

Remarks to the Portfolio Committee on Public Enterprises

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Honourable Rantho, Acting Chairperson, Portfolio Committee on Public Enterprises, Honourable members of the Portfolio Committee all, greetings! I thank you Honourable Rantho for your invitation to us to come and share our perspectives with this committee, on such critical matters as are on the table. I expect that the members of the Portfolio Committee will be indicating the areas of their interest in which I could be of any assistance. My statement will be fairly short, hopefully under 30 minutes, so that there is adequate time for the members of the Portfolio Committee to raise what questions they may have for us.

In my remarks I propose to give some background to what became the SACC Unburdening Report; beginning with why it became necessary as the SACC's pastoral approach in the special circumstances that prevailed.

Secondly, I shall give a summary of our observations; and then pronounce on them from the perspective of public ethics. However, I would beg your indulgence Madam Acting Chairperson, to first speak to a small matter that has been raised by some in relation to why the churches have the temerity to pronounce on matters that are considered political.

The standard refrain has been that church leaders should restrict their focus on "spiritual matters" and stay clear of political pronouncements. It seems appropriate that we should, within these hallowed walls of our legislature, make it clear once and for all, that those who make such calls on churches are either genuinely ignorant of the nature of the Christian faith, or are simply being disingenuous. While we suspect that the latter might be the case, we consider it worthwhile providing for those who may be genuinely

ignorant.

First we should remind people that the Preamble to our National Constitution ends by saying “May God protect our people”. This is indeed the constitutional imperative for the church to rise to protect the people of South Africa in the name of God, for “we are ambassadors for Christ, God making his appeal through us” (2 Cor. 5:20a).

The call for the churches, and the SACC in particular, to confine itself to the sanctuary was a favoured chorus of the Apartheid leaders – John Balthazar Vorster, Pieter Willem Botha and them, when the SACC was standing firm in defense of the defenseless trampled by the apartheid jackboot; when the SACC, in partnership with its global body the World Council of Churches unapologetically supported the liberation movements, materially and politically through the theological justification of the just cause of the liberation struggle. We never dreamt in our wildest dreams that there would come a time in democratic South Africa, when political leaders could take on the Vorster-Botha chorus: churches to the altars and pulpits, and leave politics to politicians!

Our response to this will simply be a direct quote from one of my illustrious predecessors as General Secretary of the SACC, when he had to defend the ministry of the SACC to a special Judicial Commission, the Eloff “Commission of Enquiry into the South African Council of Churches”. In a submission titled: *The Divine Intention*, General Secretary Desmond Tutu said:

“Our religion is concerned about the here and now because that determines to a large extent the hereafter. Time in the Hebrew Christian understanding has eternal significance and that is why human lives and human decisions are important. All life belongs to God. The Christian faith believes that God uses ordinary material things as vehicles for God’s special grace and divine life as in the sacraments. Our religion is incarnational through and through....

The whole of life is important; political, economic and social, and none of these aspects is untouched by religion as we understand it. It is part of God's mission and purpose for His world to bring about wholeness, justice, good health, righteousness, peace and harmony and reconciliation. These are what belong to the Kingdom of God and we are His agents to work with Him as His partners to bring to pass all that God wants for His universe. He showed Himself as a liberator God... Where there is injustice, exploitation and oppression, then the Bible and the God of the Bible are subversive of such a situation.¹

It is our hope that these vintage words of the vintage SACC to an apartheid judge who surely must fit the epithet "counterrevolutionary", will suffice to clarify that the SACC never did in the past, cannot today and will not in the future, refuse to address national issues in relation to public ethics, be it the unethical apartheid or unethical corruption, greed or the usurpation of State institutions for private benefit and against the public good.

For this reason, the SACC National Conference has resolved to collaborate with South African society through a National Convention process that will agree on the basic standards and values against which public institutions and public officers will be measured in the critical spheres of our life – and agree on what is ethically un-South African.

Honourable Rantho, in your letter of invitation you requested that we come and make a presentation on our findings in the light of our Unburdening Report. First the background as to the Unburdening Panel Process:

¹ Bishop Desmond Tutu, *The Divine Intention*, Presentation of the General Secretary of the South African Council of Churches to the Eloff Commission of Enquiry, 1st September, 1982, p.25.

In April 2016, the SACC created the Unburdening Panel as a safe space and a “facility” offered by the churches to any person in the Republic of South Africa who may wish to relieve herself or himself of the burden caused by an experience of someone – an individual, a representative of a business interest, of a political party or of a person of influence – your superior or someone you couldn’t say “No” to, suggesting that you do something inappropriate in return for a promotion, an attractive position or money or shares in a company, or any other favour or incentive whatsoever. This was essentially a pastoral process for the people, and not an investigation.

As the word says, it is a provision for people to “unburden” themselves and tell what they wish to tell freely. The unburdening notion is based on the bible text that says: “Bear one another's burdens, and so fulfill the law of Christ.” (Gal. 6:2). The Panel is chaired by the SACC President, Bishop Siwa. Other members of the Panel are Madam Justice Yvonne Mokgoro, retired Justice of the Constitutional Court; Dr Brigalia Bam, a previous General Secretary of the South African Council of Churches and former Chair of the Independent Electoral Commission (IEC); and Bishop Mosa Sono, Presiding Bishop of Grace Bible Church in the Evangelical Alliance of South Africa. Working with a team of voluntary lawyers and researchers, for the public good, with me coordinating the Secretariat as General Secretary of the SACC.

Depending on the wishes of the unburdening persons, their information would:

- Be utilized by the churches for advocacy in the Anchoring Democracy pillar of *The South Africa We Pray4* campaign.
- Be made public, for South Africans to know what is going on.
- As is appropriate, be given to a constitutional body like the Human Rights Commission or the Public Protector, and any organization identified by the person concerned.

The process was to hear from people who had either been pressured to participate in

corrupt wrongdoing or had witnessed such. Some came forward only to share their experiences with no desire to be publicly revealed, but to only clear their chests. Others were ready to go public, and these we encouraged to go to the Public Protector and they did. Their stories are now before the nation in the State of Capture report that has yet to be acted upon by the government.

It must be clear that although of moment was the immediate patterns of orchestrated wrongdoing, which triggered the creation of the unburdening process, we declared at the time of its creation, that:

“It is also understood that there are many cases of corrupt practices that impact on people, that are a roll-over from improper opportunities of apartheid days. As these impact in the democratic period, they will be entertained.”

We have yet to receive any person who has information of the pre-1994 era, or even the shenanigans of the transition period. We have been intrigued by the recently published book “Apartheid Guns and Money”, by Hennie Van Vuuren, that makes very interesting reading.

There is a lot of attention being focused on the disturbing revelations of national level goings on, with the daily colourful emails to fuel public interest, but in fact we know that there is much happening at the local and provincial levels.

Indeed, we encountered cases of people at municipal and provincial level, who were pressured to divert funds inappropriately to certain activities that had nothing to do with the work and purpose of the budget. There were people who were prevailed upon to rig tender processes in favour of certain companies and individuals, or bend and tailor regulations for a specific desired outcome. This is sometimes referred to as *shaking down* the people, accessing money and opportunities through deceitful, under-handed and shady ways of pressuring vulnerable people or companies.

Our process began mainly as a receptacle of stories being shared in unburdening; but soon it became apparent that there were discernible patterns of the systemic undermining of governance that go beyond “petty” corruption, so as to seriously threaten constitutional democracy. Therefore, while corruption, which is part of the brief in Anchoring Democracy, the SACC processes on democracy are concerned also with the broader issues of South Africa’s constitutional democracy.

When it became clear that the trouble was beyond “petty corruption”, we shifted from a “listening” for unburdening, to the mode of the SACC approach of SEE-JUDGE-ACT. Through the SEE process, the listening and research stage, it became clear that the problem was far greater than, and beyond corruption, but rather a large-scale design for nefarious, mafia-style control of Public Enterprises and other significant governmental agencies and State organs. A careful analysis makes the case for the following observable trends of inappropriate control of State systems through a power-elite that is pivoted around the President of the Republic that is systematically siphoning the assets of the State, and blunting any possible effective means for law enforcement. They do this by:

1. Securing control over state wealth, through the capture of state-owned companies by chronically weakening their governance and operational structures.
2. Securing control over the public service by weeding out skilled professionals.
3. Securing access to rent-seeking opportunities by shaking down regulations to their advantage, and to the disadvantage of South Africans.
4. Securing control over the country’s fiscal sovereignty, made not through the practice of guarantees that mortgage the country's future fiscal stability.
5. Securing control over strategic procurement opportunities by intentionally weakening key technical institutions and formal executive processes.
6. Securing a loyal intelligence and security apparatus.
7. Securing parallel governance and decision-making structures that undermine the executive.

In this context also, the appointment of poorly skilled and inexperienced individuals to the board and executive management of the SOC's, but who are compliant to the power elite or to a particular group, is widespread. Skilled professionals with a strong commitment to the constitution are systematically weeded out of the public service and replaced by individuals who are less competent but more willing to abide by power elite imperatives. Once public good officials are neutralised, state-companies are able to proceed with transactions that are not in the interests of the country.

ESKOM is a perfect illustrative case of securing control over state wealth through the capture of state-owned companies and weeding out of conscientious skilled professionals. It is South Africa's largest consumer of coal, it is an extremely attractive cash cow for corrupt interests. Would you not wonder what it is that necessitates that the two Transnet Tenders Chiefs – Brian Molefe and Anoj Singh, be both redeployed to Eskom to carry on in the Eskom environment, in their respective roles? Eskom is big with both coal and the tantalizing opportunities through its Nuclear Power Project.

The proposed 9.6 GW nuclear project is one of the largest public investment programmes in South African history. Compared to the size of our economy, it would be one of the biggest investments undertaken by any country in the world. Therefore the decision has to be taken in the best interests of every South African, not sectional business interests. The consequences otherwise would be catastrophic for us, our children and our grandchildren and our great grandchildren for decades to come.

The churches were opposed to the nuclear power model for three reasons:

- The environmental hazards associated with it – not only because of what we have seen in the accidents occurring in more developed countries like Japan and Chernobyl in Russia, but also because of the abiding question of how to safely dispose of nuclear waste in South Africa.
- The relatively higher cost of nuclear energy as against renewable options that lend themselves in the South African environment.
- The secretive manner in which the whole procurement process is managed, a

situation through which corruption thrives.

However, the last of these concerns seems to have claimed pole position, as research as well as just putting together what is already in the public domain, suggests.

The widespread and deeper levels at which the Power Elite design has been able to reach has us wonder if it can easily be reversed without a thoroughgoing reform of governmental systems to plug the holes. We wish to make it clear to the Portfolio Committee that, commendable as the effort is, to get to the bottom of the capture of public enterprises, beginning as you do with Eskom, the Eskom case is not isolated, nor is that of Transnet, Prasa, Denel, SAA, SABC, but that it reaches out to other organs of State – elements of the security services etc.; and it has a cancerous effect up and down the governmental system – both sociocultural and economic impacts.

It sets the cultural tone, the ways things get done around here, and for the upright to be isolated, sidelined and made to feel out of place. At each point where it touches, it has serious economic impacts – the loss of jobs, the loss of public trust, the loss of predictability of policy with a whimsical political regime.

This is immoral, unethical, perverse, obscene, and unreservedly unacceptable. It is the stuff that would prompt Prophet Habakkuk to complain to God:

“Your eyes are too pure to look on evil;
you cannot tolerate wrongdoing.
Why then do you tolerate the treacherous?
Why are you silent while the wicked
swallow up those more righteous than themselves?”

The “Principles of Co-operative government and Intergovernmental Relations” in Section 41 of the Constitution, Chapter 3, says that all organs of State “must”:

(b) Secure the well-being of the people of the Republic;

(c) Provide effective, **transparent, accountable and coherent** government for the Republic as a whole;

(d) Be loyal to the Constitution, the Republic and its people.

We wonder if the governmental system remains within these constitutional parameters. The key point here is that, the capture of State Owned Institutions, the raiding of departmental budgets, and the walling off into a protected cage of various strategic institutions is the nature of State Capture for a chosen few, and for God to see to the interests of the rest of the Republic. The authors of our constitution, many of whom are still alive, assumed that the leaders of the Executive would always act in the public good, in accordance with their oath of office.

In that spirit they were vested with the responsibility for the appointment of boards, even with Cabinet ratification, the Cabinet was supposed to be above reproach. But when doubts emerge based on what has been experienced, the question arises as to whether SOE boards should not require the ratification of a broader body like the legislature, provided that the legislators uphold their premier and constitutional responsibility as sworn representatives of the people and their interests, rather than the narrow interests of their political parties. That is the ideal world, but that is the imperative of public ethics.

Ethical questions may well be asked how come the same network of companies associated with specific individuals somehow manage to have what seems a pre-science of potential lucrative projects, and not only land these, but in some instances get assisted to qualify and exploit these opportunities. John Vorster, in making a case that the public protests were orchestrated by a few *opstokers*, cried out “The same faces are seen causing

trouble in different parts of the country, the same people, the same faces!” In that vein we ask, where are all the other South African companies? This poses serious ethical questions when the same companies involve members of families and close friends of senior government leaders, and no less a leader as the President of the Republic. The critical lines of public ethics may indeed have been crossed, most evidently in the public enterprises such as Eskom and Transnet.

We have argued before², that “ethics in any society is like the serum in the blood stream, which makes for the consistency and integrity of the blood. In the case of democracy, ethics is that “serum” for the consistency integrity and trustworthiness of the governmental relationship between citizens and government in the organs of State. Ethics in democracy is about ensuring that the governmental systems and operations faithfully and fairly - justly, serve the best possible interests of the citizens, the Public.”

As religious bodies we believe that this ethical imperative thrives on the principles of the light as against the darkness of subterfuge. And on this St John writes: “This is the message we have heard from Him and announce to you, that God is Light, and in Him there is no darkness at all”. We say it is only the culture of light that will restore good governance and restore the integrity of our public institutions. Our constitution refers to this as **transparent, accountable and coherent** government for the Republic as a whole. That is the basis of the South Africa we pray for: a just, reconciled, peaceful, equitable and sustainable South Africa; free of racism, tribalism, sexism and xenophobia; free of corruption and deprivation, and for every child born to grow to its God given potential! Makube njalo!!

² Bishop Malusi Mpumlwana, “The Place of Ethics in Democratic South Africa”, in forthcoming (2017) publication of MISTRA project on Ethics and Democracy.