

Tackling Corruption

Corruption in South Africa has been so widespread that, unless it is decisively tackled in this presidential term, there is a real danger that it will become entrenched as a ‘normal’ aspect of life in our country. Once it becomes part of the ‘culture’ of our society, it will be almost impossible to uproot. Corruption is generally defined as the ‘abuse of public office for private gain’. It usually comes in two forms. First, the so-called ‘big-time’ corruption – when public officials bend the rules to channel patronage to relatives, friends and cronies, or accept bribes; as well when private agents bribe public officials to give them exclusive advantages or rights¹. Secondly, there is the ‘quiet’ corruption², which occurs when public servants deliberately neglect their duties to provide public services or goods. ‘Quiet corruption’ may not involve an exchange of money, but involves providers of public services such as teachers, nurses or other officials, bending the rules for their own private interests. This includes, for example, public servants, such as teachers or nurses not turning up for work when they should. ‘Big-time’ corruption taking place without consequences invariably encourages ‘quiet’ corruption.

South Africa slipped down in Transparency International’s 2010 Corruption Perceptions Index³. According to the index, an international survey of public corruption⁴, South Africa ranked 54 out of 178 countries listed. Zwelinzima Vavi, the Congress of South African Trade Unions general secretary said recently, South Africa was in danger of becoming a ‘predator state’ where a new tier of leaders believed it was their turn to ‘feed’. Why has the cancer of corruption spread so quickly, and can anything be done about it?

Apartheid’s bitter legacy

The ‘new’ South Africa has essentially been built with ‘crooked timber’, to use the words of the philosopher Immanuel Kant. Only the most blinkered would not agree that the system of apartheid was fundamentally corrupt, whether morally, personally or as a system. ‘South Africa inherited a “corrupt and wrong value system” which the ANC was currently managing’⁵ said ANC secretary general Gwede Mantashe. ‘The new order [after 1994]... inherited a well entrenched value system that placed individual acquisition of wealth at the very centre of the value system of our society as a whole,’ he said, delivering the Inaugural Violet Seboni memorial lecture at the Johannesburg City Hall.



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In cases where a new society is built on compromised individuals, groups and parties, the premium is on the new leaders to lead by example and set a new honest tone. The problem is that our leaders have in many cases not led by example: they have often talked a lot about fighting corruption, but there has been little action. The daily, but empty anti-corruption rhetoric and slogans from our political leaders could have been laughed off as a joke, if the consequences of corruption on society had not been so devastating. There has to be action.

Flagrant violation of the new democratic laws by prominent post-apartheid leaders, while inveighing ordinary citizens to become law abiding, will only encourage the apartheid-era culture of evading the law, to stubbornly persist.

The apartheid system of legal unfairness inculcated a culture among many of the oppressed communities to find ways to escape the (unjust) laws and rules. By the end of apartheid, a culture had been set to disobey (unjust) laws and rules. When a legitimate democratic government took power in 1994, one of the challenges was to reverse this culture of disobedience because the new dispensation was democratic, legitimate and just. A crucial requirement for behavioral change among ordinary citizens would be for leaders to show they follow the new rules. The reality is that behavioral

change among citizens is only going to be fostered if leaders are seen to follow the rules applicable to everyone else.

Flagrant violation of the new democratic laws by prominent post-apartheid leaders, while inveighing ordinary citizens to become law abiding, will only encourage the apartheid-era culture of evading the law, to stubbornly persist. If, in addition, apartheid induced inequalities persist, if new democratic institutions are inaccessible and if leaders are unaccountable and uncaring, it would be no surprise if ordinary citizens dismiss the new democratic rules as ineffective. If a political leader can get away with wrongdoing, how on earth should one expect the local metro policeman not to take a bribe?

Tacking political corruption

Any serious campaign to deal with corruption must start with tackling political corruption, which provides the incubating environment for other corruption. The ANC, as the ruling party of South Africa, dominates society. This means that the behavioural norms, practices and internal cultures of the ANC, will also dominate society. If the cancer of corruption has started to infuse the norms, values and practices of the ANC, it will spill-over into broader society. This will severely hamper any efforts to stamp out corruption in the broader society.

Eradicating corruption within the ANC itself is a prerequisite for cleaning-up corrupt practices in society. Some ANC leaders argue that members should adhere to party rules first, before the constitution – which is off course not right. In practical terms, this could be construed as: if a member/leader has done something wrong, unless the party finds something wrong, the person can actually get away with it. What then if the party leadership – or dominant sections thereof – cannot distinguish anymore between right and wrong, and protect members who do wrong from legal prosecution? The obvious danger then of party deployment into law enforcement agencies and constitutional watchdogs are that, unless deployed individuals adhere to the constitution and its values, or their conscious, they may follow the line of the party and not expose corruption if the party demands they should not, because it would embarrass the party (or sections thereof).

The corrupting effects of party ‘deployment’, BEE and political parties dabbling in business

Some ANC party leaders see nothing wrong with the governing political party owning shares in a commercial company, let alone when such a company bids for government tenders. The ANC has a financial arm, Chancellor House, which owns a 25% stake in Hitachi Power Africa. Hitachi has been awarded a contract by Eskom, the electricity utility, to supply and install boilers for power stations. The ANC’s stake in the deal through Chancellor House was estimated in 2008 to be R5.8 billion. For the sake of transparency, accountability and clean governance there has to be a firewall between the ruling political party and its leaders on the one hand, and state and private companies, on the other.

Good ruling parties govern in the broadest public interest. Private companies have a narrow motive – that of expressly securing a profit for their shareholders. They rarely work for the benefit of the public interest. It would be a shame if the ANC leadership governed in a way that maximises its profits in its investments, rather than maximising the prosperity of the whole of SA Inc. If the party is a major shareholder in Hitachi, how can one be certain that the ANC leadership applied their minds objectively when considering Eskom’s 35 per cent proposed tariff hike? To get our economy back on even-keel demands tough choices, difficult trade-offs and decisions to be made. Some of these will no doubt be very painful. Knowing such decisions are taken with the best long-term interests of the country at heart, rather than for the profit of a few individuals, make such choices more palatable.

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Ultimately, we need to also bring greater transparency to the funding of political parties. Knowing which companies or individuals have donated to the ANC, DA or COPE, is almost the only way to know whether they have secured their tenders solely on the basis of this, rather than merit.

The ANC’s policy of deployment also has its obvious dangers. On many occasions cosying up to the local ANC leadership can secure lucrative “deployment” to the government, business or party, a ticket to a ‘bling’ lifestyle. If deployment meant scouring the ends of the country for the best South African talent – regardless of colour, political affiliation or ethnicity, and a real commitment to bring a better life to South Africa’s people, a better case could have been made for its implementation.

It is unacceptable that some senior figures in the state security, police and prosecuting authorities have extensive business interests. To declare them, and stay in office, is just not good enough. The watchdogs, ombuds offices and regulatory institutions set up to guard over the state security apparatus, must not only be on high alert for abuses; they must act resolutely to stamp them out.

Erosion of values

One of the tenets of ‘liberation ideology’ is that party members and cadres should submit themselves to the ‘collective’ values, traditions and policies of the ‘movement’. Clearly, the reality is not so straightforward. Firstly, it is now clear that the ‘collective’ values, traditions and policies of the ‘movement’ are not only contested, but they often appear different depending on the faction of the ANC. We have to accept: there has been a breakdown in the value system of the ANC. For another, the ANC,

and perhaps many other African liberation movements turned governments, are good at articulating ‘hard’ political values, but unable to deal with the ‘soft’ values that hold the social fabric of society together. For example, the party is brilliant in setting out a political vision, but unable to generate, what the Hungarian thinker Elemer Hankiss terms ‘values indispensable in everyday life’. Moreover, the ANC appears to be unable to bridge the gap between its outstanding principles, on the one hand, and practising what they preach, on the other.

South Africa’s constitution sets out a clear value framework for the country. However, constitutions, laws and public watchdogs do not guarantee individual or collective upholding of values. The values in the constitution must be brought closer to social values. Again, leaders must lead by example, behave – not ceaselessly talk about – according to the value system set out in the constitution. Those leaders whose behaviour does not accord to the values set out in the constitution must be punished, and those who behave exemplary must be rewarded.

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Bling’ the new value currency

With the collapse of the values that underpinned the ANC’s liberation ideology, a new ‘bling’ culture has now become thoroughly part of the new South Africa. It has infected the political, administrative and business culture. When the new ANC leaders came to power, they inherited the trappings of state power left by the apartheid government: the state cars with bodyguards, villas, being waited on, free schooling for their children, free healthcare, free luxury travel and so on. This lifestyle became the new standard of

achievement – a sign that one has made it. Individual worth is now increasingly measured on whether one can afford the ‘bling’ lifestyle – not on one’s contribution to public service or doing the public good.

With this sense of entitlement the idea of service appears to be a distant dream. Talent, skills and hard work is no longer valued. This ‘bling’ culture encourages corruption, dishonesty, and builds a society based mostly on relationships of patronage. It corrupts our souls. In fact, it undermines all the values that underpinned the struggle for liberation. Gwede Mantashe, the ANC secretary general, recently, rightly, said ‘the success of the liberation struggle was not to be measured “on how many billionaires we have produced”, but rather how the poverty experienced by the majority of people was addressed’. Only ridding ourselves from this destructive ‘bling’ culture can put our country back on a winning track. We need a new kind of leadership – not a ‘bling’ leadership.

Bring honesty to public debates

Honesty must be restored to the centre of public debate. Some, through their rhetoric, defend our democratic institutions, but in their actions undermine it. They defend the rule of law, and argue that those who transgress should be harshly punished. Yet, they themselves, as senior politicians – and their allies – appear to be untouchable. The double talk also opens the door for corruption. Since there is no certainty about policies, those with enough money can pay to have policies that favor their interests implemented.

The policy confusion, the double-talk, rhetoric and talking in code, means that those

who devise or implement policies either do not have adequate information, or have the wrong information, to do so effectively. Even for government planners, tainted information from politicians makes it very difficult for them to allocate resources efficiently. In fact, government officials are forced to second-guess what the genuine policies are. It also causes implementation paralysis. Senior civil servants will be reluctant to implement policies they are not sure are backed by the influential politicians in the ANC as it could be career-limiting.

Business often does not see their corrupting ways as corruption

Sometimes, business people critical of corruption in government circles, abate corruption by colluding in corrupt practices: whether giving a kickback for securing a contract, or appointing a token black person or black politician to a board or in a senior position, to secure access to government contracts.

Corruption in business is often not seen in a serious light by business leaders, globally and locally. For one, collusion practices, where prices are fixed between companies to the detriment of poor consumers are rarely seen by companies as corruption. One need only look at the lack of accountability of those who helped cause the global financial meltdown, as another example. Many of these business leaders and companies continue, post the global financial crisis, as if they were not responsible. We should compel companies trading on government contracts to adhere to a set of ‘integrity’ standards, in which they would foreswear corrupt activities.

Corruption undermines the delivery of public services: houses, health, water, electricity and so on. It diverts financial and other resources that could have been used for development, job creation and poverty alleviation. It weakens the capacity of the state to deliver effective services equally.

The myth that corruption has no victims

Jackie Selebi, the former police commissioner, now convicted of corruption, said he found it strange that he was prosecuted because there were ‘no victims’ of his corruption. This myth that corruption has no victims must be busted. Corruption has a disproportional impact on the livelihood of the poor. Corruption undermines the delivery of public services: houses, health, water, electricity and so on. It diverts financial and other resources that could have been used for development, job creation and poverty alleviation. It weakens the capacity of the state to deliver effective services equally.

This undermines the credibility of the democratic system – it undermines ordinary peoples’ trust in government, and undermines the rule of law. It also undermines the credibility of the government to pursue redistribution reforms, as many citizens are skeptical that the government is not pursuing the reforms in the widest public interest, but only to line the pockets of a few leaders. This means they are likely to oppose any such reforms, or at best become ‘indifferent citizens’.

Even the so-called ‘quiet corruption’ is damaging. It could be in the form of over-manning, or under-collection of bills, or distribution losses. A World Bank study showed that ‘big-time’ corruption of senior political leaders’, encourages ‘quiet corruption’ on a broader scale. The consequences of such corruption are devastating. For example⁶, a child denied adequate education because teachers have not attended classes regularly, will not get the necessary skills to have a meaningful contribution to the economy in adulthood. Similarly, if nurses or doctors are not at their posts

when they should have been, the consequences can be deadly.

As Zwelinzima Vavi summed up: ‘In the process we have battles of short-term interest’⁷. As pointed out: ‘There will then be only one way to survive: get a government position and feed at the trough’⁸. The state will then become a battle ground for access to its resources, leaving little thought for service delivery.

In any society there must be a sense that the rule of law is applied fairly – if there is going to be broad buy-in to society’s rules. Different rules should not apply to different people, depending on how close they are to the dominant faction of leadership in the ruling party.

The dangers of selective punishment

Jackie Selebi maintained throughout his trial that he was the victim of a “political conspiracy”, claiming he was not given a fair trial. There were even allegations of selective prosecutions to stymie opponents. There are obvious dangers in selective punishment: prosecuting only those who are perceived to be rivals, while protecting allies, undermines the credibility, of not only, the corruption fighting authorities, it also undermines the broader fight against corruption.

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Dangerous lack of political will

The disbanding of the Scorpions and the abandoning of the investigation into arms deal corruption, have rightly raised questions over just how serious government is about fighting corruption. Clearly, there appears to be a lack of political will to deal with high-level corruption. ‘The Special Investigation Unit has uncovered and reported to parliament, thousands of cases of corruption and they have not been investigated. Even when the investigations start, they are not brought to a conclusion,’⁹ Mervyn King, the corporate governance guru said. ‘One just cannot leave this, otherwise you create a climate in which this just grows and festers and people do it on the basis of x and y have gotten away with it, I’m also going to do it’.

Lack of capacity and toothless watchdogs undermines the fight against corruption

On the surface, South Africa has the necessary anti-corruption rules, watchdogs and enforcement agencies. However, in many cases these rules are not in themselves sufficient. Corruption thrives if there is weak capacity in the enforcement agencies, or where there are gaps in the laws. It also thrives when ‘public officials enjoy wide discretionary powers – the more public officials regulate, the more opportunities exists for corruption’¹⁰.

There are still many ‘legislative gaps’ in South Africa’s corruption fighting infrastructure. These include the gaps relating to how to deal with dual employment of public servants, how to manage conflicts of interest and how to deal with the ‘revolving door’ phenomenon, in which senior public servants and politicians – after leaving a job in the public and political sector – join the private sector in the same field – bringing with them all the inside information, contacts and influence.

There is, for example, little capacity in the Public Service Commission to scrutinise disclosures of conflicts of interests. Currently, it randomly scrutinises disclosures

of about 30% of all senior managers in the public service, and operates only in 3 provinces. The PSC has no powers to take any action against transgressors. Parliamentarians only need to disclose conflicts of interests in private, not publicly. Members of national and provincial parliament (but not local councilors) are not prohibited to tender for state contracts.

The Auditor-General audits for corruption; however, it is left to other agencies to follow up – which does not happen a lot of the time. Provincial integrity committees, for example, cannot investigate cases of corruption, neither can they penalise the guilty – guilty members need only apologise. The government needs to give serious attention to thousands of public servants implicated in corruption inquiries, who have not faced disciplinary action from their departments, Special Investigating Unit (SIU) head Willie Hofmeyr¹¹, recently told Parliament. Those investigating corruption must also be beyond reproach. Sadly, in many cases, the corruption busters themselves are mired in allegations of corruption. Clearly, there has to be a firmer line taken on transgressions in the public sector and in politics.

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What can we do?

- *Declare corruption a national emergency*

This could help to end the dangerous defensiveness, and in some cases denialism, within some government and political circles, over the levels of corruption.

- *Set-up a special public enquiry to probe the arms deal*

The closure of the Scorpions and the abandonment of the investigation of arms deal corruption, rightly raised questions over just how serious government is when it comes to fighting corruption. Public confidence will only be restored when there is a proper investigation.

- *Tighten legislative gaps*

One important law was the enactment of the Prevention and Combating of Corruption Activities Act of 2004. The passing of the Act strengthened the legislative base for fighting corruption. A set of guidelines on the implementation of the Act was subsequently published to simplify the content of the Act. All citizens need to be more informed about these guidelines.

- *Cleaning up the ANC: the power of setting an example*

Joel Netshitenzhe, the former government policy chief, has rightly warned in an interview with the Sunday Times recently that corrupt practices inside the ANC will soon reach a ‘tipping point’ if not stopped ‘with all the power of society and by the ruling party itself’. The ANC itself must punish bad behavior of its leaders and members, legally, socially and politically, and reward good behavior. Only if that is done publicly, will government restore its moral authority to deal credibly with transgressions from ordinary citizens. This will help compel ordinary citizens to follow the rules.

The ANC (and indeed other political parties) must bring in a new calibre or leadership at all levels – more competent and more honest. A system of merit must be brought into the internal party elections. Candidates must be judged on the basis of competence, moral character and genuine commitment to public

service. The active encouragement of a new class of leader, with a new value system – not solely based on struggle credentials – may help engender a societal change in values.

- *Increase transparency, access to information*

'Open access to information provides a basis for government accountability and raises the barriers against capricious, self-serving intervention. Without accurate and detailed information it is difficult to assess company and board performance, set targets and allocate capital efficiently'¹². More transparency from government departments, state-owned companies and other agencies about their activities is required. Private companies' and SOE payments to elected representatives, public servants, political parties and government departments must also be made public. In the US an amendment to the Dodd-Frank Act, compels oil, gas and mining companies listed on an American stock exchange to disclose details of payments to governments¹³.

The proposal for a media tribunal and the Protection of Information Bill will prevent information about official corruption and its effects reaching the masses. The chairperson of the Public Service Commission, Ralph Mgijima, said as much when he released the 2010 State of the Public Service Report in October 2010.

- *The importance of life-style audits*

A life-style audit of all members, of all party leaders, and public servants, is absolutely crucial – it will also boost public confidence. Furthermore, the guilty must be named and shamed.

- *Bar corrupt officials and businesses*

Corrupt officials and politicians must be prohibited from employment in the public sector. Corrupt businesses and individuals must also be barred from doing business with the public sector. Civil society, trade unions, social movements and NGOs must also shame and put pressure on corrupt business, so that they can feel the reputational effects of corrupt activities. Organised business in South Africa should spearhead a collective effort in this regard.

- *Protection of whistle-blowers, witnesses and anti-corruption fighters*

To be a whistle-blower of corruption, whether in the public or private sector, in South Africa is life-threatening. This has to change. More official

action must be taken on the information provided by whistle-blowers – otherwise the system will lose credibility very quickly. Right now, the perception is that whistle-blowers are more likely to be prosecuted than the corrupt individuals.

- *Increase citizen activism*

Introduce citizens' or community forums directly corresponding with departments to keep a watch over corruption and service delivery in departments and monitor the progress of complaints. In Kenya for example, the Muslims for Human Rights (Muhari), a community-based organisation, monitors the use of the budgets given to MPs to distribute as grants to their constituencies¹⁴. There has to be a grassroots campaign against corruption: the masses must know the extent of corruption, the impact of its public service delivery; and how to monitor and report it, and the importance of holding their elected leaders and public servants more vigorously accountable.

- *Set up an independent institution that can follow-up on reports of corruption*

South Africa needs an independent structure, which could be private or civil society-led, which not only follows-up when corrupt officials have been brought to book, but can also force police and public watchdogs to bring cases of corruption exposed in the media and by whistleblowers to book.

- *Foster values that reject corruption*

In the long-term, the best antidote to corruption is to foster the values of the constitution. The new value system must reward honesty and discourage dishonesty. Importantly, political leaders must also be seen to adhere to these values. Civil society will have to play a role in shaming those leaders who maintain corrupt values and encouraging those who behave with integrity.

- *Introduce merit into political system*

Merit-based appointments to jobs in the public service, and in politics, will go a long way to reduce the patronage system of jobs for pals, which fosters the environment for corruption. It would be important to professionalise South Africa's public service. Performance agreements across government must be enforced. More transparent methods for appointments should be introduced, including making outcomes of decisions publicly available.

- *Improve the institutional capacity to fight corruption*

This would mean strengthening the corruption fighting capacity of existing institutions dealing with corruption and would include improving co-ordination and integration of anti-corruption work across government. In 2004, the National Anti-Corruption Hotline was set up. However, the Public Service Commission¹⁵ reported in October 2010, that the government has ‘no knowledge’ of what has happened to at least two thirds of cases reported to the National Anti-Corruption Hotline.

- *Improve the enforcement of internal anti-corruption controls within the state*

This would include managing conflicts of interests better, improved screening of personnel, better performance valuation and making procurement systems more transparent. The Public Service Commission, for example, in October 2010 reported that almost half of government department Heads had not had their performance evaluated in the 2009 / 2010 financial year, even though they oversee an estimated R250 billion of taxpayers’ money annually¹⁶.

- *Deracialise the corruption debate*

The debate on corruption is often racialised – which undermines the fight against it. On some occasions leading public figures, if black, have accused critics, if white, of being racists, if they point to wrong-doing. Shouting ‘racism’ for self-enrichment at the expense of the public good, or to deflect attention from individual wrongdoing is also aiding corruption. Similarly, for some white South Africans to broadly view corruption or incompetence by individual leaders, if black, as a general failure of all blacks, rather than seeing in its specific contexts, of a corrupt individual, whatever the colour, politics or class, is also wrong. What we should not do is, in our bid to debunk outrageous racial generalisations, defend individual incompetence, wrong-doing and even corruption, just because the person is black or white.

- *Stop blaming apartheid for current corruption*

Public Enterprises Minister Malusi Gigaba, in February 2010, rightly argued that ‘apartheid cannot be blamed every time’¹⁷ someone is involved in corruption. Blaming the legacy of apartheid – although certainly with us – has become an easy answer for not acting against corruption. This will have to change.

NOTES

1 See Raghavan Parthasarathy. 2010. Preventing public sector corruption. The Hindu. Business Line: September 23

2 World Bank. 2010. Africa Development Indicators 2010. World Bank Publications: Washington DC, March

3 Transparency International. 2010. Corruption Perceptions Index 2010. New York: Transparency International. October

4 Off course, the index’s survey of South Africa has its shortcomings. Its methodology is based on surveying business and experts on their perceptions of corruption. Civil society, community and ordinary citizens’ views are excluded in the index. Secondly, corruption takes many forms. However, the index only uses one tool: the perceptions of business. Thirdly, the index has also come under attack from developing countries because of perceptions that it singles developing countries, and furthermore, it does not put the same emphasis on corruption from industrial country governments and companies – in developing countries [This is one of the reasons why Brazil’s former Transparency International chapter has withdrawn in 2007, and set up their own localised version]. Fourthly, the index methodology varies from country to country – it does make country comparisons difficult. Fifthly, it does not highlight which kind of corruption is more common or more serious. In South Africa, perceptions of corruption are also clouded by race. Furthermore, business views may not be the most representative. Nevertheless, it is still a useful barometer, since there is no national corruption survey, audit or public perceptions study of corruption in South Africa.

5 Gwede Mantashe. 2010. Inaugural Violet Seboni Lecture. Johannesburg City Hall. April, 16

6 See World Bank. 2010. Africa Development Indicators 2010. World Bank Publications: Washington DC, March

7 Zwelinzima Vavi. 2010. Address to the political school of the National Union of Metalworkers of South Africa. August 16, Johannesburg

8 Zwelinzima Vavi. 2010. Address to the political school of the National Union of Metalworkers of South Africa. August 16, Johannesburg

9 Business Day. 2010. ‘Cut to the chase, action is needed’. February 1, Johannesburg

10 Raghavan Parthasarathy. 2010. Preventing public sector corruption. The Hindu. Business Line: September 23

11 Business Day. 2010. ‘Cut to the chase, action is needed’. February 1, Johannesburg

12 Simon C.Y. Wong. 2004. ‘Improving Corporate Governance in SOEs: An Integrated Approach. Corporate Governance International. Vol. 7. Issue 2. June, p. 10

13 The Economist. 2010. ‘Naming and shaming: the fight against corruption’. International Section. P. 64

14 See, The Economist. 2010. Naming and shaming: the fight against corruption. International Section. October 30, p. 65.

15 Public Service Commission. 2010. ‘State of the Public Service Report 2010’. October, Government Printers: Pretoria

16 Public Service Commission. 2010. ‘State of the Public Service Report 2010’. October, Government Printers: Pretoria

17 Malusi Gigaba. 2010. “Stop blaming apartheid for corruption”. The Sunday Independent. February 21.