below market value), then lied about it.¹⁰

What makes this interesting is that Pres. Zuma never contradicted the former minister's denials that she illegally sold the stock, despite the outcry reported in the press at the time.

Even in the extremely unlikely event that a weak, pliant former minister like Ms. Joemat-Pettersson would decide on her own, without consulting the president, about something as important as our strategic fuel stock (that's what's supposed to keep us going in the event of a disruption of fuel supply), there's no way that the people responsible for keeping the president informed of developments in the news could not have told him about the outcry reported in the press about the sale at the time. No way.

Can there be any other explanation than that he was complicit in the crime of defrauding us by illegally selling off our strategic fuel stock at below market value? That it was not our interests he was serving?

In [Part 2.2](#) I look at how fair it is to conclude that a crime has been committed before there is a court judgement.

Or go back to [Part 2](#).

¹⁰ [Energy minister admits SA's strategic fuel stock was sold](#)

Part 2.2: What about innocent until proven guilty?

In a piece titled *No, there is no duty on us to presume someone is innocent until proven guilty*¹¹ on his blog *Constitutionally Speaking*, Prof. Pierre de Vos shows convincingly that the principle only holds true for the justice system.

If we'd have to wait eight years (and counting) for the courts to pronounce on the matter, as in the case of the infamous 783 charges brought against President Zuma,¹² the issue would probably be largely academic by then.

That's obviously not how democracy works. The best a democrat can do is to weigh up the evidence with an open mind and then reach a conclusion on the balance of probabilities, exactly as Prof. De Vos proposes.

And in the case of state capture, I feel comfortable that the balance of probabilities point overwhelmingly to state capture. The sheer volume of allegations that come tumbling out of the closet at the moment is an indication that at the very least, there's a huge screw loose.

And it's not as if there's no basis for those allegations. The news of the sale of the strategic fuel stock that I've mentioned in the previous part, for example, comes from a public statement by the current Energy minister, supposedly once again with the tacit approval of the president (he *could* not have missed her widely-reported admission of wrong-doing by her predecessor). That's basically straight from the horse's mouth. The Molefe facts that I've laid out are also not disputed, as I've mentioned.

And the chances that the leaked emails are not authentic are negligible, as many commentators have pointed out: the sheer volume alone makes it highly unlikely, and the authenticity of some have been confirmed by high-profile individuals like Ministers Malusi Gigaba¹³ and Ayanda Dlolo¹⁴, and presidential advisor Lakela Kaunda¹⁵, who definitely don't have an interest in doing so – quite the opposite.

But let's use something on which the courts *did* pronounce: irregular high-level appointments to key government institutions and parastatals like the Hawks, the National Prosecuting Authority and the SABC.

Patently each of the appointments which have been reversed by the courts is a clear sign of capture. Because in each case, these appointees were found, in one way or another, to have been unfit to serve the interests of the South African public they were ostensibly appointed to serve.

And the appointers knew beforehand about the problems: often the appointments were made in the face of opposition from a variety of civil society and political players on the very *basis* of those problems. (Among them the Ginwala Commission, appointed by the ANC government, in the case of former National Director of Public Prosecutions, Menzi Simelane¹⁶.)

11 <http://constitutionallyspeaking.co.za/no-there-is-no-duty-on-us-to-presume-someone-is-innocent-until-proven-guilty/>

12 [Jacob Zuma 'should' face 783 criminal charges, declares South African court](#)

13 <http://www.sundayworld.co.za/news/2017/06/13/malusi-gigaba-confirms-gupta-citizenship-letter-is-authentic---and-says-approval-was-lawful>

14 [Leaked emails: Dlodlo's Dubai trip 'courtesy of the Guptas'](#)

15 [Guptas courted president's aide, Lakela Kaunda](#)

And the judgements were obviously not the first step in the process either. They were made after often protracted legal battles over what should have been clear to anyone from the start, in case after case: that these appointees were not fit to serve the interests of the South African people.

Clearly that was not what they had been appointed for.

In [Part 2.3](#), the last of the sub-sections of Part 2, I look at whether we are really that much more captured than other democracies.

Or go back to [Part 2](#).

16 [ConCourt confirms Menzi Simelane's appointment invalid](#)

Part 2.3: Aren't all states captured?

I'll begin with a shocking statistic about the state of democracy in the United States, the first of our modern constitutional democracies to emerge (a few years before the French) and for more than two centuries a beacon of democracy in the world. In a wide-ranging study done at Princeton University,¹⁷ the authors conclude:

The American government does respond to the public's preferences, but that responsiveness is strongly tilted toward the most affluent citizens. Indeed, under most circumstances, the preferences of the *vast majority* of Americans appear to have essentially *no impact* on which policies the government does or doesn't adopt.¹⁸ (My emphasis.)

What the majority thinks has “essentially no impact”? That's most definitely not democracy either. And that's despite the fact that their elections are better regulated than ours.

You can read an article on the study [here](#) if you're interested.

And the US is not an isolated case. Although I'm not aware of such comprehensive studies for other democracies, I have little doubt that the pattern described in the study repeats itself to a lesser or greater degree for the vast majority of democracies. Transparency International's estimate for the number of people involved in lobbying the European Parliament, for example, is 37,351.¹⁹

That's for 751 parliamentarians, an average of roughly 50 lobbyists per parliamentarian - the majority of them highly qualified individuals paid for by elite, moneyed interests, and coming with bags of money, favours and lucrative job offers on behalf of their employers.

“So what are you complaining about then?” you may ask. “We're nothing special. Democracies are captured all over the place. What we're witnessing with the Guptas could be nothing more than a changing of the guard, as the captors claim. Perhaps we were, after all, no less captured in 1994 than today?”

I'll respond in two parts.

2.3.1 Two wrongs

First, as I've indicated, there's no doubt that democracies all over the world find themselves in trouble at the moment. Or more accurately, thanks to the increased access to information that the internet has brought, democrats now begin to realise how little their votes actually count (the data in the Princeton study goes back to 1982, and the pattern of influence was roughly the same then).

I'll say more about the causes in the next part, but for the moment the point I want to make is this:

Even if the whole world was captured worse than us (and it isn't, as I will argue shortly), would that mean that we have to accept a clearly undemocratic form of government?

There can be no democrat in SA who doesn't feel a profound sense of shame to be ruled by what seems very much like a bunch of small-time criminals elevated to the national stage of a key African country.

17 [Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens](#)

18 From the introduction to the book *Affluence and Influence - Economic Inequality And Political Power In America* by Martin Gilens, one of the two main authors of the study, 2012

19 [How many lobbyists are there in Brussels?](#)

2.3.2 Brick in the face

My earlier references to democracies in the US and EU left out one crucial detail: the reason why those voters still place a certain amount of trust in their political systems is that those systems still provide a narrative that largely conforms to democratic values, even if most voters have less of a say than what they believe.

It's important, because having to pretend that there are no bosses in a democracy apart from elected leaders puts serious limits on how far the other bosses can go.

In the same way, there were “other bosses” in our democracy in '94 too, but the influence they exerted respected the democratic narrative – the research report commissioned by the Electoral Task Team a few years after our first elections indicated high levels of satisfaction with our political system.²⁰

In this period of our history, however, the capture is like a brick in your face. There's just no way in which one can bend the democratic story to include the examples I've mentioned in [Part 2.1](#).

By the way, I can to some extent understand how the Guptas can make the error of assuming a brick-in-the-face attitude towards South Africans – they started arriving from 1993²¹ and have therefore never really seen SA democrats in action.

What surprises me as that the president can make that mistake. Maybe he's been in exile for too long, or maybe, confronted as he and his fellow-captors are with the crumbling edifice of their audacious state capture project, he's just so desperate to stay out of jail that he no longer cares, driven to ever more audacious stunts to stay one step ahead of the law.

Go back to [Part 2](#), or proceed to [Part 3: The main problem – political funding](#)

20 [Report of The Electoral Task Team](#), 2003, p. 7-8

21 https://en.wikipedia.org/wiki/Gupta_family

Part 3: The main problem – political funding

Once again, if one really insists on seeing the silver lining around every dark cloud, one could argue that at least the captors applied a rigorous, real-life stress test to our Constitution and laws, relentlessly jamming their blood funnel²² into every little crack that our Constitution and laws left open. So at least we now know where the problems are.

In [Part 2.3](#) I've touched on a US study²³ showing that the political preferences of the bottom 90% of income earners have “essentially no impact”.

The root cause is the same as for our democracy: moneyed elites are allowed to fund political parties and/or candidates, the building blocks of democracy. How can one expect any other result? Obviously moneyed elites would favour candidates and issues that favour them right back, duh. As you will remember, this - political finance reform - was one of the core issues on which Bernie Sanders, presidential candidate in last year's US Democratic primaries, ran.²⁴

This problem is at the root of our state capture. That is what has opened the doors for the corrupt money to enter our system. It is also one of the main reasons why it is so difficult to get rid of President Zuma – at least all senior ANC leaders know that a portion of the money that comes as a reward for subverting our democracy finds its way to the ANC. It makes them to a certain degree complicit. And without that money, the organisation would be in dire straits.

The ANC is not alone in this. We know that the DA - and heaven knows who else - also took money from a Gupta company.²⁵

The one thing one can say for certain is that those funds weren't donated to further the cause of democracy. One can form an idea of the purpose from IFP leader Dr. Mangosuthu Buthelezi's description of his visit to the Gupta compound from a News24Wire report²⁶:

Tony Gupta apparently felt it important that “respected leaders” understand their side of the story.

He sought advice on what the family should do to rectify the negative image being created about them, said Buthelezi.

So the most obvious flaw in our political system that allowed our democracy to be stolen, is the absence of legislation regulating private funding to political parties - it literally does not exist. What legislation we have deals only with public funding.²⁷ It's a sure-fire recipe for replacing democracy with people like the Guptas. From the perspective of democrats, it's an insane thing to do, and it *must* be fixed.

22 To borrow Matt Taibbi's famous phrase on Goldman Sachs in his Rolling Stone article [The Great American Bubble Machine](#). (“The world's most powerful investment bank is a great vampire squid wrapped around the face of humanity, relentlessly jamming its blood funnel into anything that smells like money.”)

23 [Study: US Congress Literally Doesn't Care What You Think](#)

24 [Getting Big Money Out of Politics and Restoring Democracy](#)

25 [Gupta executive donated R200,000 to DA: Zille](#)

26 [Buthelezi: My single visit to the Gupta home is not newsworthy](#)

27 [Party Funding](#)

The solution is blindingly obvious: substantially increase public funding to political parties for “the costs of democracy”²⁸ and do away with private contributions. *All* private contributions. Supporters of a party can give of their own time, but nothing else. No free venues, transport, media advertising, nothing (unless all parties have access to the same thing perhaps, under strict conditions). Remember the blood funnel?

There's absolutely no reason why we shouldn't do it.

Costs? For every Rand of our tax money we spend on our political system, we're likely to save ten in the prevention of capture and corruption, even if one includes the cost of rigorously policing the system. It's logical: those who give generally want *more* in return, usually *much* more, otherwise it wouldn't make “business sense” to make such a relatively risky “investment”.

The problem will persist for as long as private funding to political parties are allowed. Even if public funding is increased, private funds, inevitably with conditions attached, would still be disproportionately influential, and the doors for dark money would remain open.

And while requiring political parties to disclose donors is something that should have been done right from the dawn of our democracy, it doesn't solve the problem of capture. It would just result in:

1. A decrease in funding to political parties (which are, after all, essential to the functioning of democracy).
2. A different set of funders, whose priority is also not our democracy.

The main challenge would be to ensure that parties are adequately funded, independently of the government of the day, but the advantage of being a young democracy is that many others have battled with the same problems we're facing – we can pick and choose our solutions, then tweak them for our specific needs. (I'm not saying we shouldn't blaze trails when necessary, only that we generally don't have to reinvent the wheel when it comes to democratic political systems.)

But if private political funding is the most obvious flaw in our political system, it's unfortunately not the only one. In [Part 4](#) I discuss the four other obvious causes of our current woes.

28 The term was coined by Alexander Heard, author of a pioneering study on US campaign finance, *The Costs of Democracy*, published in 1960.

Part 4: The four other obvious causes of capture

Part 4.1: Internal party elections

In [Part 2](#), I promised to respond to the argument that the ANC was, after all, legitimately elected by the vast majority of SA voters (and that my claim that we no longer live in a democracy was therefore inaccurate).

My response: our elections at government level (national, provincial, local) were legitimate, but at least for the past ten years, the ruling party's weren't.

Here's how Mr. Mavuso Msimang, ANC stalwart with a glorious career in the ANC stretching back to the 1960's,²⁹ put it in an interview³⁰ with Radio 702's breakfast show host, Xolani Gwala:

[...] You know, if the elections, South African national elections, that are managed by the IEC, were to be conducted by how the ANC conducts its own elections to... to elect its leadership... Oh my God, there would be a hue and cry. No citizen would accept that kind of election. So it's amazing then that [...] the ANC, leading government, or being the government, [is] quite comfortable that it should continue to be elected in a very, very suspect, fatally flawed system of electing people.

(April 5, 2017)

No wonder then that the media, academics and NGO's regularly report on allegations of election fraud in ANC elections at every level of our political system^{31 32 33 34} - and that political gangsterism is costing lives.³⁵

If we don't change the rules, there's a good chance that any other ruling party or alliance will eventually fall victim to the same practices, as people jostle for government positions.

Elections in political parties should be regulated in the same way that our government elections are: if elections in political parties are not free and fair, the candidates who are fed into the various levels of our government can have no democratic legitimacy.

It will cost us a bit of money, but experience has taught us that it's peanuts compared to what intruders into our democratic system cost us.³⁶

29 <http://www.sahistory.org.za/people/mavuso-walter-msimang>

30 <https://omny.fm/shows/the-breakfast-show-702/time-running-out-to-save-the-anc-stalwarts>

31 [ANC national audit team see ghosts](#)

32 [Rigged: Fake members boost Jacob Zuma](#)

33 [Introduction: Understanding the ANC at sub-national level - Open UCT](#) (long)

34 [Through the garage door, blindly choosing from the pre-selected](#)

35 [The killing fields of KZN: Local government elections, violence and democracy in 2016](#)

36 [#GuptaLeaks: Gupta and associates score R5.3bn in locomotives kickbacks](#) - from just one deal.

Part 4.2: Electoral representation

Our current system of electoral representation gives party leaders far too much power at the expense of the accountability of our representatives to voters.

Voters don't get to express themselves on who their Members of Parliament (MPs) and Members of the Provincial Legislature (MPLs) should be – it's party leaders who decide.

This is what led to the failure of our MPs and MPLs to hold their executives to account. It's another vital element in the success of the state capture project.

The electoral system we have today is virtually a carbon copy of the system hastily put together for the interim Constitution of 1993, just so we could have democratic elections the following year. It was carried forward to the 1999 elections, but the final Constitution of 1996 required that an electoral system be introduced for elections beyond 1999.

So in 2002, the cabinet under President Mbeki finally appointed an Electoral Task Team (ETT) “to draft legislation for an electoral system for the next national and provincial elections”³⁷ - which was by then only two years away.

Despite the severe time constraints, the ETT produced what is in my view an excellent report in January 2003 that, if implemented, would have gone a long way to solving the problem of accountability that makes our current system vulnerable to capture.

It did this by proposing a system of roughly 69 separate constituencies (respecting provincial and municipal boundaries), that would have brought the people's representatives far closer to their home turf and would have opened the way for voters to eventually express themselves directly on their choice of candidates.

However, the report was never acted upon and the old system was simply carried forward, to this day.

The reason why the ruling party was less than enthusiastic about the recommendations in the report is not hard to see: our current system may be bad for voters, but for party leaders it's paradise, particularly for the ruling party: at that time the ANC still had enough “brand power” to ensure people voted for it out of a sense of loyalty, irrespective of its performance in government, and party leaders had the power to appoint the “people's representatives”. Sweet!

The report also contained “minority recommendations” by members who wanted no change to the current system. I can't resist quoting a sentence from those recommendations:

Nothing has been said on why the present system should not be retained. What are the evils that will befall our country if we do so?³⁸

Now we know. And to escape from capture, we must have change. I'm not saying the recommendations of the ETT should be implemented indiscriminately now – it's over 14 years since the report was completed and one should look at how conditions have changed since then.

³⁷ [Report of The Electoral Task Team](#), 2003, p. 4

³⁸ P. 68

All I'm saying is that the ETT report may be a good place to start looking for what kind of reforms we need to free ourselves from capture.

Part 4.3: Insufficient checks on the power of the president

The vast powers granted to the president by the Constitution, particularly the untrammelled power to make appointments to key positions like those of the National Director of Public Prosecutions and the Commissioner of Police, is one of the pillars of the state capture project.

For a president suspected of serious crimes, this clearly leads to a travesty of justice. Obviously those key appointments should be subjected to some other form of scrutiny, apart from that of the president.

This is just one example of how the vast powers of the president is an impediment to accountability. When the time comes, all the powers of the president, as well as the way in which s/he is elected by secret ballot, should be thoroughly examined to determine how to prevent conditions favourable to state capture from recurring.

Part 4.4: Business interests of state employees

The fracturing of the fault-lines between state and business, as evidenced by the large number of state employees who have parallel business careers,³⁹ became the crack into which the captors jammed their blood funnel. “Everybody does it” became the cloak under which our state captors sneaked in to steal our democracy.

The Public Service Regulations of 2016⁴⁰ goes some way towards addressing the problem by at least prohibiting state employees to do business with the state, but it does not go far enough – full-time state employees have no business running parallel private business entities.

Not only should this practice be prohibited, but an eye should be kept on the government careers of senior civil servants and public representatives who revolve the door between business and state. And enforcement should be draconian.

We've learned the hard way what the effects are of blurred lines between state and business.

Part 4.5: Conclusion

Of course, much else can be done to improve our political system. Regulating lobbying activities to state bodies is one improvement that immediately comes to mind. However, the first step is just to get our democracy back. Together with political finance, these four changes should in my view do that, and get us into a new dispensation.

In the [*next part*](#) I look at what Parliamentary majorities are needed to make the changes that are necessary.

39 A good, if somewhat dated, indication of the scope of the problem can be found in a bill submitted to Parliament by the Democratic Alliance in 2013 ([Business Interests Of State Employees Bill](#)). For your convenience, I've pasted the relevant section on [this page](#).

40 <http://www.dpsa.gov.za/legislation.php>

Business Interests Of Government Employees Bill

Tuesday, 11 June 2013

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS NO 75—2013

Extract:

MEMORANDUM ON THE OBJECTS OF THE BUSINESS INTERESTS OF STATE EMPLOYEES BILL, 2013

- In 2010/2011 the Auditor-General reported that R54.6 million was awarded to government department officials, and nearly R1 billion worth of government tenders was awarded to provincial officials and their families. In 2011/2012 the Auditor-General /12 reported that the Free State government alone had awarded 50% of its contracts to politicians and their family members, with approximately 191 government officials and 18 close relatives benefiting from state tenders valued at R133 million in the last financial year.
- PricewaterhouseCoopers confirmed that the Eastern Cape Health Department has lost at least R45 million to corruption and irregular contracts with state employees.
- In the Eastern Cape during the 2010/2011 financial year, out of municipal government tenders worth R891 million, councillors and their families benefitted from nearly R100 million.
- A Special Investigating Unit probe has revealed that close to 9 000 Department of Health employees are active company directors and about 1 000 do business with the Department. The report shows that R42.8 million had been paid to 235 employees.
- The Department of Basic Education revealed this year that at least 3 314 of its employees had engaged in business with the state in the past two financial years, earning a combined R152 million. Of these employees, 2 485 were teachers.
- Corruption Watch confirms 8 034 Eastern Cape Health Department employees are directors of active companies, whilst 929 are listed suppliers to government. A report compiled by Corruption Watch also points out that R11 million was paid over four years for services rendered by 35 companies whose directors were spouses of department employees.

[Go back to Part 4.4: Business interests of state employees](#)

Part 5: How many votes are we looking at?

In the previous two parts I've looked at the most obvious causes of our current "state of capture". Because they all relate to the laws on our statute books (including our supreme law, the Constitution), the only way to remove them peacefully is through the ballot box.

That means we have to determine which of these changes require changes to the Constitution, which will make it a lot harder to get the necessary parliamentary majority (a two-thirds majority in the National Assembly, plus the support of at least six provinces).

By the way, I once called the Constitution "holy" in a comment, and I still think so, but even the Vatican needs its leaking taps fixed. It's the principles that are holy, not the plumbing. In fact, at the moment the leaking taps are flooding the holiness.

I'm not a lawyer, and it would be nice if someone with knowledge of constitutional law could weigh in on this. Better even: start a collaborative project to draught the necessary improvements to our laws and Constitution. That's one thing democrats can learn from the global lobby industry: they always have a draught of proposed new laws or changes to legislation ready.

So here is my take, wide open to correction:

Part 5.1: Political finance

My take: 50% majority.

Regulation of private political finance does not currently form part of the Constitution, basically because it doesn't exist anywhere. Here's what the Constitution says about political funding:

Funding for political parties

236. To enhance multi-party democracy, national legislation must provide for the funding of political parties participating in national and provincial legislatures on an equitable and proportional basis.⁴¹

This seems to leave things in the hands of national and provincial legislatures, as long as some kind of funding is provided. So as I understand it, only a 50% majority is required to change and expand the current law dealing with public funding⁴² to include further requirements: ensure that sufficient public funds are provided to properly fund our democracy, and prohibit private donations.

Part 5.2: Regulation of political party elections

My take: 50% majority

The Constitution does not mention this explicitly. My guess is that this issue can be solved by changes to the Electoral Commission Act⁴³ and by adding capacity to the IEC. (By the way, a thumbs-up to the IEC for publishing all the relevant laws on their site!)

41 Chapter 14: General Provisions, Other Matters

42 [Party Funding](#)

43 <http://www.elections.org.za/content/Elections/Laws-and-Regulations-Elections>

Part 5.3: Electoral representation

My take: 50% majority.

Here's what the Constitution requires in terms of electoral representation - the requirements relate to the composition of the National Assembly:

46. (1) The National Assembly consists of no fewer than 350 and no more than 400 women and men elected as members in terms of an electoral system that [...]

(d) results, in general, in proportional representation.

The requirement for the Provincial Legislatures is the same (104).

The shelved Electoral Task Team report⁴⁴ required no changes to the Constitution. I see no reason why any other form of Mixed-Member Proportional Representation^{45 46} should. All that should be necessary are changes to the Electoral Act.⁴⁷

Part 5.4: Powers of the president

Certain: Super-majority

The powers of the president is described in detail in Chapter 5 of the Constitution.

Part 5.5: Civil servants and business

My take: 50% majority

This is also not a constitutional matter. At most changes to the Public Service Act of 1994⁴⁸ and Public Service Regulations, 2001⁴⁹ should be needed, together with changes to the Public Service Regulations of 2016⁵⁰. There's even a possibility that changes to the latter document will suffice.

Part 5.6: Conclusion

So things are looking good in my judgement – it seems that of all the conditions to get our democracy back, only the powers of the president requires a two-thirds parliamentary majority. And to make the changes that require a simple majority would already go a long way to deliver us from capture.

44 [Report of The Electoral Task Team](#), 2003, p. 13.

45 https://en.wikipedia.org/wiki/Mixed-member_proportional_representation

46 [Mixed-Member Proportional Representation Explained](#)

47 Electoral Act 73 of 1998 including Regulations, <http://www.elections.org.za/content/Elections/Laws-and-Regulations-Elections/>

48 <http://www.dpsa.gov.za/dpsa2g/documents/acts®ulations/psact1994/PublicServiceAct.pdf>, Chapter VII.

49 http://www.dpsa.gov.za/dpsa2g/documents/acts®ulations/regulations1999/PSRegulations_16_07_2004.pdf

50 <http://www.dpsa.gov.za/legislation.php>

But before completely abandoning the idea of attaining a super-majority in the near future, in the [*next part*](#) I'm going to look if there's any chance of the ANC supporting these changes, and thereby making a super-majority possible.

Part 6: Any chance of a super-majority?

The question is: Is there *any* way to get a two-thirds majority in Parliament in the next two years, to also be able to change the powers of the president?

I'm afraid the chances aren't looking good unless the ANC makes a U-turn. Even in the unlikely event that support for the ANC collapses and that a coalition of opposition parties gets a 66,6% majority in the National Assembly in 2019, changes to the Constitution also require that a minimum of 6 provinces support them. That's even more unlikely.

So in the short term, say the next four years, the only way to get a super-majority is if the ANC swears off state capture. Many of you will dismiss this possibility out of hand, and I agree that the chances are slim that the democratic leaders who are still left in the ANC will succeed in purging what is currently the dominant faction (the captors) from the organisation. There's in fact a reasonable chance that they themselves will lose power in bought elections in December if they try too hard to evict the captors.

In other words, I think there's a chance that all that remains of the ANC is an empty, burnt-out shell with vagrants roaming inside, trading on the former glory of the organisation while that rapidly diminishing “brand” still exists.

The fact that the brave democrats of the MK Veterans National Council steering committee distanced themselves from the recent MK Veterans Association elections on the grounds of illegitimate delegates⁵¹ – vote rigging, in other words - and that long-time captured stooges⁵² like Deputy Minister of Defence and Military Veterans, Mr. Kebby Maphatsoe, were re-elected to head the organisation⁵³ is probably a good indication of where things are headed for the ANC's December elections.

But I don't agree that it's completely impossible that the ANC can still make a U-turn. The organisation would not have survived for over a century if it hadn't proved itself capable of radical renewal from time to time, to face new conditions.

In this period when the party is in profound crisis - where it is, let me be frank, actually not much more than a state capture network masquerading as a political party - surprising things may still happen. It's reached a stage where the good people that are still left in the ANC can no longer allow their names to be dragged through the mud by association with this entity.

So they have a choice between winning back control and resigning as members. And the identities of the stalwarts are very much tied up with that of the ANC. Many have spent a lifetime in the organisation, through thick and thin, some of it all-consuming and very dangerous.

That means they'll fight hard to get back control. And they don't have much time: no right-minded democrat in the ANC will be able to endorse another slimy, slate-based, money-drenched “election” this December, where the leadership of the organisation goes to the highest bidder, as it did for the past ten years.

51 [MK council veterans boycott ANC's national policy conference](#)

52 [#GuptaLeaks: How the Guptas picked up MK vets' conference tab](#)

53 [It's President Kebby Maphatsoe, re-elected unopposed](#)

It's possible that the initiative by the ANC's Chief Whip in Parliament, Mr. Jackson Mthembu, to establish an *ad hoc* committee of Parliament to deal with political funding, is an example of the kind of positive bold moves one may begin to see by those who want to save the ANC.⁵⁴

I see journalist Melanie Verwoerd, who apparently still has close contact with her previous parliamentary colleagues, has a different explanation,⁵⁵ but it will surprise me if Mr. Mthembu is doing the bidding of the captors. He has provided ample evidence of his courage and integrity in opposition to capture in the past.^{56 57}

Further encouraging signs comes from parliamentary committees where ANC parliamentarians are beginning to hold the captors of State Owned Enterprises (SOEs) to account⁵⁸. Not to mention the open revolt by the ANC's Alliance partners, Cosatu and the SACP.

Needless to say that the scenario of the ANC returning to the democratic fold will be the best outcome by far, but I'm sure you'll be relieved to learn that my proposal is not premised on that outcome. For while a comeback for the ANC is possible, there's also a good chance that the organisation will, at least for the next number of years, be lost to democracy - an enemy of democracy, in fact, if it continues along its current path.

All the same, one would be missing a step not to explore the possibility of a swing in the ANC – it will make our job as democrats *much* easier and quicker.

And ANC leaders have a real situation on their hands at the moment. The Gupta email leak threatens to destroy the organisation. Actually, even though the ANC has faced situations like banning, the armed struggle, restrictions on communicating and organising openly and much more in the past, I suspect that this is the most severe crisis it has ever faced.

Because throughout its long history, its “brand” has always remained intact: the ANC stood for justice. That is what is now gone. Maybe this is a good time for a proposal? I think it's at least worth a try, so one of the “sub-letters” that I include in [Part 8](#) of my open letter is [addressed to the ANC National Executive Committee](#) (NEC). Another is [addressed to ANC MPs](#) ahead of the no-confidence vote scheduled for the 8th of August.

All of this will play out by December, but we can't wait until then to act. Should the ANC return to the democratic fold, they'll join the rest of us to help safeguard it.

And even if the ANC doesn't manage to mend its ways, there's still an opportunity for democrats. We should make it as easy as possible for ANC Alliance leaders who can no longer associate themselves with the party to defect.

Some of them will be icons of the first struggle for democracy - people who have really fought for justice, instead of using justice as an excuse to fight for themselves. Others may have strong organisational experience and/or experience in governance, for example.

But what all of them will have in common is the courage and integrity to turn their backs on what is usually well-paid, secure employment.

54 [Ad hoc committee to consider increased funding for political parties.](#)

55 [Who is Zuma really afraid of?](#)

56 [Splits widen in ANC as Mthembu breaks ranks](#)

57 [Zuma survives: The 18 NEC members who spoke out](#)

58 [SABC inquiry adopts final report – editorial policy must be scrapped, Eskom-Tegeta hearing returns to Parliament amid #GuptaEmails leak](#)

We may have to ignore a few warts here and there – after all, being part of the Alliance leadership during at least the past ten years, virtually inevitably meant flouting some rules. That's in fact in my view the most effective hold the captors, backed by much of our state's intelligence services, have over Alliance leaders.

Min. Bathabile Dlamini could not be more overt in the direct threat she issued against members of the ANC NEC when she said that “all hell will break loose” if people speak about “what has happened to them” outside ANC structures, “because all of us there in the NEC have our smallanyana skeletons”.⁵⁹

In [Part 8.2](#) I touch on the importance for democrats to raise funds to pay for the costs of democracy while we get a system in place that will never ask us to pay from our pockets again, just to keep our democracy's lights on. A good place to go for some of those funds would be to employ defectors as organisers for what will hopefully become the opposition coalition in the run-up to the 2019 elections.

In the [next part](#) of my letter I'm going to look at the chances for a simple majority for democrats in 2019.

59 [Throwback Thursday: Bathabile Dlamini prepares us for 'smallanyana skeletons'](#)

Part 7: How about a simple majority?

Now that's a distinct possibility if democrats and opposition parties play their cards right. That will mean that we won't have the majority needed to change the powers of the president until at least the next elections after 2019 (which I propose, below, may be less than 5 years after 2019).

It's not a train smash though - a new president from the opposition ranks is not going to use her or his vast powers for the purpose of corruption from day one, and by the next elections after 2019, we should have enough right-minded democrats in Parliament to be able to fix the last of the leaking taps of our democracy.

In the meanwhile, the National Development Plan,⁶⁰ which deals, among others, with measures to “strengthen accountability”, can help keep the focus on the powers of the president. Some NGOs also focus on certain aspects of the problem.⁶¹

But an ANC loss in 2019 is far from certain. The major problem for the opposition is that the ANC takes up so much electoral space that opposition parties don't get to choose their bedfellows for a coalition if they want to have any hope of gaining a majority.

There's not much that our two biggest opposition parties, the DA and the EFF, have in common in terms of policy, for example. In fact, some of their core policies are irreconcilable. The EFF's policy of nationalising all land without compensation and then sharing it out among the people, and nationalising banks, would certainly make every hair on a DA supporter's head stand on end - and vice versa for some DA policies.

So a meaningful coalition is not possible if parties stand on their normal policies. But the only way to oust the ANC is through a coalition.

On the hand, one can understand that party leaders and members don't want to taint their party's “brand” through association with a party with the opposite policies, but at a national and provincial level, government would just be too unstable if, for example, a tweet from a leader of one of the coalition parties can destabilise the government.⁶²

The working relationship would have to be closer, based on a formal agreement. We absolutely need to radiate stability from day one of the new government after the adventures on which the current one took us.

Besides, parties who have an interest in forming part of a governing coalition should not undermine and criticise each other in the same way that unrelated parties do, thereby driving votes to the ruling party and governing nothing in the end.

No, the coalition must begin to take shape now, not after the elections. The absence of a stable coalition before the elections will vastly reduce the opposition's chances of coming to power.

Intractable problem? Another five years of Zupta rule?

Not if one turns the 2019 elections into a referendum for a mandate to clean up the rot in our political system.

60 <http://www.gov.za/issues/national-development-plan-2030>

61 [How to appoint an honest and competent police commissioner](#)

62 [Malema warns DA: We will walk away if Zille stays](#)

By “refendum” I mean that all opposition parties unite around a single promise: to give us our democracy back. Nothing else. No privatisation, no nationalisation, nothing else than the promise to fix the laws that allowed our democracy to be captured.

Then, once that is done, to call new elections where normal party politics resume under the new rules. That must be the deal with voters.

The only way to get a broad enough consensus is to focus only on what all democrats agree on: to get our democracy out of the hands of our captors, and quickly.

Opposition parties and civil society organisations have already taken a big step in that direction by uniting on a common platform to demand that the president step down.

It's a good demand, but it will have little effect if he's merely replaced by another representative of our undemocratic rulers, or even by brand-new undemocratic rulers. Those are possible outcomes should the ANC decide to replace the president before his term comes to an end.

So the focus of the broad spectrum of organisations, parties and individuals opposing state capture will have to shift from the individual occupying the seat in the presidency to the political framework that put him there – and keeps him there. There's no way around it.

The only question is how to get the electoral support to make the necessary changes, and to get it by the 2019 elections. Another five years of undemocratic rule is not an option. We've got twenty months or so in which to pull it off.

The “broad church” approach will make it possible for the SACP to join, as well as all labour organisations, religious institutions, disaffected ANC members, the works. It will make us unstoppable.

Part 8 consists of three “sub-letters” to key role-players.

Part 8: “Sub-letters” to key political role-players

In this part of my letter, I write to three central political role-players in the fight to get our democracy back:

8.1 [The ANC National Executive Committee \(NEC\)](#)

8.2 [Opposition politicians](#)

8.3 [ANC parliamentarians](#)

There are of course other crucial role-players, like labour, business and others, but for the moment I'll concentrate only on political players.

The reason why I call these “sub-letters” is because even though they're addressed to other parties, they still form part of the broader open letter to you, SA democrats.

Part 8.1: Open letter to the ANC NEC

Dear ANC NEC

If you're surprised by this open letter from a member in good standing of the great unwashed, please see a short explanation of the background [here](#).

All of you are important players on the South African political field – arguably *the* most influential 104 people in SA politics. For the moment it's you who determine how South Africa goes.

None of you would have reached the position that you have if you didn't have a sense of the “spirit of the age”, the “Zeitgeist”, at any given time. So you can see where things are going with the Gupta email leak: if you do nothing, the steady stream of slime is going to drown the ANC, and you with it.

If you have any doubt, all you have to do is look at the examples of well-known email leaks of the past. Here are the Wikileaks troves, for example: <https://wikileaks.org/-Leaks-.html>. Not all are email leaks, but many are.

You'll certainly recognize a few of the names there from news coverage. The Podesta emails, for example, and those of the US Democratic National Committee (DNC). The victims of those leaks were people who used to play for very high stakes, and with massive resources behind them to dispute anything negative about them.

Yet in not *one* of these cases have the victims of the leaks been able to disprove the authenticity of a single email. And although Amabungani, Scorpio and News24 don't specialise in leaks like Wikileaks does, it generally doesn't take very much to verify that emails are authentic either.

So what you have to deal with is what seems to be at least a sizeable chunk of the mails that the Guptas have sent and received over several years. And because the Guptas seem to have conducted much of their communication via email, and as top ANC officials were central to their seemingly corrupt business dealings, the ANC is going to be implicated day after day.

To make matters worse, the administrators of the Gupta leak promised to eventually make it available to “the wider media”⁶³, so new links to state capture are likely to trickle out for many months as the pieces of many journalistic puzzles are being fitted together from a chest of a reported⁶⁴ 100 000 to 200 000 emails.

The Podesta and DNC leaks are in my view good examples of how *not* to deal with incriminating email leaks. I have little doubt that this was a major contributing factor to losing Ms. Clinton the US presidency.

As you will know, what the Clinton-Podesta-DNC camp tried was first to question the authenticity of the mails, then to ignore the content of the leaks by focusing on the supposed source of the leaks (the Russians!). In the meanwhile, the emails just kept coming, in batch after politically titillating batch, drowning the Clinton campaign in slime.

What they should have done was to confess and make real, believable changes. Many voters would have forgiven anything in order not to have to vote for President Trump – provided that the Democrats fulfilled those two conditions.

In the event that you give this strategy a thought, I have exactly the right program for you: put your shoulder to the wheel of fixing the weaknesses in our democracy that allowed our country to be captured. As I've mentioned in my explanation of “sub-letters”, in [Part 3](#) and [Part 4](#) of my letter to democrats I discuss what I see as the essential changes that are necessary to get our democracy back.

Take the bull by the horns, NEC. All that is necessary is to help change the laws that brought us to where we are. For the moment, the ANC still has the parliamentary majority required to make such a legislative project relatively easy with the necessary political will.

Instead of going down in history as the NEC that presided over the devastation of the ANC and its eventual electoral defeat in 2019, you can become known as the NEC that definitively turned the organisation around. In the few months that are still left of your term, you have the option of a shot at greatness, or becoming a symbol of everything that was wrong with SA in “the bad old days”.

Because SA democrats are going to get our democracy back, whether you participate or not. As you will know better than I, we're a difficult lot once we get the idea that we're being stepped upon. The captors will not win.

And once you lose power, you may land up not only with no protection against prosecution for the crimes that were committed in your name - and from which you did not distance yourself despite *prima facie* evidence - but with a population eager to lay blame for their disastrous conditions. That much *my* sense of the Zeitgeist is telling me.

Really, since the Gupta wedding plane landed at Waterkloof, the ANC has succeeded in rapidly alienating a good chunk of society: labour, business, the Party, the religious community, NGOs and,

63 <http://amabhungane.co.za/article/2017-06-01-the-guptaleaks-revealed>

64 [#GuptaLeaks bombshell: Family lawyer gagged, spokesperson remains silent](#)

most importantly, citizens – as you would have seen, according to the latest Kantar TNS poll,⁶⁵ 74% of South Africans over 18 want President Zuma to step down. We're not speaking about approval ratings – these are people who want him to go.

Doesn't all of this worry you? Do you think the ANC can prevail against all these forces? Against citizens? Won't it be great if it could be a purified ANC that leads us into the new era, unified as a country, with the captured Republic forever behind us?

⁶⁵ [Zuma must go, according to latest poll](#)

What is a “sub-letter” and why do I have one addressed to me?

Brief explanation to those to whom I've addressed open “sub-letters”.

The open “sub-letter” addressed to you forms part of a multi-part open letter to SA democrats, proposing a Second Republic - changes to our laws and Constitution that, in content and in spirit, will make a clean break with our captured present, and ensure we're never captured again.

The reason why it's addressed to you, is because I've been speaking *about* you in the letter, so it's only proper that I speak *to* you too. After all, you have a direct role in what it is that I propose.

The reason why I call these open letters “sub-letters”, is because they're not really independent documents that will make sense outside the context of the open letter to democrats. I therefore encourage you to take a look at my [open letter to SA democrats](#), particularly [Part 3](#) and [Part 4](#), where I discuss what I see as the major causes of our state capture problem.

I'm sure some of you may frown at the notion of a humble follower of the news, someone who has never stood in any party-political election - who is in fact currently not even a member of a political party - having the audacity to try to dispense advice to seasoned politicians.

My response is the same as the one I gave to ANCYL members in my previous open letter: a perspective from outside the hustle and bustle of political life may sometimes be useful, even if it's only to get one's ideas going.

It will be most useful and much appreciated if you'd add your comments in the section addressed to you.

Go back to [Part 8.1: Open letter to the ANC NEC](#)

Go back to [Part 8.2: Open letter to opposition politicians](#)

Go back to [Part 8.3: Open letter to ANC parliamentarians](#)

Part 8.2: Open letter to opposition politicians

Dear opposition politicians

First I have to congratulate you for the unity you've shown in your goal to get rid of our captured president. With this show of unity for the greater good, you're truly rising to the occasion.

This open letter to you is a proposed strategy to build on that unity to achieve a comfortable majority in the 2019 elections.

To see what this open letter is about, please look at the following explanation: [What is a “sub-letter” and why do I have one addressed to me?](#)

In addition to the reading I recommend there ([Part 3](#) and [Part 4](#) of my open letter to democrats), it's also necessary to look at [Part 7: How about a simple majority?](#) to form an idea of the strategy I propose to ensure the undemocratic Zupta rule does not continue beyond 2019.

It's a bold plan, I admit, but really, extraordinary times call for extraordinary methods. We've shown that we can do it in the nineties, and we can do it again. Please feel free to comment, because even if you don't like my proposal, I'm sure you'll agree that it's time to start the discussion about a clear strategy for defeating the captors by 2019.

As I've said in an [earlier part](#) of this letter, it's not inconceivable that the democrats that are still left in the ANC will win back control of the organisation, but it's unlikely. So I believe the most likely outcome is that you, the opposition parties, will be our only hope for a non-violent return to democracy in the near term.

And the near term is all we have, really – we can all imagine what SA will look like after another five years of Zupta rule. And there's a fair chance that democrats will simply not wait that long to take back their democracy from the captors. So the hour for peaceful solutions is late.

As you would have seen in [Part 3](#), I propose that private political funding be replaced with public funding. I sincerely hope that you agree with my proposal. However, whether we agree on it or not, what is certain is that the need for private funding is at this moment greater than ever.

I've seen more than one report of opposition parties not participating in joint events for lack of capacity. That is something democrats cannot allow. It's going to cost money and other resources to bring to power an opposition coalition in 2019, and we need to know how we can help.

In my view, presenting funders, big and small, with a vision of a broad anti-capture alliance that agrees on a clear, realistic program to free our state from capture will attract loads of money, goodwill and volunteers.

Apart from my coalition proposal, I have two other humble proposals for opposition parties, and the broad anti-capture alliance in general:

8.2.1 Please go easy on secret ballots

I understand that the main argument for secret ballots is that the safety of those who decide to follow their conscience by voting openly for the motion of no confidence may be threatened, and I agree the threat is both credible and serious.

However, a secret ballot is not the answer. A problem the size of our people's representatives being prevented from carrying out the task with which we have entrusted them, is not a problem to “work around” with measures like secret voters.

It's a problem to be confronted head-on. Even if the police can't be trusted to protect dissidents as Mr. Malema alleges,⁶⁶ then democrats must simply make another plan – chip in to hire trusted private security, for example.

How can we accept a situation where our representatives are being threatened to vote against our interests? What about all the votes that aren't secret then? Are we to accept that all those votes are compromised by threats? We can't accept that.

So if the problem has to be solved anyway, there's no need to compromise our democracy through secret ballots. Voters must know how their parliamentarians are voting – how will they hold them to account otherwise? There will be no link left between parliamentarians and the voters who put them there.

You may argue that the election of the president is already by secret ballot, but for me that's a flaw in our Constitution, a loophole that waits to be exploited. You saw what happened in Mogale City.⁶⁷

8.2.2 Abolish minimum sentences

To achieve the aim of freeing our country from capture, we need both carrot and stick. We have a situation where many top ANC leaders may not only face financial ruin if the ANC loses power, but mandatory 15-year sentences for corruption involving more than R500 000.⁶⁸ I believe that's what turns the wild-eyed defenders of capture into the desperadoes that they are.

I'm not proposing an amnesty in any way, but abolishing minimum sentences to allow for some discretion in sentencing, at least for corruption in the short term, will go some way towards relieving the worst desperation.

Minimum sentences were all the rage in the '90s when US President Bill Clinton's opinion polls told him he needed to appear tough on crime, a policy that both Clintons now disavow.⁶⁹ Countries like ours then followed like sheep, at the human and financial cost of huge increases in our prison population.⁷⁰

Minimum sentences are ineffective and harmful, particularly in a country like ours where prosecutors are allowed to appeal sentences.

The ANC can't introduce such legislation because it would make it seem as if they're trying to protect themselves from harsh sentences. The opposition can do it, however, and my guess is the ANC will support it.

It will serve justice, save us money in the form of a reduced prison population and make our fight to free our country from capture just a little easier.

66 <http://citizen.co.za/news/news-national/1528081/malema-sacp-must-protect-mapaila-the-only-man-zuma-is-worried-about/>

67 <https://www.dailymaverick.co.za/article/2017-06-08-coalition-governing-is-there-a-da-traitor-in-mogale-city/>

68 [Criminal Law Amendment Act No. 105 of 1997](#)

69 [Bill Clinton Concedes His Crime Law Jailed Too Many for Too Long](#)

70 <https://mg.co.za/article/2015-05-07-crime-and-punishment-dont-add-up>

Part 8.3: Open letter to ANC members of the National Assembly

Dear ANC NA members

You can read a brief description of the context of this open letter [here](#).

As I've argued [earlier](#) in my open letter to democrats, I don't support secret ballots in parliament. I believe voters should know how their representatives are voting. The crucial upcoming no-confidence vote is likely to be open, but whether open or secret, I urge you to vote with your conscience, expressing the will of the people instead of that of the captors.⁷¹

I know, it's easy for me to say. I've seen what the retribution of the captors looks like – comrades who have spent a lifetime in the movement suddenly find all their avenues closed after dissenting. Lately there's even been death threats against some you,^{72 73} against the backdrop of ongoing political assassinations elsewhere in the country.⁷⁴

However, I believe all of this is part of the last kicks of a dying horse, and that it's a successful no-confidence motion that can put it out of its misery.

So what makes me think that this time is different from all the previous motions of no confidence?

First because our captors are now entirely exposed. Particularly the Gupta email leak makes it impossible to continue to have reasonable doubts about the veracity of the state capture claims. None of you can reasonably deny it, and I can't imagine that people who care about their reputation anywhere else than in captor circles could bring themselves to knowingly and directly support state capture.

Second because it's now increasingly obvious that the ANC NEC is not going to address the issue. Until the last NEC meeting in May⁷⁵, there was still hope that the NEC would recall the president from the presidency of the country. Now it's clear that it's highly unlikely to happen.

One of my “sub-letters” is [addressed to them](#), in order not to skip a step, but I believe the chances are close to zero that they will do something before the December ANC congress, which is likely to lead to another bought election with a victory for the captors - and the sounding of the death knell for the ANC.

So the responsibility for saving the ANC now rests on your shoulders. That's a major difference from previous no-confidence motions.

71 [Zuma must go, according to latest poll](#)

72 [Khoza death threats receiving urgent attention: Police](#)

73 [ANC dissenters 'face death threats'](#)

74 [Political assassinations show no sign of letting up in KwaZulu-Natal](#). Since this report, there has been several more assassinations, and not only in KZN.

75 [Defiant Zuma crushes dissent at ANC NEC meeting, threatens his detractors](#)

Unless I completely overestimate the character of many respected ANC MPs, my guess is that quite a number of you will vote for the removal of the president. Either way, as a politician, this is probably the most defining vote you'll ever make. There will be your career as a politician before and after the no-confidence motion. Perhaps not immediately, but as the weeks and months and years go by after the motion, that's probably increasingly what you will be defined by.

You may argue that you are bound by party discipline, just like the opposition, and just like political parties everywhere in the world, and I will agree with you.

I will also agree that the party can probably institute disciplinary procedures against you for voting with the opposition, and can probably succeed in replacing you as an MP, leaving you without an income, or even expelling you from the party. I know I'm asking for very, very much.

But not as much as the people asking you to live with yourself, and with others, after endorsing what is basically the betrayal of the people of our country.

And it's not as if the alternatives look particularly rosy – less so, in my view. I think most of you will agree that if the ANC continues along its current path, there's a fair chance that it will lose its majority in 2019. Let's say it loses by just 1%, at 49%. That would mean 196 ANC parliamentarians instead of the current 249, a reduction of 53 MPs among your ranks.

But there's also a chance that as labour, the SACP, ANC members who resign in the wake of a probably captor victory in December, churches, NGOs, opposition parties and others get their act together to form a broad coalition against a very vulnerable ANC (with slime engulfing the organisation little by little, over months of daily email scandals), support for the organisation could collapse.

So it's not as if your career as an MP is very secure if you don't make a stand. And if you don't make a stand, you'd have the added reputational damage of not making a stand.

If enough ANC MPs support a no-confidence motion though, it could go a long way to ousting the captors and stopping the trend of falling support for the ANC, depending on how the NEC reacts.

My guess is that the NEC will not dare to replace 20, 40, 60, who knows, of their most high-profile leaders. It will be an admission of defeat for the party to replace so many senior leaders, and could trigger a split, something which the captors can ill afford.

But even if they do replace you, I believe you'd be welcomed with open arms in any other political formation of your choice. You have political experience, and you would have proven that you have integrity. There is much work to do before the 2019 elections and democrats *will* have to raise the funds to do it. And all the seats the ANC is likely to lose in 2019 will go somewhere else.

So while it's true that the last kicks of a dying horse can still kill you, it's also not that voting with the courage of your conviction is a dead-end lane, and that voting for the captors is without consequence.

I hope I'd be able to tell my wide-eyed grandchildren the story of the "Magnificent 70" one day, about the 70 or so ANC parliamentarians who stopped the captors in their tracks.

Part 9: Towards a Second Republic

In this final part I'm coming back to the concept of a "Second Republic", and I also look at tactical challenges we may be facing in the battle to get our democracy back.

Of course, we don't need to call the result of the battle to restore our democracy the "Second Republic". We don't need to call it anything at all, as long as the result is the return of our democracy. But I do think this, or a similar term, will be useful to signal our intent to make a clean break with the captured present.

Likewise, I believe that once the new dispensation is established (when we have the votes necessary to change the powers of the president), it will be useful to designate it as such, as a reminder that we're never going to go back to the practices of the dying days of our First Republic.

But whatever we call it, it's unlikely we'd simply be able to stroll into it. The captors are desperate, they have their hands on the levers of state power, and they have access to the massive amounts of money they've stolen from us.

The president has State Security fully behind him, as well as most senior police and defence force officers. In interviews with journalist Karima Brown, both Dr. Blade Nzimande⁷⁶ and General Bantu Holomisa⁷⁷ also claimed that a rogue unit operates out of the presidency.

In addition, our stolen money can hire a lot of unemployed youth, desperate for any form of income, to cause trouble in municipalities where opposition alliances are in power, as well as to generate general election-related violence.

That's a formidable array of challenges for democrats, but that's nothing compared to what we have on our side: justice. Increasingly everyone with eyes can see the captors for the slimy gangsters that they are. That's not a formula for electoral success.

For while it should be relatively easy for the captors to buy the ANC elections in December (they've got more money than ever, and our president is in the game since before the 2007 ANC elections, at that time still with Brett Kebble's money), they don't have enough to bribe voters in the 2019 elections.

But they do have enough to cause lots of mischief though, and my guess is that that is exactly what they will try to do – what they are in fact already doing.^{78 79 80}

76 <http://www.702.co.za/articles/264590/nzimande-sacp-to-contest-under-reconfigured-alliance-or-go-solo-and-form-coalition>

77 <http://www.702.co.za/articles/264591/holomisa-secret-ballot-protects-anc-mps-amid-threats-and-political-violence>

78 [EFF accuses Guptas of spying on Malema](#)

79 [Business Day editor assaulted by Black First Land First](#)

80 [Threats to Khoza come from cell number registered to BLF](#)

As I see it, the president's *modus operandi* when he finds himself in a corner is to make as much trouble as possible in an attempt to force his adversaries into retreat, a bit like Pablo Escobar⁸¹ did in Columbia in his day. Before his election as president of the ANC (2007) and the country (2009), this tactic worked wonders for him.

The man who personally participated in Codesa 1 and 2 (the negotiations which led to our first democratic elections) and endorsed the results of the negotiations, suddenly started singing: “bring me my machine gun”.

To fight against democracy? Apart from the fact that it showed the president's utter lack of integrity, the threat did not make sense. It was simply designed to scare off his critics. I remember the dark murmurings of a “possible bloodbath” among my ANC friends at the time.

And it worked. The hapless former acting Director of Public Prosecutions, Mokotedi Mpshe, was made to believe the same thing, and he irregularly⁸² dropped charges against Mr. Zuma. And us democrats didn't say too much – we were just relieved that a “possible bloodbath” was averted.

Problem for the president is that once we've seen the movie, the element of surprise is gone. This time the Gupta poodles⁸³, Black First Land First, leads the cast in the role of the irrational thugs that Mr. Malema's ANC Youth League performed so well in the run-up to the 2009 elections. “Umshini wami” has been replaced with “radical economic transformation”.

But in my view the president can't back up his threats, and those of his proxies. I consider it highly doubtful whether the SA National Defence Force soldiers will suppress their fellow-citizens for the benefit of the captors if push comes to shove.

On the contrary, more likely. Soldiers have seen up close how the captors operate, putting them in harm's way for dubious purposes⁸⁴ and generally treating them appallingly.⁸⁵

The split in the ranks of the ANC's military veterans,⁸⁶ with the vast majority of credible leaders coming out against the captors,⁸⁷ and the captor faction led by a war-time deserter⁸⁸ with no credibility, is a clear indication of the direction of the wind.

And it's ultimately soldiers who will decide whether the population - their families and friends and communities in other words - are going to be suppressed by a handful of undemocratic slime-balls or not. Rank and file policemen and women will face the same choice.

81 https://en.wikipedia.org/wiki/Pablo_Escobar

82 [Spy Tapes: Mokotedi Mpshe breached cardinal legal rule](#)

83 [Black Land leader begged Guptas for funds, e-mails show](#)

84 [Central African Republic: Is this what our soldiers died for?](#) This is just one of many similar reports raising questions about what exactly our soldiers are being deployed for.

85 [Diverted funds puts soldiers at risk](#)

86 [Leadership of MK veterans is clearly divided](#)

87 <http://www.mknationalcouncil.org.za/>

88 ["Kenny Maphatsoe is a sad little man" - Ronnie Kasrils](#)

Another significant problem for the captors is that it's increasingly difficult for them to move money around.⁸⁹ Financial institutions don't feel like being caught up in investigations and the quality of people with whom the captors work, do what they do strictly for money – should the money flows dry up, so would the support.

So in my view, the captors are wildly overplaying their hand. It's not impossible that the collapse will come sooner than we think, although we have to prepare for the long haul, of course, and much mischief-making from the captors. But I believe we're in a position to call their bluff.

And what choice do we have anyway? Bowing down and touching Gupta feet?⁹⁰

89 [Bank of Baroda sets deadline to shut Guptas' accounts](#)

90 [Lords of all they survey](#)