

frayintermedia
SHAPING THE MEDIA LANDSCAPE

JOURNALISM DIALOGUES

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**Has the media treated
Jacob Zuma
fairly?**

MICHAEL SCHMIDT: Welcome to the eighth Journalism Dialogue. The debate, raised by the ANC last year, around whether there should be a statutory media tribunal, this is one of the issues that we have discussed; we have also discussed racism, we have discussed the tabloids and we have discussed hate speech and a whole bunch of things. The main idea is to try and popularise the press and broadcasting codes of ethics. Normally this role that I am performing now, the facilitator, is performed by Joe Thloloe who is our Press Ombudsman; he can't be with us tonight, because he is abroad, so I am not really a person of his kind of stature, but nevertheless I hope you don't mind me standing in for him. My name is Michael Schmidt I work for **fray**intermedia as a journalism trainer. I have been a journalist for 20 years I have even worked on certain scurrilous publications like the Sunday Times - and had a lot of fun doing it.

The topic tonight may seem a bit hackneyed to some people, but in fact it is not because although it has raised its head up from time to time, usually when the media has come under fire by Jacob Zuma, really what we are talking about is the relationship going forward between the media and the ruling party and there have been a lot of questions raised about what is the actual role of the media. Is the media performing a sufficiently developmental role that is one that has been raised by a lot of critics and what is meant by developmental role?

Tonight we are very pleased to have a strong panel, we were really hoping to get Doris Tshepe who is a media lawyer to sit in our panel

tonight as well to give a legal even hand to the proceedings as well. Unfortunately she wasn't able to make it, but we still have a very strong panel most of whom will probably not require any introduction, but of course I will. Mondli Makhanya, editor and chief of Sunday Times, steering what is a very big ship through some fairly stormy waters at this time, catching quite a bit of flack for it of course, but that is the fun part about being an editor.

Jeremy Gordin who is a veteran journalist with the Independent Newspapers Group and has of course just brought out his book, the unauthorised biography of Zuma, and Paul Holden who is new to this game, young and keen – and it is very good see somebody weighing in on the serious topics with such enthusiasm, I think produce a very valuable contribution to the debate around ethics and propriety and government certainly, with *The Arms Deal in Your Pocket*.

Alright now these debates are really meant to be quite casual and tonight we are going to be more casual... as you see my tie has already disappeared because I am just overwhelmed by the heat and circumstances, but I'll just ask our panel to give a couple of introductory remarks and then the idea is that we just bounce ideas around between us and try to keep a nice conversation going. And perhaps we could start with Mondli... are we going in order of greyness? Okay, in which case Jeremy Gordin.

JEREMY GORDIN: Hello by the way the book isn't out yet, but will be at the end of November. So some preparatory comments, it is quite an

interesting question: has the media treated Jacob Zuma fairly? It is interesting in that I would have asked has the media treated Jacob Zuma unfairly, but obviously **fray**intermedia wanted to catch us out, but my answer would be nonetheless, to has the media treated Jacob Zuma fairly, my answer of course and they knew that when they asked me to come here, would be no, of course not which is why I was invited here, but having said ... shouted no, I would say after that but of course that is not quite true. The point is that there have been times when Zuma has been treated fairly and there are times when he hasn't. And perhaps that is a sorry reflection on the media because it is actually quite amazing, obviously to bring up this biography of Zuma, going through the last years and everything that has been going on – not quite I must say as punctiliously as Paul Holden – who has done an amazing job and if you haven't read the book you really ought to; it is a fantastic book.

And it is interesting that ever since January 2008, in other words ever since Polokwane, it is difficult to find anyone ... quite difficult to find anyone, not even Mr Makhanya and not even Justice Mhlala who used to sometimes write for Mr Makhanya's publication, who has a bad word to say, that is, since Polokwane. But then you go back before Polokwane and of course it is quite different, and thinking about fairness and unfairness in terms of anyone, but particularly in terms of Zuma it seemed to me that you could break it down into a number of unfairnesses as far as the media is concerned. One, it seemed to me was just normal unfairness: reporting in a balanced way and we don't get it now as I say not this year, not since Polokwane, we used to get it quite a lot.

To take an obvious example, Zuma said during his rape trial that he had a shower after having sex with the complainant Kwezi, but no one ever asked what the context was. No one ever sort of put it into the context of quite a difficult cross-examination, quite a difficult cross-examiner and the context was that they had sex and he said “I do know she allegedly had HIV so I had a shower, doesn’t everyone have a shower after sex? It seems to me that many people do,” but I mean it became a sort of shower-head for him forever and a kind of badge of buffoonery that I would class as normal unfairness.

And then, allowing this sort of normal unfairness, we have the second category, which is allowing the sort of normal unfairness in reporting to die as such before we even start. I am thinking for example of female colleagues that I have who were covering the Zuma story in 2006/2007. Some of them said, “Well ja I hear he is a big womaniser; I don’t even want to go and cover that particular trial.” Well I think Jacob Zuma is a big womaniser, but it seems to me, so is everyone else in the ANC, except maybe Terror Lakota and Shilowa.

And then again, you have the run up to Polokwane in 2007 again a bias before people even start. I won’t go into the examples now but I brought an elaborate presentation, which is in that laptop there, but you don’t have to worry about that. Particularly around, this is a third category if you like, around reporting, is the wishful thinking reporting, which really you know reached it is nadir during the run up to Polokwane. When we want things to go our way, I mean it is remarkable to me, I was just going over, I mean four fairly major books and good books I think –

William Mervin Gumede's book on the battle for the soul of the ANC, his new chapter on the succession race, which was written before 2007, Anthony Butler's biography of Cyril Ramaphosa, Richard Calland's book *Who Hold's the Power?* and Mark Gevisser's biography of course.

And if you read them carefully they all argue cogently, very cogently indeed, and this is before Polokwane, that Zuma should not become the president of the ANC. This is with scant attention to, I mean obviously most of it was written before then, it was the end of November, but in the press it was with scant attention to the nomination process of the ANC – and the delegates voted him in, but *they* didn't want him. So that is another kind of unfairness.

And then there is another corollary of unfairness if you like, and I am hoping that Paul is going to sort of explain it to me because I still have difficulty understanding even given, let's say *hypothetically* that Zuma is guilty of everything of which he has been accused in connection with the arms deal, the shares from ADS, all that sort of thing, I still have difficulty understanding what that has to do with the arms deal per se, as I understand the arms deal. I know that you know Paul has got to have the chapter in his book, he has got to list what the charges are against Zuma, but as I understand it the arms deal is about the arms deal and it is all laid out in this book and what happened, but did Zuma actually – presuming he is guilty of everything he has been charged with – did he actually take money from the fiscus? Did he take money from anybody else except Shaik's companies and the French partners Thint and Talles in ADS?

And if not, why then is he part of the “arms deal”? And then finally I see I am going on too long already, but ... which I think is much more subtle is I think we have in this country, and I wrote a piece about it a couple of weeks, some of you may have seen it in the Sunday Independent, I think we do have a national myth and by a “myth” I mean dating from the early ‘90s when our modern founding fathers were saints and good people and brave strugglists and a lot of pieces you read are what a falling off there has been now that we have got Zuma and I think that is a kind of unfairness as well, a slightly more metaphysical one, but an unfairness nonetheless. Thanks.

SCHMIDT: Thanks a lot. Definitely food for thought and I pass on to Mondli.

MONDLI MAKHANYA: Okay I must just correct a misperception when the previous speaker says that post-Polokwane it is difficult to find anyone who still has anything negative to say about Jacob Zuma. They is absolute factuality, if there is such a word, that this man sitting to your left still continues to say negative things about Zuma, because he believes the things he said before Polokwane and they exist beyond Polokwane and just as a kick off and then I will explain why.

Back in 2001, roundabouts, an investigation was started into ... by the Scorpions into Schabir Shaik and that over time through documents and so on, that investigation then evolved and turned into an investigation into Jacob Zuma and by 2002 that investigation was a fully-

fledged investigation into Jacob Zuma and his relationship with Shabir Shaik obviously and as well as other things. A story around Jacob Zuma broke late in 2002 and essentially the investigation was about a corrupt relationship that existed, bribes that had gone on, favours that Zuma had done for Shabir Shaik. Late 2002 the story breaks, 2003 the story was in full flight, there was that infamous *prima facie* comment by Bulelani Ngcuka, Schabir Shaik was eventually charged, there was an indictment in the Shaik indictment was a lot of damning information about Jacob Zuma who was at the time Deputy President of the Republic, Deputy President of the ANC, the ruling party, a senior member of our society.

The media covered it factually and everything that was covered was factual, based on papers before court, it wasn't stuff that the media twisted or invented. Jacob Zuma remained, came in as Deputy President of the country in 2004 and the question still remained and whenever Jacob Zuma was asked, he would say "When I get my opportunity I will answer those questions in court." I mean, now to say I want my day in court, but actually what he did say was that he would answer those questions in court, notwithstanding the fact that these were very serious questions about ... issues, very serious issues of him having used his position as MEC for finance in Kwa-Zulu Natal and beyond to benefit Schabir Shaik.

In 2005, eventually Jacob Zuma was charged and in the indictment there were very serious charges against him that were reflected there and of course we in the media reflected that. There was a rape charge against Jacob Zuma, which he was eventually acquitted of. What we

reported as the media was the fact that Jacob Zuma had been charged and we reported on the trial very extensively; nothing was ever invented. Of course Jacob Zuma then went on to run for President for the ANC in 2007 with these very serious questions still hanging over him and we raised questions – commentators, columnists and newspapers – about whether Jacob Zuma, whether somebody who actually does have these questions could actually, was fit to lead the ruling party of the country and eventually become President of the Republic. And these are questions that we *should* ask and these are questions that were legitimate to ask. Whether Jacob Zuma was popular enough to win or not, I believe is neither here nor there, there was, as Jeremy says, some people saying no, but he may not be, people in the ANC may actually see through his alleged corruption and actually not vote for him.

But throughout the reporting as people were pledging their support to him in the provinces, the regions, the alliance structures, it was clear that Jacob Zuma would eventually president of the country, the fact that some of us disapproved of Jacob Zuma becoming president of the country did not detract from the fact that he was eventually going to win and that Mbeki was going to lose. And yes he did win in Polokwane putting him in to eventually become President of the Republic in 2009. So during the course of this year, Jacob Zuma is basically ... he is president-elect effectively, he is the ... if we had primaries he would be the main candidate, he would kind of like the whatever of the ruling party, the candidate designate whatever of the ruling party.

And I still ... just to repeat myself, I think it is perfectly legitimate and actually I think it is our obligation as a key player in society, in the media, to be asking questions about: here is somebody who during the Shaik trial, never mind the fact that the judge did not say “there is a generally corrupt relationship,” but what the judge found in the Schabir Shaik trial was that Schabir Shaik had paid money to Jacob Zuma in return for favours for Zuma ... in return for Zuma intervening on his behalf.

There was a lot of evidence presented there about what ... about the relationship between Jacob Zuma and Schabir Shaik and again Jacob Zuma is somebody who has not answered those questions, because obviously I mean he has fought a very good court battle with the NPA and which he is entitled to as a citizen, resulting in the fact that he may never stand trial. Next year when we go the polls Jacob Zuma will be the ANC’s candidate, Jacob Zuma will become the President of South Africa. We know for a fact that there was a certain relationship that existed between him and Schabir Shaik. He still is innocent until proven guilty, but the fact of a relationship that was ... that was inappropriate between him and Schabir Shaik is something that I don’t think anybody can dispute, there was a court of law that ruled – in fact three courts of law at different levels, the High Court in Durban, the Appeals Court and it went all the way up to the Constitutional Court.

So there are very questionable things about the person who may become our president next year. So and if we as a society do care about public morality, if we as a society want to have a clean state, a clean

Republic, should we not want the number one citizen in the country to be beyond question as much as we can? Should we not be asking those tough questions of him about the relationships that he has had with some very shady business people ... shady relations with Schabir Shaik? Should we not be asking about the fact that there was a meeting that allegedly took place, a meeting that did take place either on the 10th or 11th of March 2000 in a hotel room in Durban where allegedly he agreed to accept certain monies from a French company in return for protecting them from prosecution, if a person who is to be the president of the country... I want answers from him on what actually transpired in that hotel room. I believe as citizens we do deserve answers and we, the media, should ask questions.

Jacob Zuma – I will wind up now I see Michael standing up – Jacob Zuma and the arms deal: I think there has been a lot of conflation about whether Jacob Zuma participated in the arms deal or not and I think ... basically because of the relationship with Thint and I think that Jacob Zuma's corruption and the allegations of corruption against Jacob Zuma do not relate directly to the arms deal, because by the time Jacob Zuma came into the presidency of the party, the arms deal was, I mean like over. The allegations before court that the Scorpions have investigated around Jacob Zuma relate primarily to ... when he entered into a relationship with Thint, allegedly with Thint in 2000, when he was already deputy president of the country.

So I think that I mean like that, it is still arms deal-related rather than arms deal per se, it was more around over protecting from

prosecution, protecting certain people from prosecution. So just to wind up I just want to say that I think inasmuch as we ask those questions before Polokwane about Jacob Zuma as much as we ask those questions now and we should be continuing to ask the questions even more in the run to the elections, I think when Jacob Zuma comes into power we should be asking those questions even tougher, because he will by that point be a servant of the 46-million South Africans plus 5-million Zimbabweans.

SCHMIDT: Okay thank you Mondli. I am starting to think that maybe our panellists should be running for office; they talk so much! But over to Paul for his thoughts and then I will bounce some ideas back at you guys and then the audience can weigh in.

PAUL HOLDEN: I think just first to disclaim: I am not a journalist and I have never worked as a journalist so it is a bit difficult for me as somebody who is not directly ... I have never worked in a news-room for example to commentate on how the news-room behaves in regards to a topic like this. I am going to try and keep this relatively short, but a recurring theme that has been coming up quite a lot as I have been promoting the book and speaking to people in general has been just a question of, a series of questions about Jacob Zuma and everybody seems to want to ask these questions about him and some of these questions have been why has Jacob Zuma faced so much attention in the media as opposed to other people.

Why is it that Jacob Zuma has faced prosecution, but other people like ... Schabir Shaik or even Thabo Mbeki if we are to believe the stories about it, why they haven't faced prosecution, why they haven't faced the same sort of scrutiny? And my general answer to that is very simple: is that this is an information-rich story. The arms deal is a particularly covered-up secret affair. We are still trying to find out more details, there is still a lot to be discovered, but what is very clear is that through the court cases we have had a situation where a huge amount of information about Zuma both personally and in his approach to business and in his approach to politics, to those particular court cases and I think that has determined the extent to which we hear about him. The fact is that there is just so much to report – beyond the fact that there is obviously public interest involved in the fact that he is such a powerful figure.

As to the question whether he has been treated fairly, I would ... I think I would agree with Jeremy to an extent. I think there are some instances where he probably hasn't been, but I think in the majority of cases he has been. I think the point that I think of quite often is that he has been treated quite harshly in the media, but I think he is treated equally harshly compared to people like Thabo Mbeki. We have, I mean I still remember very clearly we had the Mail&Guardian asking in 1999/2000 "Is this man fit to rule?" and being exceptionally critical of Thabo Mbeki at that period of time, I think with justification. But to claim that Jacob Zuma is somehow being treated more unfairly or more harshly than other public figures I am not too sure that holds water.

The other points that gets raised is that when people ask this question has Jacob Zuma been treated fairly or unfairly by the media, I think what is lurking in everybody's mind in the background is Jacob Zuma's legal applications where he has been making the claims of political conspiracy. I think this is what this debate really feeds into is, do we think that there are a group of high powered individuals sort of in the media and in the political realm who are doing their utmost to keep him out of power? And the sense that I have gotten is I don't necessarily think that is the case. I certainly think that there are people who might appreciate it if he isn't in power, but that doesn't necessarily mean they are involved in any sort of conspiracy to prevent him reaching office.

And I think that the point that we have to deal with and I think it is a point that Mondli has made is that there have been a number of instances where Jacob Zuma has gone on ... well Schabir Shaik has gone on trial and Jacob Zuma has gone on trial for a separate issue, where a number of facts were established pretty much beyond dispute. And upheld by a series of courts of law and these are questions that do raise some very serious questions about whether we believe Jacob Zuma is fit to hold office, whether we think he is the right candidate for the country.

I think we should ever play into the hands of the people who seem to think that stories have been entirely fabricated in this regard. The basic reality is just as I don't think the charges against Jacob Zuma are fabricated so I don't think the stories are very simple. As to the other issues that get raised – what does Jacob Zuma have to do with the arms deal, why have you written such a big chapter about this in your book? I

would disagree with both Jeremy and Mondli and say that he actually played quite a fundamental role and there are two particular threads to this. The first is that what was very clear from the Schabir Shaik trial is he did intervene during the acquisition process to ensure that Schabir Shaik's company pleaded as a joint venture partner of Thompson's.

The importance of that is that Thompson's was then selected along with ADS despite the fact that a cheaper option was available for the services that ADS provided, so in a sense that interaction did take money from the fiscus because it was an interaction that smoothed the way for a corrupt awarding of a particularly large tender worth roughly a billion rand in the arms deal. And also the arms deal is a particularly fuzzy phrase, because I always refer to the arms deal as both the acquisition process and the tremendous cover-up that followed it.

I think it is beyond doubt that Jacob Zuma played some sort of role in that cover-up. He might deny for example that he wrote [Judge] Heath's letter, the letter to Heath, but sorry to Gavin Woods, but he definitely *did* sign it, he *did* agree to its content and even now Mbeki has claimed that he has written it you either have to say to yourself, well either he believed in its contents and approached them and he wanted to use his name to achieve a political effect or he just signed the documents willy-nilly, which I don't think we can agree with. And if he does that then we should have cause for concern as to why he does that.

And I think the last issue that we have, what comes up again and again in court papers is this idea of being tried *in absentia*, being tried in a court of public opinion and I think this is the other inference that comes

up when people ask has Jacob Zuma been treated fairly. And I do think that the decision not to charge him in 2003 was a terrible decision and I don't think it was particularly motivated by salubrious goals or motivations I think it was a particularly bad decision to make. I think he should have gone on trial with Schabir Shaik at that time.

I don't believe that the subsequent prosecutions are invalid. I think they were legally obliged to do so, but the point about the court of public opinion is that it is public and it can be impacted on by anyone to give information, the basic fact is that Schabir Shaik went on trial, Jacob Zuma's relationship with Schabir Shaik went on trial and people formed their opinion on that basis. That didn't preclude Jacob Zuma from providing an answer to the general public as to what these allegations have meant for him and what these allegations say about his ability to be president.

I don't doubt that he probably should have been given this chance in court with Schabir Shaik, although he was called as a defence witness and refused to partake in the proceedings, but the reality is that I think that he is an individual with preferential access to the media, because of his profession and if he had information to share that would substantially explain the very nitty-gritty details of his cases then most of us would actually be incredibly relieved, because we all acknowledge that he is going to be the next president.

SCHMIDT: I just want to address Paul's suggestion that he stands outside the media, because of course he doesn't: he has produced a book. The media today is much broader than it used to be including of course the advent of the bloggersphere which is a manufacturer of public opinion, where often these kind of "kangaroo courts" if you want to call them that, direct democracy if you want to call them that, are held and that is in areas where they are generated. Now we are dealing with issues of fabrication, fairness. Perhaps I could just pose a question and throw it open to everybody. I think it is generally acknowledged that as Paul stated the origins of a lot of the problems related to this particular case and to the prosecution of Jacob Zuma stem from the fact that he and Schabir Shaik were not charged together.

Judge Heath and many others would agree on this: that singular flawed decision created a space, a grey area between what was going on in the legal process, which was of course annotated in detail and very accurately etc. as Mondli has laid out, and the rumour... that sprang out around the arms deal and has led to these sort of accusations and aspersions and all the rest that Jeremy has raised. That grey area is I guess what we are debating tonight, we don't doubt or some of us may doubt that a lot of what was written may have been, particularly in the mainstream press and published in the mainstream broadcasters, may have been technically accurate. Perhaps fairness goes a little bit beyond technical accuracy that is one of our greatest defences under the Bogoshi judgment as well, have we been fair to the people that we are covering?

Perhaps members of the audience or... I think the panel has spoken quite long, but perhaps members of the audience could discuss the rumour..., I mean this becomes so much a part of the story, several editors and journalists have lost their jobs and in the fall-out in the broader arms deal saga okay you just look at Ranjeni Munusamy, Vusi Mona, etc. okay? A lot of fall-out in the media as well, so the media has become part of the story. I don't know if people in the audience want to throw a few questions around that issue or anything else? Okay I will put it back to our panel, anyone want to pick up that ball? The intersection, that grey area between fact and the rumour that the media pick up on and run with and sometimes trip themselves up with, anyone want to pick up on that?

HOLDEN: I think that there is definitely a grey area and I think that was a grey area for a particularly long period of time inbetween that particular period between when Shaik's indictment was served and when a final judgment was given, which is quite a long period of time, specifically in political terms a year and a half is an incredibly long period of time. So until that matter was resolved I think there was a lot of misunderstanding about how accurately we could report on that particular relationship and I think the reality that it was only once and I think maybe Jeremy might dispute this, but it was only once ... [inaudible] has delivered its judgment that people were definitely and outrightly stating that this was the matter of fact, because it had been established by court of law.

And I think that the general grey area is actually reflective of something much larger and the general grey area is reflective of the arms deal itself and in the way it was dealt with. The fact is that the arms deal, although it is far more transparent than other arms deals around the world, there is still a huge amount that we don't know about and the information that has come out it has come out in a particularly staggered way. As Jeremy and Mondli both pointed out and tried to draw up some sort of chronology, a time line, a graph of response to Zuma, because what happened across the arms deal is that information has come out in a particularly staggered way and that has changed people's way of reporting on it. I do think that that is the case. I think it is interesting for example that everybody was so supportive of Jacob Zuma's dismissal but were gnashing their teeth about how Thabo Mbeki was dismissed and that might just be because journalists as well as politicians are learning about how you are actually supposed to conduct yourself in a democracy.

But I do think that the grey area that we have experienced has been particularly damaging and this comes back to the point that I have made that Jacob Zuma is in a particularly position to clarify that grey area and marks and adversarial court papers, but with an open engagement, a real direct engagement with the facts at hand.

MAKHANYA: Ja, I think it was inevitable that the media would get caught up in this story and become part of the story. The battle between Jacob Zuma and Thabo Mbeki was an ugly one, it was a rough one and it was one which drew in all sectors of society and the media is a powerful

sector of society and so both sides tried to basically win or tried to win public opinion over to their side in the media – and we tried to draw the media to see their end and I think in the end the battle was played through leaks and so on, and as you point out, there were casualties and there were people who [inaudible] themselves and eventually fall victim to the battle.

But I don't think that all in all you can paint the media and say that the media did this, the people in the Zuma camp are likely to do that, the media did this, as if we are a collective and we are not a collective, we are a tribe of individuals and if it appeared that there was a certain view that people had taken that all these individuals, editors, had taken about the public morality of Jacob Zuma or the ... alleged corruption of Jacob Zuma and the fitness of Jacob Zuma to hold office I think it is a tribute to the general ... I mean it is a tribute to South Africans' sense of morality. And the fact that people in the media actually could see right and wrong I mean and then we all ... the fact that we also took the same position, the fact that we all took a similar position around Thabo Mbeki and Aids does not mean that we were conspiring to take that position around Thabo Mbeki and Aids, right or wrong.

And the point that I want to make around this thing, when Mbeki came into office – Paul makes this point – when Mbeki came into office South Africans did not, we can be excused for having made the mistake of Thabo Mbeki as a country, because he was, as the word was used then, he was supposedly an enigma, not much was known even though the man had been deputy president for five years, not much was known

about Thabo Mbeki and he had somehow managed not to be as public a figure as possible and hidden himself from us and he was a mysterious figure maybe it is our fault that we did not probe enough beforehand.

Jacob Zuma is not a closed book. We know what we are buying: the product is there on the shelf and with all its stains and what-what and ... we cannot as society blame anyone else five years down the line or three years down the line when it actually happens. We know when we as the media, I think, have that duty and responsibility to actually keep repeating what we know about Jacob Zuma and letting the public make up its own mind and the last part of the public actually has made up its mind that they like the guy, the stains and sores and blisters that he has.

But that is not to say that because of somebody's popularity that we as a media need to necessarily take that politically correct line and go and ... just simply go with public opinion, rather than taking the principled stance.

SCHMIDT: If you can just introduce yourself?

SABC: My name is [inaudible] from SABC Radio. Two questions to Mondli, firstly let me discuss this issue of popularity. As the media know we are one of "the editors" who are taking flack in terms of reporting about Jacob Zuma himself, given the fact of his popularity being overwhelming, the electorate in Polokwane, what we think should be the role of the media, because obviously the new ANC leadership is using that win, that overwhelming win, to say that this is a person who has

been legitimately elected. So how do you project your bravery in terms of assuring that you ask those tough questions?

MAKHANYA: As I pointed out just now I don't think anything changes. Yes he was popularly elected, he was popular before Polokwane and he continues to enjoy popularity within the party now, but the questions have not gone away. Do we simply go with the wind – and you will find a lot in business today, a lot of people in business saying he is going to be president of the country anyway, so let's just simply live with it and stop asking those questions ... lots of business people say that to us as editors. You know is it not in the interest of the country that the man be left alone and I would have issues about being party, about us in the media being party to a conspiracy of silence around an individual who has these question marks. History in five years' time, in ten years' time, whenever, when these issues come up when the man is in office then we will, the accusation, will come back and say but like "You guys did not ask the tough questions at the beginning" and I think it will be ... we will be failing our profession, we will be failing our country if we actually do not do so.

GORDIN: To add something: I agree with Mondli that you have got to go on asking the questions. I was just trying to make a slight point originally just taking your question about popularity. My point was that throughout 2007, and I am generalising but you have to be, because the media *isn't* a collective, the question was how come nobody in the media knew about

the popularity? That was my question, because there was no sign of it. It was a shock and horror at Polokwane ... and I was saying in a sense that not knowing about that popularity if you want to put it that way was a species of unfairness because the media just didn't want to know about the popularity was the point that I was trying to make.

SCHMIDT: Okay your second question?

SABC: Okay the last I have to Mondli again: what is the role of the mainstream press? It seems we have only two publications maybe the Sunday Times and the Mail&Guardian who are willing to stand up and expose things in the way ... do you think that some of other media that are critical have cowered to that silence itself to say that let's live with the fact that he will be president next year? And generally, have you answered Paul's question about the issue of the fiscus to say that there was this kind of a relationship that obviously benefited Schabir Shaik; are you able to substantiate to say that this was just a buddy-buddy relationship which never had any serious impact in terms of finances, of the fiscus. Thanks.

MAKHANYA: The man next to me from the Independent will disagree when you say there are only two newspapers that ask tough questions. I think the South African media in general, I mean like, there are different levels of strength in the South African media but I think the South African media in general is quite strong. I think if you look across the board from

1994 when the ANC government came in and opened up a space for free media ... no, no, it wasn't the ANC opened up the free media – democracy opened up the media. There was no sense in the media that “let's have a honeymoon period”. They have been asking the questions right at the beginning and made the government very uncomfortable because the government I mean like they said “We are the liberators how come now we are being portrayed as the bad guys?” Well as soon as questions around corruption, questions around lack of delivery were happening, they ... the ANC was used to being the good guys as I said, and now basically they were being questioned very strongly.

And I don't think that they have actually, I don't think that has quite set in among a lot of people in the ANC about the fact that you are in government and the questions that are being asked are not just the questions being asked by journalists, there are questions that people are asking. So what is the role I think that we in South Africa have? I think more than in any other society we have a much greater responsibility around not only asking the tough questions and exposing the wrong things, but there is a building things as well. The society – and when I am saying “building” I am not just talking about like airy-fairy stuff about basically good news and what-what, but about being a place where previously divided people – actually get to talk to each other and understand each other where the debates around issues, around whether it is right policy and the transformation of the society that should be happening.

I think that other people in the rest of world can ... [inaudible] I think they have the luxury of being in settled places where actually there isn't that higher role. I don't quite know how I mean like ... I can't have the answers about how you do it, but I think that we are doing it anyway if not in a structured way, but I do think that at the back of our minds there is that thing basically kind of creative how do we help create a normal society. I don't know if I am answering your question properly?

SCHMIDT: Your question about the fiscus.

SABC: I just want to ask you to substantiate the assertion you have made about the level of ... the relationship, financially Zuma benefiting from Schabir Shaik, I think that Paul raised an important question about the issues of the fiscus to say he never took much if not any from that so, are you able to give us a broader view about what you said about that in terms of this alleged corruption?

GORDIN: In a sense what he is accused of, even if you were guilty was not part of the broader arms deal not directly part. Paul replied and said well, in the sense of him intervening to get the joint venture with Thompson's for Schabir Shaik, which meant that that didn't go to Richard Young, it went to Schabir Shaik's companies. Paul is saying, well you know it cost us more money, us South Africa, it cost us more money and that in a way is a connection with the arms deal.

I hadn't thought about that point. I mean I am going to have to think about that harder, but I still think there is a difficulty with connecting Zuma as part of the ... to the arms deal holus-bolus. I still think there is a hell of a difficulty, and I mean one of the interesting things that [Judge] Nicholson said in his judgment was why don't we have a commission of enquiry into the arms deal; there ought to be one. I have got a terrible feeling if there were one, I mean no one would show up except Schabir Shaik! I mean there are people and I don't know the man except by e-mail, I am sure he is a very nice person, but I mean one of my irritations with Andrew Feinstein's *After The Party* is, where are the facts? It is a very moving tale about how he felt rejected by the ANC, but where are the facts about the arms deal – and that is what I struggle with.

And I mean maybe Paul can tell us, who would show up looking for you know a blessing from a commission of enquiry if he told the truth – or she?

MAKHANYA: Ja, I have got a question for my fellow panellist and the question is, as a journalist first and foremost and then as a citizen and thirdly as somebody who has covered the Shaik trial very extensively and was in court and probably have an encyclopaedic knowledge of every document I mean like of all the ... of the documentation and the evidence led, some proven, are you not bothered, concerned, about the individual? Ja I think you get what I am saying, are you not concerned about the probity of this particular individual knowing what you know?

GORDIN: I understand your question. I have grappled, to be quite honest with you and I shouldn't be, I have grappled with his probity and what has basically come out of those charges. But I think without going into a long story there is another side of the story. I am not sure whatever the courts might say, that it is complete corruption, and I think there is another side to the Zuma story and I think above all – and this is I guess my coming to terms with the whole story has been – there is a reality and the reality is not as gorgeous and starry-eyed as we might like to believe. I mean as you know, but as many people don't know I was just reading this morning for example that before Polokwane, Lekota led the charge for Mbeki against Zuma and he [Lekota] said "Well you know Mbeki and Zuma are like tongue and saliva," which I thought was rather a nice quote, like tongue and saliva.

And they were like tongue and saliva, and I mean and nobody is you know of perfect probity and that is the reality and the reality is political power and the ANC want political power, they have got political power, this is the man they voted in, and I think in some sense one has to accept that. Sure, I agree with you one should ask the questions and one should go on asking the questions, but one should ask the questions fairly. I think you wanted to say something about the arms.

HOLDEN: I have got a couple of things I just want to interject in, because it seems that there is a conspiracy to not let me get the microphone on this side of the table! I take issue with the idea of the popular president, I really do. I don't particularly like this idea that we

should somehow see Jacob Zuma as the popular expression of the people based on a political party process either: they are the majority party and 60% of the votes of Polokwane, but that does not necessarily make him the most popular president, the most popular politician in the country.

And in fact I will tell you who I have been following quite closely, the results have been coming out recently about what people's public opinions are about certain leaders and the thing that I have come across quite a lot of, and polls are very difficult, they are very amorphous there is obviously quite a few issues with how they are conducted, but what I have come across as a consensus in most of them is that Jacob Zuma out of the choice of Thabo Mbeki and Kgalema Motlanthe and Jacob Zuma he is the least popular of them all and in fact there was a poll that reflected that he had a 35% favourability rating, which means 35% of the population approves of him as the president of the ANC and possibly of the country, probably even less than George W. Bush – and he is probably one of the most discredited presidents in US history.

So ideally the popular president I think is one of the weird myths that actually does surround Zuma that he is the ultimate expression of an underground political world that the media just doesn't want to engage with and I think it is because outside of the ANC that question is a lot more complex and it can't be taken for granted and I think that is part of the response that people are having to ... what Mail&Guardian calls the Shikota party. I think that most of that is rallied around two particular individuals; you see it again and again in statements. It is Jacob Zuma

and Malema, they are coming across as figures who attract considerable criticism and people are expressing something that we need to put on the table.

The other issue about the arms deal, about whether he damaged the fiscus there is a couple of points you have to make here, I have made one example, I have given one example, there are a couple of others. The first is that active corruption is committed by both commission and omission and what that means is that if somebody is in a position of power they don't necessarily have to commit corruption, commit an act specifically that would justify corruption, but they are also considered to be guilty if they have a particular duty in the role that they hold, in the position that they hold and they don't fulfil that for whatever end and the basic reality is that the court has established very clearly that what Schabir Shaik and Thompson were doing was party to those discussions, was involved in the meetings, agreed to the proceedings and we have to acknowledge that that was a decision that cost us money, because they ... [inaudible] but also because he was supposed to do a particular thing. He was supposed to say no to that ... [inaudible] that is the point about this, is that he was put into a position of authority and he was supposed to prove to us that why we put him in power was that he exercise that responsibly and the only criticism you can possibly have is that he didn't intervene to stop what he knew what was going on or what seems to be ... we are pretty certain that he knew what is going on.

The other issue is about the letter and this is the last point I will make the letter that he wrote to Heath, the reason why Heath was

excluded is very simple: he was excluded because it was only his unit that had the power to cancel the arms deal contracts, which is why they were so particularly scared of Heath, we are talking about certain ANC leaders, because if he found corruption in the arms deal he was actually legally entitled to instigate proceedings to cancel the entire arms deal, thereby saving us R47-billion of misspent money.

So the idea that excluding Heath somehow doesn't relate to the arms deal is just simply not true. The reality is that we seem to have a very clear indication that there was corruption in the arms deal, certain key contracts like the Hawk and the Gripen, which cost us an absolute fortune simply would have been cancelled if Jacob Zuma, whoever he was working with at that time didn't intervene in that way.

SCHMIDT: Okay just to take it out of the old boys' club here back to our audience.

DON: My name is Don from the Sowetan I am still worried, not satisfied by you know your answer to the question about whether or not you think he stole from the fiscus, but I guess I will have to wait for the book to come out. The competition between Mark Gevisser and Ronald Suresh Roberts is about how much time Mbeki has given each one of them. Have you spent enough time with Zuma and, you know, has that amount of time satisfied you that the media has really castigated him, he shouldn't have suffered you know the indignity of all those cartoons and you know whatever else he is made to go through? To Mondli, if we go

back to you know the abused phrase “my day in court – I want to have my day in court” should we not perhaps speed up the process and say before 2009 and I don’t know when it is going, at what point exactly it is going to be made, but should we not say that we maybe for posterity’s sake, that when history judges us as you know practitioners during this period, we should be able to say to them that we tried.

You know should we not hasten the process and say Mr Zuma it is in your best interest to have your day in court so that you know it can be resolved and we know that the leader who comes is someone with a you know the sort of probity that can allow him you know the status of head of state.

SCHMIDT: We are getting back to issues of fairness.

GORDIN: Obviously if there is someone you want to write about and there is also someone with whom it takes time to get where you want to go, where you think you want to go there is never enough time and unfortunately Zuma’s life went a bit crazy after Polokwane, because he became President of the ANC. And he is not the kind of person you know who sits behind a computer screen and studies the Internet, he is the opposite, he does things personally that is how he operates and so, no, there wasn’t enough time and I don’t know how much is enough. It is like, how long is a piece of string? I would have liked more time. And what was the second question, should the press be castigated?

DON: [Mic not on]

GORDIN: Were you here for the beginning? No, no I mean I do think in some ways he has been treated unfairly and not in stupid ways and I mean if Zapiro wants to put a shower-head on his head that is fine. But I think in certain ways of approaching him and in certain ways in which he was handled he was treated unfairly, that was all. I speak under correction: that phrase “his day in court” is one of those phrases that really annoys me, because every editor at least in my group, and there are a few, says: “somebody needs to write an editorial asking why Zuma doesn’t want his day in court”.

He *never* said he wanted his day in court. I think it was Thabo Mbeki who said in the firing speech in 2005, and you will actually find it in this book, “Mr Zuma needs his day in court”. Zuma never said he needed his day in court, that is A. B, he had his day in court in 2006, it is not his fault that Msimang threw it out. I don’t know why people keep on going on about his day in court. And thirdly he *doesn’t want* his day in court: these are very serious charges and I must say if you look at the Scorpions paper or the NPA’s papers it is a very strong case and I don’t know what his defence is going to be if he ever gets there, but it is a tough one.

MAKHANYA: Jeremy is right. I mean like it was not said in such a way but Zuma did say at the very beginning that he would not answer questions I mean like he would not play this thing through the media. I

mean I am not sure of the exact wording, but like that if anyone has anything to say, has any allegations against him of a criminal nature he would answer those things in a court of law. I mean like he worded it ... ja, I mean it was paraphrased to basically become that, but it does mean the same thing.

He criticised the Gripens. I think one day I would like to ... no, no, no you know what I think it is really sexy for a country to have like you know shiny planes... even one day we will be able to bomb Swaziland or some... no I don't mean that it is nonsense! But on the question of Jacob Zuma, whether we should be saying to Jacob Zuma that this matter should be speeded up, Jeremy is right that Jacob Zuma does not want, it is not in Zuma's best interest to go to court, because I mean like ... ja those charges are serious and I think that is the reason we should be worried ... go to court and clear his name and as a citizen he is fully entitled, it is a constitutional state he is fully entitled to fight all the way, not to have a single day no, no, for the trial never to be heard. And I honestly, I don't believe that the trial will ever be heard. In which case then I think he should ... he does owe all the people of the Republic some kind of answers, he owes us answers about those things, all those things that are contained in the court papers whatever, what do you call it, the evidence boxes, the evidence pile.

I do not believe that it is good enough for him to simply say once the charges have been totally, I mean once the NPA's case has been totally prevented from going to court, I don't think it is good enough for him to simply say okay here I am buy me and I will rule over you, not

actually having answered those questions. Unfortunately the court, the single most important agenda item of the post-Polokwane ANC has been to keep Jacob Zuma out of court so that he will have a smooth run to the Union Buildings and I do think that they have won and that is not to say that we as the media, we as journalists should simply sit back and accept that.

ANGELA MAKOLWA: Thank you my name is Angela Makolwa I am not a journalist I am on the other side as a public relations practitioner. The one thing that I want to say on the issue is I want to play devil's advocate, I don't recall any other politician in a democratic society who is a president in waiting who has been scrutinised to the extent that Jacob Zuma has been scrutinised and maybe it is because of the flaws in this character that we know so much about him, but I for instance now we have Lekota and Shilowa coming up with Shikota and if I were to examine any of those two characters' potential let's say as presidential candidates and I were to compare them to Jacob Zuma in terms of how much I ... [inaudible] in terms of you know who am I voting into power that we as the South African public know so much about that man that I think in the interest of democracy we are in a better position than most people in democratic societies.

He is not perfect, he is not even close to, but all I am saying is that I don't recall any presidential candidate being scrutinised to this extent and I don't recall any other democratic society knowing as much about a candidate as much as we do about him that is all.

KAYE: Okay my name is Kaye just like Angela over here I am not in the media I am one of those bloggy techies as Mike just point out there, but I am coming from, I have heard all the points that you guys have mentioned and I like what ... his name has just slipped me, the editor from Sunday Times, Mondli, thank you. Mondli you say there is something about Jacob Zuma being an open book for the whole public to know, obviously just touching on what Angela just said right now about the scrutiny and everything you know, obviously the more a book is open the more details and the more perceptions you tend to build on it you know. Don't you think that maybe a lot of the way the articles are received are written are probably based on perceptions?

I mean like obviously we take a Julius Malema you know obviously this whole ... there was a little saga that came out about how can he be President of the ANC Youth League he only did Matric and all that. It tends to build a perception in people's minds to say okay look he doesn't have a high enough you know education, qualification is he fit or not you know. And also I wanted to point out something, you have mentioned something about you knows the whole thing about his day in court and it may not in his best interests to get into court. What would you think if you guys were in the position to say ... [inaudible] Jacob Zuma saga once and for all you know and just sort out this whole grey-area thing. What do you think would be the best way to make sure that this whole matter gets sorted out for the interest of the whole country in general?

SCHMIDT: Shall we go to Mondli?

MAKHANYA: I disagree strongly with you saying that no other president in waiting of a democratic country has been scrutinised in this way. Any American election if you just want any American ... those guys you know, they fall by the wayside during primary election time, because they found out that during high school you went into the toilets and did something you shouldn't have done. I mean they actually ... the American elections are ... they take it to the extremist of extremes there is nothing, there is nothing today that if you wanted to know about Barack Obama that you would not know, because the American, I mean it is like as a result of the contestation I mean basically kind like both intra-party, within the parties and between the parties, so I think that ... I think you are absolutely incorrect in saying so because in other democratic societies people do fall by the wayside, because they are scrutinised very thoroughly.

So I think that is an incorrect statement. In South Africa I think Jacob Zuma is definitely the most scrutinised leader in this country and there is a reason for that. I mean there have been criminal, very serious criminal charges that have been proffered against him.

UNKNOWN: [Mic not on]

MAKHANYA: Yes and do we like the picture we see? I mean I think that is the question. I mean and like just because we know ... just because we scrutinised them and found bugs and ticks and lice and we are happy with it. I mean like is that not the question that ... do we like what we see and I think obviously the ANC likes what it sees, but I mean it doesn't

mean that for the rest of the society we should simply fall into place and say okay.

UNKNOWN: [Mic not on]

MAKHANYA: I think that is a very wrong departure point to basically say they are all corrupt anyway, they are all flawed anyway so therefore let's just accept what ... I mean the society I want to live in is not a society that should accept compromise on ... and that is just talking about public morality, I am not talking about sexual morality or anything like that I am just talking about public morality about how you conduct yourself as a leader ethically. Ja I think we should strive to the highest standards of that because the moment you say we must accept certain levels of flaw in our politicians, we must accept certain levels of them not being perfect and I think once ... at what point do you gauge the level of wrongness that should be acceptable? What are acceptable levels of flaw? And I mean I think that obviously no human being is perfect. None of us sitting in this room are perfect, but I think that ... I think it is a wrong departure point when you say "they're all corrupt, so let's take him as he is", I think that is absolutely incorrect.

To the question about, is it as a result of perception? No, no it is not a perception: there are tons and tons and tons of documents in boxes that have been... I mean it is not perception, there is a criminal, there was a criminal investigation into Jacob Zuma and it is not made up and there was his close financial advisor, a close friend and financial advisor

is in jail today in a case relating to him. And so it is not perception: it is Julius' concern it is not perception either. I mean Julius did get a G for woodwork okay so I mean ... and I mean and I am not saying that simply because he only got a certain level of school that is not what people are saying. People talk about Julius because of what Julius has become and Julius did not become what he became when he said "kill for Zuma". Julius led a march in Johannesburg City Centre six years' ago and beat up hawkers and stole from them, and like, he was part of it. The Gauteng Education Department banned him from coming within 500 metres of schoolyards. I mean like the NEC. So I mean it is not like a perception the man is ... ja, anyway.

UNKNOWN: [Mic not on]

MAKHANYA: How do we sort it out? I think I will leave that to Paul I mean like the ... [intervenes]. I don't think it will be sorted out. The only way to sort it out is for Jacob Zuma to go to court and the court case is heard and he clears his name in a court of law, because he believes he is innocent and that the charges will never stick, but obviously legal strategy wise he does not want that to happen, he wants to prevent that, himself going to court because once he gets to court it is a whole different story. But I do think that the only thing that is going to happen is that ... sorry ja, the ANC is going to push for Jacob Zuma to become president of the country and then Jacob Zuma will become president of the country and we will have a highly questionable person as our president.

There was, I don't remember who it was, a very wise retort in a radio debate one day about the political solution to Jacob, what political solution could be arrived at. And the person said that the only political solution that can be arrived at is that the ANC does not put Jacob Zuma forward as their presidential candidate, then we solve the problem, but then obviously the law has to take its course there. The NPA has not been as strong as it can be I think in ... I mean like there was a ... [inaudible] as Jeremy points out in 2006 where they were not ready to proceed on the day and I think that you can have sympathy for him in that respect, but I can...

HOLDEN: The person is supposed to solve everything that is unresolved in other fashions. I think there are a couple of points you know what can be done, what should we do, we should let the law take its course. You know the simple reality is that even where we might disagree with Jacob Zuma's legal strategy he is perfectly entitled to that strategy and we got to recognise the fact. The system of prosecution and judicial review is one that has been set up to apply to everyone equally and has been set up with the Constitution in mind and we would solve nothing by forcing an expedition of this case I don't think.

I don't think it is fair to expect him to go to court earlier than the legal system requires him to. I think he is perfectly entitled to do whatever he needs. As for whether he has had his day in court as Jeremy suggests and Msimang threw it out and it is not his fault that Msimang threw it I find it a little bit disingenuous seeing that his own legal

team had asked them to throw it out, so ... and the matter of the basic factor is that whenever we have had Jacob Zuma in court we are sitting with a procedural matter and nothing to do with what actually people. I think I mostly want to hear about what was the relationship, what were you doing, how does this reflect on you?

And you know I have had this question posed to me quite a few times: what can be reached? The one is a judicial commission of enquiry and I would like to point out that in a judicial commission of enquiry the participants wouldn't be voluntary; they would be called by the requisite judge, but I think what you [Mr Gordin] got confused with was with amnesty, an amnesty commission.

UNKNOWN: [Mic not on]

HOLDEN: No sure, but the matter of an amnesty I think it is a terrible idea. I think it is a shocking idea and I think it is only an idea that makes no moral, ethical or political sense. I mean the reality is that we have ... we had the original TRC process, because there was a public trade-off. The South African public agreed to the TRC and in return to amnesty for full disclosure, and at an emotional level and to be honest I don't believe that without some sort of punitive enforcement that anybody will come clean, because such an amnesty process would be, with full disclosure, would be the end of a number of political careers so it is not in anybody's interests to disclose; it is a house of cards. So an amnesty is not going to work.

It is also a question of: is it morally acceptable to adopt an amnesty process and I don't think it is because these weren't politically motivated crimes in the same way as for example a ... look at the number of people who applied at the TRC; those were politically motivated; these are politicians who are acting of their free will who undertook processes and decisions specifically to enrich themselves – and that is very different to the crimes that were considered under the TRC. Does that answer everything?

SCHMIDT: I found that quite interesting what Paul had to say of people's expectations and what they want to get out of the court case, out of a trial and what their expectations of the judicial process are and the people who were participating in the judicial process as well. I covered the Shaik trial for the late lamented ThisDay newspaper. While I was scribbling down all the words verbatim, a lot of other journalists were sitting there with their pens poised above the paper waiting to hear something like "Mercedes Benz" or something, quickly dash something down, you know they were looking for a dramatic quote. Nobody really seemed to want to spend time trying to come up with a very nuanced picture of what was Schabir Shaik's paper tiger arms empire? What was it exactly, because that didn't really make for sexy newspaper copy, but the trial was about why it was to, to buy your phrase, a house of cards. Anyway I see we have another question from the audience here? We do need to get wrapping up as well, so perhaps we could just have very brief concluding remarks from our panel thanks.

UNKNOWN MALE: I think I am going to ask this question I think it is for the second time now: I don't think you have answered us with regard to how do you think Zuma was unfairly treated by the media. You have conceded that at some time he has been treated very fairly, but I really want to blog about this question. I want to have Mondli tell me why he says that they had to report and the media had that responsibility to report about him, just scrutinise him as a person that have been very close to Mr Zuma. I think you will be able to get us that perspective now to say that what do you think are the key points that you want to raise that will enable us tomorrow to write about you know, thinking about it, the media coverage and post Polokwane. Have you seen some change in terms of the trend of reporting about the persona of Mr Zuma?

GORDIN: I think what I wanted to say was that there was normal, what you might call normal, abnormal unfair reporting and there are specific examples, which you can find, for example the way in which he was reported on in terms of things he said during his rape trial. He was made a laughing-stock of or made a buffoon. Unfortunately some of the answers weren't too great, but I am saying they were taken out of context often and the context was a very tough cross-examination and a very difficult cross-examiner, [Charin] de Beer of the NPA of Johannesburg, and a very kind of insidious and almost contemptuous cross-examiner so that is the one thing.

Then I am saying before ... I am talking about, I am saying there have been different attitudes in the media to Zuma at different times pre-

Polokwane that he couldn't do anything right and there was a lot of wringing of hands ... and I am not talking about hard news now, I mean there are different kinds of media coverage. I am talking a lot about columns and analyses and opinion pieces, there was a lot of wringing of hands and "Oh woe us, we have got this man and how can we elect him? What a falling off we have had since Nelson Mandela!" That is a bit of unfairness, okay?

And then I am saying there is an even larger unfairness when you keep on holding him up to some kind of non existent standard.

[Nothing further recorded]
