

**STATEMENT OF THE PRESIDENT OF SOUTH AFRICA, THABO MBEKI,  
AT**

**THE JOINT SITTING OF PARLIAMENT ON THE RELEASE  
OF HON JACOB ZUMA FROM HIS RESPONSIBILITIES AS DEPUTY  
PRESIDENT:**

**NATIONAL ASSEMBLY**

**14 June 2005**

Madame Speaker;

Chairperson of the National Council of Provinces;

Honourable Members;

Fellow South Africans:

Five days ago we assembled in this Chamber to pay tribute to Justice Arthur Chaskalson and the new leaders of our judiciary, Chief Justice Pius Langa and Deputy Chief Justice Dikgang Moseneke.

I wish to thank Madame Speaker, the Chairperson of the National Council of Provinces, leaders of all parties in Parliament and Honourable Members for the opportunity we all had to give expression to the profound esteem in which we hold our judiciary, as an important arm of our system of government and a central pillar of our statehood.

I am therefore greatly obliged to our Presiding Officers and the Honourable Members for giving me this opportunity to address another Joint Sitting of the Houses of Parliament so soon after we met in this form.

It was my view that we should once more assemble in this manner because of a matter that relates to the common sentiment we all articulated during the unique and pioneering occasion last Friday.

As Honourable Members would know, the primary function of the President of the Republic and the Executive is to regulate the nation's affairs in a manner that promotes the realisation of the ideals enshrined in our Constitution. Among others these include:

- \* building a society based on democratic values, social justice and human rights;

- \* ensuring that government is based on the will of the people and that every citizen is equally protected by law;
- \* improving the quality of life of all citizens; and
- \* building a united and democratic society enjoying its rightful place among nations of the world.

I believe that the Executive should at all times position itself diligently to discharge these responsibilities unencumbered by major distractions and deficiencies that might diminish this focus. It was for this reason that during the Debate on the Vote of the Presidency, I paid particular attention to the work we are doing to improve the capacity of government to meet its obligations to the people.

The Constitution enjoins the President in particular to "uphold, defend and respect the Constitution as the supreme law of the Republic; and promote the unity of the nation and that which will advance the Republic". It further prescribes that all spheres of government and all organs of state should "respect the constitutional status, institutions, powers and functions of government in the other spheres."

Among others, and relevant to the reason I requested this Joint Sitting, the Executive must discharge its responsibilities within the context of the rule of law, which includes respect for the integrity and independence of the judiciary and presumption of innocence of any person, pending findings of the courts. Similarly, we also have to respect decisions of our Parliament.

These obligations are expressly reflected as personal undertakings and are immanent in the Oath of Office for those taking up executive positions in government. They are especially important with regard to the President of the Republic, who, in terms of our Constitution, is the head of the National Executive and on whom the executive authority of the Republic is vested.

Shortly before I left for Chile last week on a state visit, the Government Communication and Information System (GCIS) announced that on my return I would study the judgement handed down by the Hon Mr Justice Squires of the Durban High Court at the end of the case of The State vs Schabir Shaik and Others, and announce such decisions as may be necessary arising from this Judgement.

I have since carefully studied the Judgement. I did this fully to inform myself about Justice Squires' findings, given the fact that the issue of the relationship between the Deputy President, the Honourable Jacob Zuma, and the accused had been canvassed during the trial.

In this regard, I must emphasise that I studied this Judgement not to make any determination whatsoever about its merits or demerits, about whether it was wholly or partially right or wrong. Indeed, such conduct does not fall within our constitutional mandate as the Executive. This task belongs to the

higher courts, the organs of state that would hear any appeal that might be lodged.

Accordingly, any actions we may take arising out of Justice Squires' Judgement would arise merely from the fact that a court judgement exists, which our Constitution enjoins us to respect.

As Honourable Members would know, the judgement contains detailed matters of fact and inference against which penalties have been meted out. At the same time, proceedings pertaining to a possible appeal to higher courts are still pending. However, the Judgement contains some categorical outcomes.

These are that the court has made findings against the accused and at the same time pronounced on how these matters relate to our Deputy President, the Hon Jacob Zuma, raising questions of conduct that would be inconsistent with expectations that attend those who hold public office.

In this regard, I would like to emphasise two basic pillars of our jurisprudence, namely, equality before the law and the right to be presumed innocent until proven otherwise.

We are of the firm view that this principle applies to the Deputy President not merely as a matter of principle and common decency, but also in deference to the individual occupying such office and the service that he has rendered to the Republic and its people before and after the attainment of our liberation. Unambiguous as the judgement may be about an assumed unsavoury relationship, the Deputy President has yet to have his day in court.

Also, noting the fact that there are processes underway to lodge an appeal, we are obliged to allow the steady grind of the due process of law to run its course without let or hindrance, respecting the provisions of our Constitution in this regard.

Honourable Members:

As we reflect on these matters, we should also remind ourselves of the major issues, which were the original source of this trial.

Some three and half years ago, the Joint Investigation Team of the Auditor-General, the Public Protector and the National Directorate of Public Prosecutions completed its work and released to Parliament a report on the Defence Procurement Process. This Team came to the conclusion that:

*"No evidence was found of any improper or unlawful conduct by the Government. The irregularities and improprieties ... point to the conduct of certain officials of the government departments involved and cannot ... be ascribed to the President or the Ministers involved in their capacity as members of the Ministers' Committee or Cabinet. There are therefore no grounds to suggest that the Government's contracting position is flawed".*

With regard to matters of the cost of the Procurement, the Investigation Team concluded that:

*"What was achieved by the Affordability Team and the International Offers Negotiating Team ... is unprecedented in the international credit market".*

On each of the allegations of impropriety with regard to the primary contracts, in which government played a pivotal role, the investigators found that there were cogent technical and/or strategic reasons behind the decisions taken.

The Team identified some weaknesses in the procurement process, and made recommendations which are being followed up, the better in this regard continually to improve our work as government.

It also called for investigations on matters pertaining to secondary contracts, in which, though government may have formally played a role to ensure reliability and cost-effectiveness, the arrangements were essentially between the companies chosen as primary contractors and third party corporate sub-contractors.

We refer to this matter in some detail because we believe that it behoves all of us to recognise that the investigations that resulted in the court case that has just been concluded were not only recommended in that Joint Investigation Team Report, but were also supported by the whole of government, including the Hon Deputy President.

These further investigations do not contradict the fundamental conclusion about the integrity of the decisions of the government with regard to the Defence Procurement.

No facts were adduced during the trial in question and no findings were made that are inconsistent with the Report that the Joint Investigation Team submitted to Parliament, a report whose recommendations the government accepted.

Madame Speaker;

Having said all this, it remains for us to answer the question as to how we should respond to some of the issues raised in the Judgement handed down by Justice Squires.

It seems self-evident that, arising out of the judgement in the Durban Trial, there will be continuing legal processes in the higher courts. These processes will have a bearing on normal enquiries that the law-enforcement agencies may wish to undertake and on follow up that Parliament may embark on in relation to any of its Members.

The Executive will therefore await the outcome of these processes.

Both the Deputy President and I are acutely sensitive to the responsibilities we bear as prescribed by our Constitution. We understand very well that we should at all times act in a manner that seeks to "uphold, defend and respect the Constitution", as required by the same Constitution.

As I have already indicated, this includes, among other things, the need to "respect the constitutional status, institutions, powers and functions of government in the other spheres", to quote the Constitution once again.

We have had no precedent to guide us as we considered our response to the Judgement by Justice Squires. We have therefore had to make our own original determination on this matter guided by what we believe is in the best interest of the Honourable Deputy President, the Government, our young democratic system, and our country.

I am fully conscious of the fact that the accused in the Schabir Schaik case have given notice of their intention to lodge an appeal. I am equally aware that a superior court may overturn the Judgement handed down by Justice Squires.

However, as President of the Republic I have come to the conclusion that the circumstances dictate that in the interest of the Honourable Deputy President, the Government, our young democratic system, and our country, it would be best to release the Hon Jacob Zuma from his responsibilities as Deputy President of the Republic and Member of the Cabinet.

Necessarily, we will continue to monitor and respond to all developments in relation to this and other relevant legal processes.

Personally, I continue to hold the Hon Jacob Zuma in high regard, and I am convinced that this applies to most Members of Parliament. We have worked together under difficult and challenging conditions for thirty years. In this regard, I wish to thank him for the service that he has rendered as part of the Executive, at national and provincial levels, sparing neither strength nor effort to ensure that, with each passing day, we build a better life for all South Africans.

I am certain that I speak on behalf of all who have served with him in Cabinet when I say that we shall remain friends, colleagues and comrades in the service of the people. And, as government, we shall continue to draw on his experience and expertise where the need arises.

In due course, I shall announce the necessary changes in the Executive to take account of the void that the departure of Deputy President Jacob Zuma has created.

I thank the Honourable Members for their presence at this Joint Sitting of the Houses of Parliament and for the attention they paid to what we had to say to address a difficult situation.

I trust that what we have done today, and will do in future, together, will continue to strengthen our democracy, reinforce the accountability of those who hold public office, and deepen the confidence of the masses of our people in their elected representatives and our organs of state.

I thank you.