

Selebi trial timeline

IN COURT | The steps leading to the conviction of Jackie Selebi on a charge of corruption on Friday.

- September 10 2007 — A warrant of arrest against Selebi is obtained by the National Prosecuting Authority (NPA).
- January 12 2008 — Former president Thabo Mbeki announces Selebi is to go on extended leave, after the NPA announces Selebi will be charged.
- February 1 2008 — Selebi appears at the Randburg Magistrate's Court, where he is charged with corruption and defeating the ends of justice. The case was then transferred to the South Gauteng High Court and the trial was scheduled to start on April 14 2009.
- February 20 2009 — Judge Nico Coetzee orders that Selebi must be given almost all the documents he had previously applied for.
- April 14 2009 — Judge Meyer Joffe postpones trial to allow the prosecution to petition the Supreme Court of Appeal (SCA) over Judge Coetzee's judgment and to complete its investigations.
- October 5 2009 — Selebi's trial begins.
- October 21 2009 — Selebi's legal team asks Judge Joffe to recuse himself, saying he is biased.
- October 30 2009 — Judge Joffe dismisses the application for his recusal.
- November 23 2009 — State Security Minister Siyabonga Cwele asks the court not to compel national intelligence co-ordinator Barry Gilder to testify.
- December 2 2009 — Trial postponed to allow Mr Cwele to petition the SCA to overturn Judge Joffe's ruling that Mr Gilder should testify. Following the SCA's refusal, he approaches the Constitutional Court.
- March 1 2010 — Trial resumes after the Constitutional Court refused Mr Cwele's application for leave to appeal.
- April 12 2010 — Judge Joffe dismisses Selebi's application for discharge.
- July 2 2010 — Judge Meyer Joffe delivers his judgment.

Fragile institutions resist pressure

REACTION to the court's guilty verdict on Friday, in the case of former national police commissioner Jackie Selebi on charges of corruption, has been unanimous, a rare and interesting development in post-apartheid SA.

This unusual commonality across the political spectrum highlights what most analysts have hailed as one of the positive elements that have come out of the trial — that institutions in SA, however fragile, do work.

All parties point to the fact that the court process underlines that even the powerful, including the likes of former national police commissioners who hailed from the African National Congress (ANC), are answerable to the law. Even a cursory glance at the statements, from the Democratic Alliance to the ANC Youth League, paints a common picture that says the law must take its course and that no one, no matter how powerful, is above the law.

Prof Steven Friedman, of the Centre for the Study of Democracy, says while Selebi might well still appeal against the judgment handed down by Judge Meyer Joffe in the South Gauteng High Court last Friday, the fact that Selebi was prosecuted in a fair trial, in which he had the opportunity to defend himself, is an obvious "step forward".

"Despite the constant wringing of hands when senior people are fingered for corruption, what is important is that the system works. These people are brought to account," he says.

But of concern is the effect a guilty verdict has on the perceptions of institutions' durability and their ability to withstand relentless efforts by powerful figures who want to skew their functioning to serve nefarious purposes.

As this case demonstrates, Selebi and criminal figures managed to bribe their way out of investigation by the authorities.

One of the lessons in the Selebi saga, says Prof Friedman, is the premium that has to be placed on the association of senior public officials with people of questionable repute. "Selebi didn't meet these characters in dark corners. He was open about it and how that could be allowed is the issue that must receive attention.

"He should have been told that he cannot associate with known criminals," Prof Friedman says.



CORRUPT: Former national police commissioner Jackie Selebi is seen at the High Court in Johannesburg on Friday, where he was found guilty of corruption. Picture: SAPA

What the case also highlights is that senior public officials are corruptible, says senior political researcher at the Human Sciences Research Council, Dr Mcebisi Ndletyana. "What we need to realise is that our institutions are vulnerable, that senior bureaucrats can be corrupted, which implores us to sharpen our instruments to watch over them.

"Someone has to guard them, especially if one considers instances where there is a blurring between the person and the office," he says.

Selebi's brazen association with underworld figures, such as Glenn Agliotti, is an example of how he conflated his own power as an individual with that which he derived from the office he held.

Selebi's decision to take the stand in his own defence was in many ways an extension of his belief in his own "invincibility".

Many now say that this decision damned him on the stand in the eyes of Judge Joffe, who slated Selebi as a man of highly questionable judgment.

Both Prof Friedman and Dr Ndletyana agree the Selebi prosecution underlines the real need for an independent investigations and prosecutorial unit with the power and the will to go after anyone, no matter how powerful, provided that there is just cause.

"I think the debate around the Scorpions was misplaced," Prof Friedman says.

"The issue was not whether the people leading them were honest guys or not. What you need is a unit that can go after powerful people in the police and elsewhere if there is a case that needs answering, who does not answer to the police commissioner."

While former president Thabo Mbeki is yesterday's man, his

protection of Selebi at the time again raises issues about what his motives were. Dr Ndletyana says the outcome of the Selebi trial only serves to reconfirm Mr Mbeki's propensity to use state institutions "unevenly" despite his legacy as the great "moderniser and builder of institutions".

"In reality, Mr Mbeki could not detach himself from individuals and only displays willingness to go after people if their political agenda conflicted with his."

But Prof Friedman says the Mbeki factor is a dead horse in today's politics. "This is politics, you are not dealing with saints.

"Mr Mbeki protected the guy but in the end it didn't make much difference. The issue is: why did Mr Mbeki protect him?"

The way in which corruption is best beaten depends on several factors. The most important is political will, solid and indepen-

dent institutions unfettered by political overlords, and people willing to blow the whistle when things go wrong.

Those who argue Selebi went down largely because he is a throwback of the Mbeki era and no longer enjoys any cachet in the ANC may have a point.

However, most of the corruption in public life that is exposed — in some instances leading to prosecutions and convictions, as was the case with Selebi — is often by people in the system who have had enough or have to protect themselves when they run into trouble with the law, which potentially compromises them and makes a successful prosecution difficult.

Going after powerful figures in any society will always be an uphill battle no matter who is president and which party is in power.

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State bodies' role in helping accused displeases judge

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JUDGE Meyer Joffe not only found that former police commissioner Jackie Selebi accepted money and clothing from his former friend Glenn Agliotti in return for favours, he also found the conduct of the prosecution in Selebi's trial was not improper and deplored the way in which some government agencies seemed to assist the accused.

The judge's comments were a warning to government agencies to respect the independence of the prosecuting authority to ensure that it exercised its functions without fear, favour or prejudice.

Selebi, who was convicted on a count of corruption in the South Gauteng High Court on Friday, had always claimed that his prosecution was instituted with an ulterior motive, because he supported the dissolution of the Scorpions, the unit which was under the control of the National Prosecuting Authority (NPA).

In his plea explanation at the beginning of the trial in October last year, Selebi claimed he was targeted because of his views on the Scorpions, that he received information alleging that former national director of public prosecutions Bulelani Ngcuka was corrupt, and that he was investigated because he questioned Mr Ngcuka's successor Vusi Pikoli, on how he obtained shares through his wife in an improper way.

Judge Joffe found there was no merit in Selebi's argument that he was targeted because of his views on the Scorpions.

The judge said Selebi did not develop his argument on Mr Ngcuka's alleged wrongdoing. The meeting that Selebi claimed to have had with Mr Pikoli did not take place, the court found.

The judge commented on an affidavit signed by Agliotti on January 4 2008 that found its way into the chambers of Selebi's defence team the next day.

He also commented on a DVD recording three days later in which Agliotti stated how the now-defunct Scorpions had

targeted Selebi in a bid to ensure the survival of the unit. Agliotti said in the recording he had never bribed Selebi. The affidavit and the DVD recording were made in the presence of a senior police crime intelligence official and a deputy director at the National Intelligence Agency. The judge said the recording and the affidavit were made to assist Selebi.

The judge said a 2007 affidavit by the former head of the Scorpions in KwaZulu-Natal, Lawrence Mrwebi, also found its way to Selebi's lawyers.

Mr Mrwebi's affidavit describes how the Scorpions discussed how to counter the ruling party's plan to disband it. The affidavit was used by Selebi in his January 2008 application to stop the Scorpions prosecuting him.

In his testimony, Mr Mrwebi said the former Scorpions chief, Leonard McCarthy, instructed the unit to ensure that "we arrest as many police officers as possible".

"This is an unfortunate statement. It is not clear how (the statement) impacts on the independence of the prosecution," the judge said.

He also found that the arrest of prosecutor Gerrie Nel in January 2008 was designed to affect Selebi's prosecution.

Mr Nel was arrested on January 8 2008, by 20 armed policemen at his home, on charges of defeating the ends of justice. The charges were withdrawn by the prosecution a week later and he has not been tried.

At the time of his arrest, the NPA expressed serious concern about the process followed by the police in arresting Mr Nel.

Commenting on the DVD recording, the judge said none of the statements Agliotti made in the recording, individually or cumulatively, meant the accused did not have a fair trial.

Agliotti claimed in the recording that the chief investigator in the Selebi case, Andrew Leask, had told him they had targeted him and Selebi in the press, with the intention of tarnishing Agliotti so they could bring down Selebi.

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