



An ageing Nelson Mandela's voluntary departure from the presidency in 1999 was a great moment. But an even harder test arises where a relatively youthful leader, feeling himself to be in the middle of an innings well played, encounters a narrow majority of longtime comrades who vociferously disagree, for reasons he believes to be misinformed. What to do?

In facing this unprecedented test Thabo Mbeki has supplied a second great, and existentially tougher, example. "If men were angels, no government would be necessary," I wrote in *Fit to Govern*, quoting the great United States institution-builder, Alexander Hamilton, whom Mbeki had quoted before me. "If angels were to govern men, neither external nor internal controls on government would be necessary." Mandela's strength was in the mythical currency of the angelic. Mbeki has meanwhile demonstrated that frail humans can fight hard but still, in the end, respect rules.

Mandela was no saint, but he seemed one. Mbeki and Zuma, by contrast, are systematically demonised by the colonial media. Even as Zapiro lampooned Zuma and Mbeki, in successive cartoons, as both rapists of justice, the legal and political developments suggested the opposite.

In Zuma's case (an aspect unchallenged by Mbeki's appeal) Judge Chris Nicholson looked to the established practice of public prosecutors in Trinidad and correctly granted Zuma the right to make representations. In Mbeki's case a demonised "dictator" graciously left office after the vote of a mere party political committee.

As these events unfolded it was strangely Nicholson who began to look like the runt of the litter, commenting, for instance, that he did not foresee the consequences of his decision, a suggestion that, if true, conjures less a goddess of justice than a bumbling and stumbling Mr Magoo.



Registration for the Polokwane conference was full of energy, with supporters of the two factions squaring off before the start. Photograph: Oupa Nkosi

"At its lowest then," Nicholson wrote, "[Mbeki's] decision to stand as party leader was controversial and not in accordance with the Westminster system we espouse in this country."

This was irrelevant to the point in issue, contradicted the ANC's constitution and was simply incomprehensible. Which "we" is it who "espouse" the Westminster system? Where and how? Westminster's House of Lords is utterly unelected while our National Council of Provinces is elected. We have a written Constitution, a Bill of Rights, term limits and a presidency, all of which Westminster lacks.

Wim Trengove's team's unforced error in sponsoring an unnecessary motion to strike Zuma's "political conspiracy" allegations led Nicholson on to this political terrain. It was the single most momentous misjudgement by a legal strategist in South Africa's history, apartheid and post-apartheid combined.

Even if these aspects (irrelevant to Zuma) are reversed on appeal, the damage to judicial prestige, the ANC, the National Prosecuting Authority, constitutional order and political stability — to say nothing of Mbeki's person and presidency — is historically unprecedented. Threats to policy continuity, financial market



stability and the national welfare linger and expand. Mbeki's richest legacy is, ironically, his newest: the dignity and calm that he has laboured to restore amid the chaos sown by a muddled judge and the hubristic Trengove team.

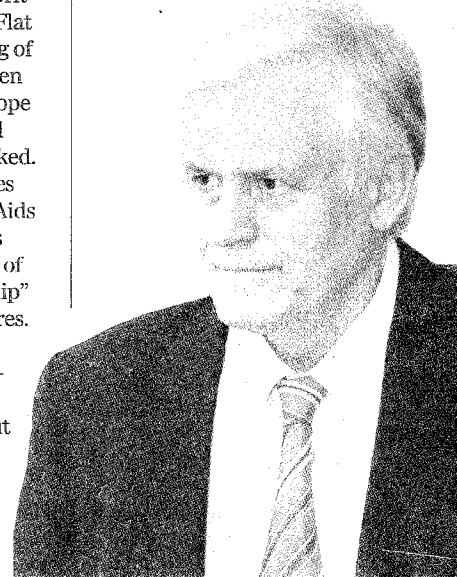
Mbeki and Zuma suffer what British journalist Nick Davies calls "Flat Earth News": the casual recycling of "facts" by a media too profit-driven to investigate facts — just as Europe believed the world to be flat until Columbus actually went and looked. For Mbeki flat earth news dictates supposedly ghastly legacies on "Aids and Zimbabwe", while Zuma has already faced the flat earth myth of the "generally corrupt relationship" discovered by Judge Hilary Squires.

The palpable Mbeki-brokered outbreak of democracy in Zimbabwe is already slowly reversing the flat earth news-flow there. But on HIV/Aids, flat earth stuff lingers. You will never see a Zapiro

Laying down the law: Judge Chris Nicholson

cartoon where Judge Edwin Cameron unbuckles to rape the goddess of truth, despite Cameron's metaphorically rapine association of ANC HIV/Aids policy with Nazi holocaust denial. Zackie Achmat, too, is apparently a non-rapist, despite the Treatment Action Campaign's spurious accusation that the ANC president deliberately killed millions of black people.

As Vicki Robinson wrote in her review of my book in the *Mail & Guardian*



ian, Fit to Govern contains "a convincing argument for how Mbeki's stance on HIV/Aids has been misunderstood and in turn capitalised on by powerful individuals such as Supreme Court of Appeal Judge Edwin Cameron."

In a hopelessly speculative flat earth manoeuvre (for details, see my ThoughtLeader blog: "Gevisser on Aids: A Complicity of Opposites") Mark Gevisser comically imagines that Mbeki himself demanded, in June 2007, that the world should know him as an Aids denialist. To sustain this flat earth crap Gevisser (who studied creative writing at Yale) creatively ignored Mbeki's comments to the *Financial Times* mere weeks earlier: "Nobody has ever shown me where I did [deny that HIV causes Aids]. They say it. But you say where, when, they can't. It was never said. I never did ... You have got to attend to HIV absolutely, but you have got to attend to these other matters." (April 3, 2007).

Presidential spokesperson Mukoni Ratshitanga protested that *Business Day* "fails adequately to separate the opinions of the author, Mark Gevisser, from the opinions of President Thabo Mbeki, when [it] writes that 'Gevisser says Mbeki spoke of his denialism as recently as June this year when he again questioned the link between HIV and Aids.'" (November 18 2007).

Recently Gevisser conceded in the *Sunday Times* that Mbeki rejects Gevisser's attempts at mind reading. As with Zimbabwe, Mbeki's legacy on Aids policy will eventually be argued by facts and not by partisan implantation of words in Mbeki's mouth or by ongoing censorship of arguments such as mine.

Contributors' guidelines: Each week the *M&G* receives at least 10 contributions to its opinion pages. Articles have the best chance of publication if they are between 750 and 800 words; anything longer must be gobsmackingly brilliant and word perfect. Topical issues are likely to grab our attention, and we will not consider articles that respond to reports in other newspapers. Provocative and persuasive argument wins over didactics every time; style and wit also triumph over polemic.