

Law and rhetoric: An analysis of the rhetorical techniques employed by President Cyril Ramaphosa to restore the rule of law in South Africa

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Introduction

Cyril Ramaphosa is arguably one of the leaders who have played a pivotal role in the evolution of a democratic South Africa. Subsequent to his imprisonment by the apartheid regime, first in 1974 and again in 1976, Ramaphosa co-founded the National Union of Mineworkers (NUM) with James Motlatsi and Elijah Barayi in 1982.¹ He became NUM's first General Secretary and during his tenure he led the labour union during a 1987 miners' strike that was one of the defining moments in the anti-apartheid struggle.² As NUM's General Secretary, Ramaphosa was instrumental in the establishment of the Congress of South African Trade Unions (COSATU), which remains the largest of South Africa's three main trade union federations, with 16 affiliates.³

He was later appointed chairperson of the Reception Committee that was entrusted with receiving the "Rivonia trialists" and, in January 1990, he accompanied the released African National Congress (ANC) political prisoners to Lusaka in Zambia.⁴ He also served as chairperson of the National Reception Committee that coordinated arrangements for the release of Nelson Mandela. Following the unbanning of the ANC and other political parties by then President F.W. de Klerk on 2 February 1990, Ramaphosa was elected Secretary-General of the ANC at its first national conference in July 1991 in over 30 years. He became head of the ANC's negotiation team at the Convention for a Democratic South Africa (CODESA) and the ensuing multi-party talks.⁵

After South Africa's first democratic elections on 27 April 1994, he became a Member of Parliament (MP) and was elected as Chairperson of the Constitutional Assembly. By virtue of that position, he was responsible for the drafting of South Africa's internationally acclaimed Constitution. In 2009, this contribution earned him the bestowal of the National Order of Baobab in Silver.⁶ Upon completion of the

¹ Department of Planning, Monitoring and Evaluation, "President Cyril Ramaphosa: Profile", *Department of Planning, Monitoring and Evaluation*. Retrieved from: <https://www.dpme.gov.za/about/Pages/President-Cyril-Ramaphosa.aspx> [Accessed 11 April 2019].

² Thapelo Tselapedi, "Who is Cyril Ramaphosa? A Profile of the New Leader of South Africa's ANC", *Sowetan Live*, 22 December 2017. Retrieved from: <https://www.sowetanlive.co.za/news/south-africa/2017-12-22-who-is-cyril-ramaphosa-a-profile-of-the-new-leader-of-south-africas-anc/> [Accessed 3 September 2019].

³ Congress of South African Trade Union, "Cosatu Submission on: Public Investment Corporation, the PIC Amendment Bill and Related Matters, June 2019", *Department of Justice*. Retrieved from: <http://www.justice.gov.za/commissions/pic/st/PIC-20190619-COSATU.pdf> [Accessed 4 September 2019].

⁴ Department of Planning, Monitoring and Evaluation, "President Cyril Ramaphosa: Profile".

⁵ African National Congress, "Cyril Ramaphosa: Biography", *African National Congress*. Retrieved from: <https://www.anc1912.org.za/cyril-ramaphosa> [Accessed 4 September 2019].

⁶ The Order of the Baobab is awarded to South African citizens for distinguished service in the fields of business and economy, science, medicine, technological innovation, as well as community service. The Presidency, "Order of the Baobab", *The Presidency*. Retrieved from: <http://www.thepresidency.gov.za/national-orders/order-baobab-0> [Accessed 11 April 2019].

Constitution-drafting process, Ramaphosa resigned from Parliament. At the time, speculation around his resignation was rife that he was disgruntled because he had been overlooked by then President Nelson Mandela, who made Thabo Mbeki rather than him the second most powerful person in the country.⁷ After quitting active politics, Ramaphosa ventured into business, where he became one of South Africa's most successful and wealthiest business leaders.

In 2010, Ramaphosa was appointed Deputy Chairperson of the National Planning Commission (NPC), a body created to draft a long-term National Development Plan (NDP) for South Africa.⁸ In December 2012, he was elected ANC Deputy President at the party's 53rd National Conference in Mangaung, in the Free State Province.⁹ On 25 May 2014, he was appointed Deputy President of South Africa. In December 2017, Ramaphosa was elected the ANC's 13th President at its 54th National Conference in Nasrec, in Gauteng, narrowly beating his contender, Dr Nkosazana Dlamini-Zuma, by 2 440 votes to the latter's 2 261 votes.¹⁰ On 15 February 2018, Ramaphosa was sworn in as President of South Africa, following the resignation or "recall" of erstwhile President Jacob Zuma.¹¹

Ramaphosa ascended to the presidency at the time when the future of South Africa looked bleak. The majority of state institutions, apart from the judiciary, the Office of the Public Protector, and the Office of the Auditor-General, were on the verge of total collapse. Corruption and allegations thereof had become the norm rather than the exception. The South Africa that most South Africans, and the people of the world, had envisioned in 1994 when the country metamorphosed into a democracy, was slipping away. President Ramaphosa aptly captured the prevailing mood at the time, as he postulated in his first State of the Nation Address (SONA) that it was "the era of diminishing trust in public institutions and weakened confidence in leaders".¹² Despondent South Africans therefore saw Ramaphosa's election as a beacon of hope. Grabbing the *kairotic* moment, the newly minted president assured South Africans of the beginning of "a new dawn". He promised them "a period of change". He undertook to bring about "renewal and revitalisation".¹³

While Ramaphosa's undertakings might have been music to the ears of his interlocutors, he had to surmount a particular hurdle. As noted above, he won the ANC presidency by a narrow margin. This meant that he was hamstrung in making

⁷ Mark Gevisser, "South Africa's Cattle King President", *The New York Review of Books*, 22 December 2017. Retrieved from: <https://www.nybooks.com/daily/2017/12/22/south-africas-cattle-king-president/> [Accessed 11 April 2019].

⁸ Department of Planning, Monitoring and Evaluation, "Cyril Matamela Ramaphosa: The President", *Operation Phakisa*. Retrieved from: <https://www.operationphakisa.gov.za/Pages/President.aspx> [Accessed 4 September 2019].

⁹ Deshnee Subramany, "Mangaung: The ANC's Newly Elected Top Six", *Mail & Guardian*, 18 December 2012. Retrieved from: <https://mg.co.za/article/2012-12-18-mangaung-the-ancs-newly-elected-top-six> [Accessed 4 September 2019].

¹⁰ Azad Essa, "Cyril Ramaphosa Wins ANC Leadership Vote", *Al Jazeera News*, 18 December 2017. Retrieved from: <https://www.aljazeera.com/news/2017/12/cyril-ramaphosa-wins-anc-leadership-vote-171218160626593.html> [Accessed 29 April 2019].

¹¹ City Press, "Cyril Ramaphosa Officially Sworn in as President of SA", *City Press*, 15 February 2018. Retrieved from: <https://city-press.news24.com/News/cyril-ramaphosa-officially-sworn-in-as-president-of-sa-20180215> [Accessed 4 September 2019].

¹² The Presidency, "President Cyril Ramaphosa: 2018 State of the Nation Address", *The Presidency*, 16 February 2018. Retrieved from: <https://www.gov.za/speeches/president-cyril-ramaphosa-2018-state-nation-address-16-feb-2018-0000> [Accessed 3 May 2019].

¹³ *Ibid.*

certain key policy decisions. He had no complete free rein. For example, the ANC's National Executive Committee (NEC), the organisation's highest organ and highest decision-making body between National Conferences, was/is dominated by the Dlamini-Zuma faction. Of the eighty members of the NEC, forty-seven were aligned to the Dlamini-Zuma faction.¹⁴ This implied that these NEC members did not share Ramaphosa's vision. Indeed, they were aligned with the prevailing political order that President Ramaphosa sought to replace.

The same held true for the ANC's other important structure, popularly known as the "Top Six". The "Top Six" consists of the party's President, Deputy President, Secretary General, Deputy Secretary General, Treasurer and National Chairperson. Three of these were allies of Dlamini-Zuma, while two were close to Ramaphosa.¹⁵ Serious allegations of corruption and related malfeasance had been levelled against the "Top Six" members belonging to the Dlamini-Zuma faction. There was therefore a strong public view, as well as an expectation, that if Ramaphosa's commitment to clean governance had any iota of credibility, he had to do something about the allegations levelled against these individuals.¹⁶ This posed a dilemma for Ramaphosa. He had to tread carefully, because if he had bowed to public pressure and directly acted against these individuals, such an act could have been perceived as purging his foes at the Nasrec conference. Indeed, this could have had the potential of factionalising the ANC further.

In an endeavour to demonstrate to the people that he was not merely paying lip service to clean governance, on the one hand, and to preserve the unity of the ANC, on the other, Ramaphosa had recourse to the law. He set up three Judicial Commissions of Inquiry, as well an enquiry in terms of section 12(6) of the National Prosecuting Authority Act,¹⁷ all related to the abuse and "capture" of state institutions in South Africa.¹⁸ These commissions are known as the State Capture inquiry, the

¹⁴ Mike Cohen and Paul Vecchiatto, "Ramaphosa Fails to Secure Majority Control of NEC", *Times Live*, 21 December 2017. Retrieved from: <https://www.timeslive.co.za/sunday-times/business/2017-12-21-ramaphosa-fails-to-secure-majority-control-of-nec/> [Accessed 3 May 2019].

¹⁵ John Campbell, "The ANC's 'Top Six' in South Africa", *Council on Foreign Relations*, 19 December 2017. Retrieved from: <https://www.cfr.org/blog/ancs-top-six-south-africa> [Accessed 14 May 2019].

¹⁶ The public view that Ramaphosa had to weed out of his party those elements who were perceived to be corrupt was epitomised by the leader of the African Christian Democratic Party (ACDP), Rev Kenneth Meshoe, who asserted in his *Reply* to Ramaphosa's 2018 State of the Nation Address that "The ACDP calls on President Ramaphosa to urgently root out corruption by starting with his cabinet. ... We want to see captured ministers and deputy ministers who are entangled in a web of corruption investigated as soon as possible. Justice must be seen to be done, and done without fear or favour." See Kenneth Meshoe, "Ramaphosa Must Urgently Root Out Corruption Starting with his Cabinet", *African Christian Democratic Party*, 19 February 2018. Retrieved from: https://www.acdp.org.za/ramaphosa_must_urgently_root_out_corruption_starting_with_his_cabinet [Accessed 4 September 2019]. Also see Jason Burke, "Who is Cyril Ramaphosa? South Africa's New Leader Faces Huge Challenges", *The Guardian*, 15 February 2018. Retrieved from: <https://www.theguardian.com/world/2018/feb/14/who-is-cyril-ramaphosa-south-africa-president> [Accessed 10 November 2019]. Also see James Hamill, "Why the ANC itself is the Chief Impediment to Ramaphosa's Agenda", *Mail & Guardian*, 17 December 2018. Retrieved from: <https://mg.co.za/article/2018-12-17-why-the-anc-itself-is-the-chief-impediment-to-ramaphosas-agenda> [Accessed 4 September 2019].

¹⁷ No. 32 of 1998.

¹⁸ James de Villiers, "Everything You Need to Know about All the Commissions of Inquiry Currently in South Africa", *Business Insider South Africa*, 3 December 2018. Retrieved from: <https://www.businessinsider.co.za/state-of-inquiry-of-commission-south-africa-2018-11-2> [Accessed 14 May 2019].

South African Revenue Services (SARS) Commission, the Public Investment Corporation (PIC) Commission, and the Mokgoro Enquiry. Both the setting up of commissions and the Mokgoro Enquiry, I submit, have been part and parcel of Ramaphosa's strategy to counter any argument or perception that casts doubt on his commitment to clean governance. Perhaps more importantly, given that Ramaphosa has limited or constrained political power to weed out corrupt elements within the ANC government, he had to devise a mechanism to attain this goal. The commissions and the Mokgoro Enquiry are therefore a well-calculated move on the part of Ramaphosa to get rid of the rotten apples, while trying not to be viewed to be settling political scores. The ultimate objective is to convey an unequivocal message that anarchy has no place in the Ramaphosa administration.

This paper analyses how President Ramaphosa employs rhetorical devices to restore the rule of law in South Africa and how he uses rhetorical techniques to mobilise South Africans to support him in this regard. Adherence to the rule of law is a *sine qua non* to ensure that Ramaphosa attains the objectives that he has set out to achieve. A country where the rule of law is upheld is conducive to economic and human development.¹⁹ Conversely, impunity, whether real or perceived, is inimical to much-needed investment to address the country's socio-economic ills.²⁰

The Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector, including Organs of State

The report of the former Public Protector, now Associate Professor Thuli Madonsela, titled *State of Capture*, delineates evidence of state capture having been conducted by external agents on state functionaries.²¹ The report unearthed the presence of a strong, influential oligarchy that existed outside the formal structures of government, but parallel to primary functionaries in government. This illicit and clandestine relationship between public functionaries and oligarchical external agents appears to have been a drain on the state's monetary resources. Indeed, the Minister of Public Enterprises, Pravin Gordhan has painted a gloomy picture of the extent of state capture as he maintains that many state-owned enterprises "are in deep financial difficulties and will be unable to trade their way out of their difficulties".²²

The covert relationship further led to the redirection of resources that could have been utilised for socio-economic development, from the poor and destitute to the pockets of the affluent.²³ This phenomenon has been fittingly characterised by Borhat *et al* as the "repurposing of state institutions in accordance with a political project

¹⁹ Alvaro Santos, "The World Bank's Uses of the 'Rule of Law' Promise in Economic Development", in D. Trubek & A. Santos (eds.), *The New Law and Economic Development: A Critical Appraisal*, (New York: Cambridge University Press, 2006), pp. 253-300; Mogoeng Mogoeng, "The Rule of Law in South Africa: Measuring Judicial Performance and Meeting Standards", *Constitutionally Speaking*, 25 July 2013. Retrieved from: <https://constitutionallyspeaking.co.za/transcript-chief-justice-mogoeng-on-the-rule-of-law-in-south-africa/> [Accessed 4 September 2019].

²⁰ Michael R. Anderson, "Access to Justice and Legal Process: Making Legal Institutions Responsive to Poor People in LDCs", Paper for Discussion at WDR Meeting, 16-17 August 1999. Retrieved from: <https://constitutionallyspeaking.co.za/transcript-chief-justice-mogoeng-on-the-rule-of-law-in-south-africa/> [Accessed 4 September 2019].

²¹ Public Protector of South Africa, "State of Capture, Report No. 6 of 2016/17", *Saflii*. Retrieved from: <http://saflii.org/images/329756472-State-of-Capture.pdf> [Accessed 17 May 2019].

²² Pravin Gordhan, *2019/20 Budget Vote: Public Enterprises* on 11 July 2019, Cape Town, Parliament of the Republic of South Africa.

²³ Peter Labuschagne, "Patronage, State Capture and Oligopolistic Monopoly in South Africa: The Slide from a Weak to a Dysfunctional State?", *Acta Academica*, 49(2), 2017, p. 52.

mounted by the Zuma-centred power elite".²⁴ In one of the findings of their study, researchers maintain:

"These pre-meditated and co-ordinated activities are designed to enrich a core group of beneficiaries, to consolidate political power and to ensure the long-term survival of the rent-seeking system that has been built by this power elite over the past decade. To this end a symbiotic relationship between the constitutional state and the shadow state that has been built and consolidated."²⁵

To address this unpalatable state of affairs, Madonsela's report recommended, inter alia, that the then President Zuma appoint a commission of inquiry into state capture in South Africa. In addition, the report stated that the presiding judge of the commission had to be appointed by the Chief Justice, Mogoeng Mogoeng. Then President Zuma challenged the report and approached the Pretoria High Court with a view to having it set aside.²⁶ The erstwhile President's point of contention was that it was his prerogative to appoint the person to head the commission and that the discharging of such power by the Chief Justice would contravene the doctrine of the separation of powers. However, Zuma's court application to have the Public Protector's recommended remedial action reviewed and set aside was dismissed with costs. The Court also refused Zuma leave to appeal.²⁷

The judicial inquiry into state capture was instituted by the then President Zuma on 23 January 2018 and is headed by Deputy Chief Justice Zondo, who was appointed as per the former Public Protector's recommendation. Moreover, the commission derives its mandate from "the Constitution, relevant legislation, policies, and guidelines, as well as the order of the North Gauteng High Court of 14 December 2017".²⁸ The official proclamation of the commission enjoins it to inquire, investigate and make recommendations as regards all allegations of corruption and fraud in the public sector. The commission is also empowered to "where appropriate, refer any matter for prosecution, further investigation or the convening of a separate enquiry to the appropriate law enforcement agency, government department or regulator regarding the conduct of certain person/s".²⁹

Since the commencement of its work on 20 August 2018, the State Capture inquiry has had more than 100 testimonies on the extent of the alleged corruption that

²⁴ Haroon Borat, Mbongiseni Buthelezi, Ivor Chipkin, Sikhulekile Duma, Lumkile Mondi, Camaren Peter, Mzukisi Qobo, Mark Swilling and Hannah Friedenstein, "Betrayal of the Promise: How South Africa is being Stolen", *Public Affairs Research Institute*, May 2017. Retrieved from: <https://pari.org.za/wp-content/uploads/2017/05/Betrayal-of-the-Promise-25052017.pdf> [Accessed 10 June 2019].

²⁵ *Ibid.*

²⁶ *President of the Republic of South Africa v. Office of the Public Protector and Others* (91139/2016 [2017] ZAGPPHC 747; 2018 (2) SA 100 (GP); [2018] 1 All SA 800 [GP]; 2018 (5) BCLR 609 (GP) (13 December 2017).

²⁷ News24, "I was Trying to Protect State Capture Inquiry' - Zuma on Challenging Madonsela's Report", *News24*, 19 December 2018. Retrieved from: <https://www.news24.com/SouthAfrica/News/i-was-trying-to-protect-state-capture-inquiry-zuma-on-challenging-madonselas-report-20181219> [Accessed 20 May 2019].

²⁸ J.G. Zuma, "Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State", *Government Gazette*, 25 January 2018. Retrieved from: http://www.justice.gov.za/legislation/notices/2018/20180125-gg41403_P3-StateCaptureCommissionTOR.pdf [Accessed 20 May 2019].

²⁹ *Ibid.*

was one of the hallmarks of Ramaphosa's predecessor's administration. On numerous occasions, President Ramaphosa has created the impression that he will use the implementation of the recommendations emanating from the State Capture inquiry as an archetype to demonstrate that lawlessness will cease to be the norm in South Africa. Referring to the commission in his 2018 SONA, he stated: "The Commission is critical to ensuring that the extent and nature of state capture is established, that confidence is restored and that those responsible for any wrongdoing are identified."³⁰

In the same vein, following the resignation of the then Minister of Finance, Nhlanhla Nene – after testifying at the commission that he had been invited by the Gupta family to their Saxonwold home – Ramaphosa maintained that "[i]t is critical that the Commission has the means and opportunity to fulfil its mandate".³¹ Having recourse to the argument of reciprocity, Ramaphosa intimated that all those who are implicated in state capture should be treated the same, irrespective of their social standing: "In this process, no person should be above scrutiny, and all relevant and credible accusations of wrongdoing should be thoroughly investigated."³²

Ramaphosa reiterated these sentiments in a public engagement held in Sandton in April 2019. On this occasion, he contended:

"In the course of this whole process there are certain things that are actionable. Those who have done things wrongly must be prosecuted. There must be jail time. Accountability is at a great premium, we must be accountable for what we've [sic] done. It must be without any fear, without any bias, without any prejudice."³³

Ramaphosa's argument was predicated on the principle of equality before the law. Commenting on how a judge applies this principle in practice, Perelman asserts:

"The impartial judge is just because he deals in the same way with all those to whom the same ruling applies, whatever the consequences may be. Thus he may be compared to a pair of scales or to a machine to which all passion is foreign. They can neither be intimidated, nor corrupted, nor moved to pity. *Dura lex, sed lex*. The rule is equality before the law, or to put it in another way, it is the interchangeability of justiciables."³⁴

It was vitally important for Ramaphosa to assure his interlocutors that there would be adherence to the application of the principle of equality before the law, because there was, rightly or wrongly, a generally held view that there was one justice system for the political elite and another one for the populace. Ramaphosa further appealed to those who might have had information within the purview of the commission to come forward:

³⁰ *Ibid.*

³¹ Cyril Ramaphosa, "Ramaphosa's Statement on his Appointment of Tito Mboweni as Finance Minister", *Fin24*, 9 October 2018. Retrieved from: <https://www.fin24.com/Economy/read-ramaphosas-statement-on-his-appointment-of-tito-mboweni-as-finance-minister-20181009> [Accessed 21 May 2019].

³² *Ibid.*

³³ Amil Umraw, "'There Must be Jail Time', says Cyril Ramaphosa of Zondo Commission", *Times Live*, 4 April 2019. Retrieved from: <https://www.timeslive.co.za/politics/2019-04-04-there-must-be-jail-time-says-ramaphosa-of-state-capture-commission/> [Accessed 23 May 2019].

³⁴ Chaim Perelman, *Justice, Law and Argument: Essays on Moral and Legal Reasoning*, with an introduction by Harold L. Berman, (Dordrecht/Boston/London: D. Reidel Publishing Company, 1980), p. 37.

“It is incumbent upon any person who may have knowledge of any of the matters within the Commission’s mandate to provide that information to the Commission, to do so honestly and to do so fully. For the country to move forward, we need to establish the full extent of state capture, identify those responsible for doing it, and take decisive steps to prevent it happening again.”³⁵

The alleged corruption has not only been a matter of interest to South Africans. Even potential donors have been following how the state addresses the socio-economic malaise that arose from it, with a keen interest. It stands to reason that no investor is willing to pour its money into a country that is perceived to be corrupt.³⁶

Ramaphosa aptly comprehends this sad reality and he has therefore considered it necessary to assure the international community or potential investors that his government is using the state capture inquiry to tackle corruption head-on. Indeed, in his engagement with the German President in November 2018, he metaphorically depicted the inquiry into state capture as “a cleansing process of all the bad things that have happened in our country”.³⁷

Similarly, speaking at the World Economic Forum in Davos, Switzerland, while on a foreign direct investment trip, Ramaphosa told his audience: “The positive thing is, while the truth comes out, it is adding to our resolve as a country and as government and as a people to fight corruption, to bring it on an end and to make sure that those who have been complicit in acts of corruption are brought to book.”³⁸

The impression that Ramaphosa is committed to restoring the rule of law, as well as eradicating corruption, might have been called into question by allegations that his son, Andile Ramaphosa, was implicated in questionable financial dealings with a controversial government service provider, Bosasa.³⁹ During the *Questions to the President Session* on 6 November 2018, the leader of the Democratic Alliance (DA), Mmusi Maimane, asked Ramaphosa to set the record straight on the alleged payment of R500 000 by Bosasa to his son, which Maimane alleged to have discovered in a sworn affidavit by the former Bosasa auditor, Peet Venter.⁴⁰ Responding to Maimane’s question, Ramaphosa said: “My son has a financial consultancy business, and he consults for a number of companies. One of those companies is Bosasa. *I asked him at close range whether this money was obtained illegally or unlawfully.*”⁴¹

³⁵ Ramaphosa, “Ramaphosa’s Statement on his Appointment of Tito Mboweni as Finance Minister”, 9 October 2018.

³⁶ Raluca Elena Iloie, “Connections between FDI, Corruption Index and Country Risk Assessment in Central and Eastern Europe”, *Procedia Economics and Finance*, 32, 2015, p. 628. Retrieved from: <https://core.ac.uk/download/pdf/82166526.pdf> [Accessed 22 May 2019].

³⁷ Lindsay Dentlinger, “State Capture Inquiry Part of SA’s Cleansing Process – Ramaphosa”, *Eyewitness News*, 2018. Retrieved from: <https://ewn.co.za/2018/11/20/state-capture-inquiry-part-of-sa-s-cleansing-process-ramaphosa> [Accessed 22 May 2019].

³⁸ Cebelihle Bhengu, “President Cyril Ramaphosa on State Capture, Eskom and Job Creation”, *Herald Live*, 25 January 2019. Retrieved from: <https://www.heraldlive.co.za/news/2019-01-25-president-cyril-ramaphosa-on-state-capture-eskom-and-job-creation/> [Accessed 22 May 2019].

³⁹ Thabo Mokone, “Ramaphosa’s Son Implicated in Dodgy BOSASA Payment, Maimane Says in Parliament”, *Times Live*, 6 November 2018. Retrieved from: <https://www.timeslive.co.za/politics/2018-11-06-ramaphosas-son-implicated-in-dodgy-bosasa-payment-maimane-says-in-parliament/> [Accessed 10 November 2019].

⁴⁰ Kyle Cowan, “Ramaphosa Admits his Son has Done Business with Bosasa”, *News 24*, 6 November 2018. Retrieved from: <https://www.news24.com/SouthAfrica/News/ramaphosa-admits-his-son-has-done-business-with-bosasa-20181106> [Accessed 27 May 2019].

⁴¹ *Ibid* [my emphasis].

Averring that he was privy to the contract between Bosasa and his son, Ramaphosa asseverated: “*He [Ramaphosa junior] is running a clean business [emphasis added] ... if it turns out there was any irregularity or corruption I will be the first, I assure you Mr Maimane, I will be the first to make sure he becomes accountable. I will take him to the police station myself.*”⁴²

Ramaphosa’s audience, especially people who still recalled his role in drafting the country’s Constitution, might have found his argument persuasive as it resonated with one of the fundamental tenets of the Constitution, namely, equality before the law.⁴³ In other words, they might have viewed him as a man of honour. Commenting on honour, Perelman and Olbrechts-Tyteca assert that “[a] man’s word of honor, given by him as the sole proof of an assertion, will depend on the opinion held of that man as a man of honour.”⁴⁴

Ten days later, in his letter to the then Speaker of the National Assembly (NA), Baleka Mbete, Ramaphosa changed his story, contending that:

“I have been told that the payment to which the Leader of the Opposition [Mmusi Maimane] referred was made on behalf of Mr Watson [the former Chief Executive Officer of Bosasa] into a trust account that was used to raise funds for a campaign established to support my candidature for the Presidency of the African National Congress. The donation was made without my knowledge. I was not aware of the donation at the time that I answered the question to the National Assembly. I thought it best to furnish this information to clear any confusion.”⁴⁵

This turn of events brought the age-old adage, “to err is human, to forgive divine”, into play.⁴⁶ While some of Ramaphosa’s interlocutors might have been readily willing to give him the benefit of the doubt that he had made an honest mistake, others were not persuaded or convinced. Exemplifying the latter category of Ramaphosa’s audience were Mmusi Maimane and Julius Malema, who approached the Public Protector to investigate whether Ramaphosa had wilfully misled and lied to Parliament when he responded about the money paid to his son.⁴⁷

The Commission of Inquiry into Tax Administration and Governance by the South African Revenue Service (SARS)

Ramaphosa announced the setting up of the SARS Commission in his 2018 SONA.⁴⁸ Headed by retired Judge Robert Nugent, the SARS Commission was constituted on 24 May 2018 under Proclamation 17 of 2018 amid concerns over SARS missing collection targets, delayed value added tax (VAT) refunds and reports of governance

⁴² *Ibid.*

⁴³ *The Constitution of the Republic of South Africa*, 1996, section 9(1).

⁴⁴ Chaïm Perelman and Lucie Olbrechts-Tyteca, *The New Rhetoric: A Treatise on Argumentation*, trans. J. Wilkinson and P. Weaver, (Notre Dame / London: University of Notre Dame Press, 1969), p. 305.

⁴⁵ The Presidency, “President Clarifies Response to a Parliamentary Question”, *The Presidency*, 16 November 2018. Retrieved from: <http://www.thepresidency.gov.za/press-statements/president-clarifies-response-parliamentary-question> [Accessed 27 May 2019].

⁴⁶ Oxford Living Dictionaries, “err”, *Oxford Living Dictionaries*, n.d. Retrieved from: <https://en.oxforddictionaries.com/definition/err> [Accessed 29 May 2019].

⁴⁷ Julius Malema is the leader of the third largest political party in Parliament, the Economic Freedom Fighters (EFF).

⁴⁸ The Presidency, “President Cyril Ramaphosa: 2018 State of the Nation Address”, *ibid.*

issues. In a nutshell, the terms of reference of the commission covered the following aspects:⁴⁹

- The adequacy and legality of steps that SARS took to address the revenue shortfalls in the last two years, including allegations of the unauthorised payment of bonuses to top executives and the withholding of refunds owed to ordinary taxpayers;
- The performance of tax administrative duties and the application of discretionary powers required or enabled by existing tax legislation;
- The adherence to tax administrative processes, and whether deviations from the established processes unfairly benefited politically connected persons and persons connected to top managers of SARS;
- The adherence to customs and excise provisions, with particular reference to tobacco products;
- The adherence to internal personnel policies and Human Relations practice, in light of the exit of senior personnel and the alleged coercion of SARS officials to resign;
- The impact of the conduct of SARS management on the public image of SARS, upholding the basic values and principles governing public administration envisaged in section 195 of the Constitution;
- The impact of any change in the operating model of SARS operations; and
- The integrity of supply chain management and tendering processes.

The first hearing of the commission took place four months after the suspension of the then SARS Commissioner, Tom Moyane, by President Ramaphosa, after he refused to step down voluntarily.⁵⁰

In his letter suspending Tom Moyane, dated 19 March 2018, Ramaphosa postulated:

“With regards [*sic*] to the performance of your duties, I wish to cite two areas of particular concern:

[Y]our treatment of the report given to you by the Financial Intelligence Centre, listing your transgressions, and your failure to report to the Minister immediately not only violated the FIC [Financial Intelligence Centre] but also violated the provisions of section 195 of the Constitution which you are enjoined to fulfil in terms of section 4(2) of the SARS Act, specifically the maintenance of high standards of professional ethics, ensuring public administration is accountable, and being transparent to the public. You failed to provide related reports to the Minister of Finance, and only finally agreed to do so under pressure from the Standing Committee on Finance last week. You failed to maintain discipline at SARS as required in section 9(2) of the SARS Act or to maintain an efficient administration. You have further and thereby failed [*sic*] in your role as an accounting officer for SARS. As a result, the SARS has been fundamentally jeopardised and has lost the confidence of tax-payers.”⁵¹

⁴⁹ The Presidency, “The Commission of Inquiry into Tax Administration and Governance by SARS”, *The Presidency*, 11 December 2018. Retrieved from: <http://www.thepresidency.gov.za/report-type/commission-inquiry-tax-administration-and-governance-sars> [Accessed 31 May 2019].

⁵⁰ Sibongile Khumalo, “Suspended SARS Boss Tom Moyane’s Disciplinary Hearing Commences”, *Fin24*, 21 July 2018. Retrieved from: <https://www.fin24.com/Economy/Labour/suspended-sars-boss-tom-moyanes-disciplinary-hearing-commences-20180721-2> [Accessed 30 May 2019].

⁵¹ Matamela Cyril Ramaphosa, “Dear Commissioner Moyane”, *Politicsweb*, 20 March 2018. Retrieved from: <https://www.politicsweb.co.za/documents/tom-moyane-suspended--cyril-ramaphosa> [Accessed 31 May 2019]

By referring to the breach of the Constitution, as well as the SARS Act, Ramaphosa had recourse to the argument by example.⁵² He invoked the Constitution as the supreme law of the land, as well as the founding legislation of a commissioner's position, with a view to underlining the gravity of Moyane's transgressions and to demonstrate why his suspension was warranted. A failure to suspend Moyane, despite such serious contraventions, could have cast doubt on Ramaphosa's commitment to restoring the rule of law. In an endeavour to amplify his argument, Ramaphosa provided another example: "In relation to the management of VAT refunds, you [Moyane] have brought the SARS into serious disrepute, failed in your duties as accounting officer for the SARS and potentially jeopardised the integrity and viability of the SARS as collector of revenue for the State."⁵³

Akin to the two previous "transgressions" that Ramaphosa had alleged, this was a grave violation. Tax is more than just a source for revenue and growth. It also plays a key role in building up institutions and democracy through making the state accountable to the taxpayers.

The commission released its interim report on 18 October 2018, and one of its core recommendations was that the then SARS commissioner, Tom Moyane, be removed "without delay" and that this was a "non-negotiable prerequisite" for the process of recovery at SARS to commence.⁵⁴ Ramaphosa heeded the SARS Commission's recommendation and fired Tom Moyane on 1 November 2018.⁵⁵

Commission of Inquiry into the Public Investment Corporation (PIC)

The PIC is a state-owned company that is tasked with managing nearly R2 trillion in assets, more than 98 percent thereof belonging to the government or its employees.⁵⁶ This includes the Government Employees Pension Fund, the Unemployment Insurance Fund and the Compensation Fund. The Commission of Inquiry into the PIC was appointed by President Ramaphosa on 17 October 2018 under section 84(2)(f) of the Constitution. The appointment of the commission was published in the Government Gazette No. 41979, under Proclamation 30 of 2018.⁵⁷ Chaired by retired Judge Lex Mpati, the erstwhile President of the Supreme Court of Appeal, the commission is entrusted with inquiring, making findings, reporting and making recommendations on the following:⁵⁸

⁵² Chaïm Perelman and Lucie Olbrechts-Tyteca, *The New Rhetoric*, p. 350.

⁵³ Ramaphosa, "Dear Commissioner Moyane".

⁵⁴ Judge R Nugent, "Interim Report: Commission into Tax Administration and Governance by the South African Revenue of Service", *Moneyweb*, October 2018. Retrieved from: <https://www.moneyweb.co.za/wp-content/uploads/2018/10/Interim-Report.pdf> [Accessed 30 October 2019].

⁵⁵ Sarah Smit & Gemma Ritchie, "Moyane Fired, Presidency Confirms", *Mail & Guardian*, 1 November 2018. Retrieved from: <https://mg.co.za/article/2018-11-01-moyane-fired-presidency-confirms> [Accessed 4 September 2019].

⁵⁶ Public Investment Corporation, "Welcome to the Public Investment Corporation", *Public Investment Corporation*. Retrieved from: <https://www.pic.gov.za/> [Accessed 4 June 2019].

⁵⁷ Department of Justice, "PIC Commission: Our Mandate", *Department of Justice*, 2018. Retrieved from: <http://www.justice.gov.za/commissions/pic/> [Accessed 3 June 2019].

⁵⁸ Department of Justice, "Proclamation No. 30 of 2018 by the President of the Republic of South Africa: Commission of Inquiry into Allegations of Impropriety Regarding Public Investment Corporation", *Department of Justice*, 17 October 2018. Retrieved from: <http://www.justice.gov.za/commissions/pic/docs/20181017-gg41979proc30-PICcomms.pdf> [Accessed 1 June 2019].

1. Whether any alleged impropriety regarding investment decisions by the PIC in media reports in 2017 and 2018 contravened any legislation, PIC policy or contractual obligations and resulted in any undue benefit for any PIC director or employee, or any associate or family member of any PIC director or employee at the time;
2. Whether any findings of impropriety following the investigation in terms of paragraph 1.1 resulted from ineffective governance and/or functioning by the PIC board;
3. Whether any PIC director or employee used his or her position or privileges, or confidential information for personal gain or to improperly benefit another person;
4. Whether any legislation or PIC policies concerning the reporting of alleged corrupt activities and the protection of whistle-blowers were not complied with in respect of any alleged impropriety referred to in paragraph 1.1;
5. Whether the approved minutes of the PIC board regarding discussions of any alleged impropriety referred to in paragraph 1.1 are an accurate reflection of the discussions and the board's resolution regarding the matters and whether the minutes were altered to unduly protect persons implicated and, if so, to make a finding on the person/s responsible for the alterations;
6. Whether all the investigations into the leakage of information and the source of emails containing allegations against senior executives of the PIC in media reports in 2017 and 2018, while not thoroughly investigating the substance of these allegations, were justified;
7. Whether any employees of the PIC obtained access to emails and other information of the PIC, contrary to the internal policies of the PIC or legislation;
8. Whether any confidential information of the PIC was disclosed to third parties without the requisite authority or in accordance with the Protected Disclosures Act, 2000, and, if so, to advise whether such disclosure impacted negatively on the integrity and effective functioning of the PIC;
9. Whether the PIC has adequate measures in place to ensure that confidential information is not disclosed and, if not, to advise on measures that should be introduced;
10. Whether measures that the PIC has in place are adequate to ensure that investments do not unduly favour or discriminate against -
 - 10.1 a domestic prominent influential person (as defined in section 1 of the Financial Intelligence Centre Act, 2001);
 - 10.2 an immediate family member (as contemplated in section 21H(2) of the Financial Intelligence Centre Act, 2001) of a domestic prominent influential person; and
 - 10.3 known close associates of a domestic prominent influential person;
11. Whether there are discriminatory practices with regard to remuneration of and performance awards to PIC employees;
12. Whether any senior executive of the PIC victimised any PIC employees;
13. Whether mutual separation agreements concluded in 2017 and 2018 with senior executives of the PIC complied with internal policies of the PIC and whether pay-outs made for this purpose were prudent;
14. Whether the PIC followed due and proper process in 2017 and 2018 in the appointment of senior executive heads and senior managers, whether on permanent or fixed-term contracts;

15. Whether the current governance and operating model of the PIC, including the composition of the board, is the most effective and efficient model and, if not, to make recommendations on the most suitable governance and operational model for the PIC for the future; and
16. Whether considering the findings, it is necessary to make changes to the PIC Act, the PIC Memorandum of Incorporation in terms of the Companies Act, 2008, and the investment decision-making framework of the PIC, as well as the delegation of authority for the framework (if any) and, if so, to advise on the possible changes.

In accordance with its terms of reference, the commission submitted its interim report on 15 April 2019, and was scheduled to hand in its final report by 15 April 2019. However, in his interim report, Judge Mpati requested an extension of three months, which is 31 July 2019.⁵⁹ The motivation given for the sought extension was that the “extent of the going investigations by the Commission’s forensic team into a considerable number of transactions” will need to be “concluded well in advance of the date of the submission of the final report to the President”.⁶⁰

While the motivation for the commission’s extension may suggest that the process will be somehow legalistic, it may equally imply that the commission will seek to be persuasive in the formulation of its recommendations to the President. Notwithstanding the fact that the recommendations that the judge will be making to President Ramaphosa will be largely predicated on legal reasoning, the judge will have to couch them in a way that will enable the adherence of his mind with that of his interlocutor (Ramaphosa).⁶¹ Indeed, commenting on the nexus between rhetoric and law, Perelman observes:

“At the same time the role of argumentation and rhetoric has grown in the application and evolution of law. This reality concerns the judge more than the lawyer. The judge who is more and more compelled to motivate his decision is less and less content to provide only formal correctness but tends to give his decisions a more persuasive character.”⁶²

Enquiry in Terms of Section 12(6) of the National Prosecuting Authority Act No. 32 of 1998

On 26 October 2018, President Ramaphosa provisionally suspended both Advocate Nomgcobo Jiba and Advocate Lawrence Mrwebi from their positions as Deputy National Director of Public Prosecutions (DNDPP) and Special Director of Public Prosecutions (SDPP) respectively, pending the finalisation of an enquiry into “their fitness and propriety to hold office”.⁶³ This was amid serious criticisms levelled against the two Advocates in the courts over whether they had acted without fear,

⁵⁹ Department of Justice, “Extension of the PIC Commission and Amendment of the Terms of Reference”, *Department of Justice*, 30 March 2019. Retrieved from: <http://www.justice.gov.za/commissions/pic/docs/PIC-ms-20190330-Extention.pdf> [Accessed 4 June 2019].

⁶⁰ Department of Justice, “Extension of the PIC Commission and Amendment of the Terms of Reference”.

⁶¹ Chaïm Perelman and Lucie Olbrechts-Tyteca, *The New Rhetoric*, p. 14.

⁶² Chaïm Perelman, *Justice, Law and Argument*, p. 124.

⁶³ The Presidency, “Enquiry in Terms of Section 12(6) of the National Prosecuting Authority Act 32 of 1998”, *The Presidency*, 1 April 2019. <http://www.thepresidency.gov.za/sites/default/files/Section%2012%286%29%20Enquiry%20report%20-%20unabridged%20version.pdf> [Accessed 5 June 2019].

favour or prejudice at all times in the execution of their duties. The terms of reference establishing the enquiry into Jiba and Mrwebi's "fitness and propriety to hold office" were published on 9 November 2018 in the Government Gazette No. 42029 of 2018.⁶⁴ President Ramaphosa designated retired Judge Yvonne Mokgoro as Chairperson of the enquiry.

The enquiry was also required to consider the manner in which Jiba and Mrwebi had fulfilled their responsibilities as DNDPP and SDPP, which included considering whether:

- [They] complied with the prescripts of the Constitution, the National Prosecuting Authority Act, Prosecuting Policy and Policy Directives and any other relevant laws in [their] position[s] as ... senior leader[s] in the National Prosecuting Authority and [are] fit and proper to hold the position and be ... member[s] of the prosecutorial service;
- [They] properly exercised [their] discretion in the institution, conducting and discontinuation of criminal proceedings;
- [They] duly respected court processes and proceedings before the Courts as ... senior member[s] of the National Prosecuting Authority;
- [They] exercised [their] powers and performed [their] duties and functions in accordance with prosecution policy and policy directives as determined under section 21 of the National Prosecuting Authority Act;
- [They] acted without fear, favour or prejudice;
- [They] displayed the requisite competence and capacity required to fulfil [their] duties; and whether,
- [They] in any way brought the National Prosecuting Authority into disrepute by virtue of [their] actions or omissions.⁶⁵

The enquiry was required to complete its mandate and furnish its report, together with all supporting documentation and recommendations, to the President by no later than 9 March 2019. This would have allowed the President to make his decision before the six-month time limit ended on 25 April 2019.⁶⁶ However, as matters turned out and with the indulgence of the President, the report was submitted on 31 March 2019.⁶⁷

Having listened to the testimony of seventeen witnesses - including the prosecutors - that spanned six weeks, as well as receiving two written submissions, the Mokgoro Enquiry found that Jiba and Mrwebi were not fit and proper to hold their respective offices because they lacked "complete honesty, reliability and integrity".⁶⁸ Accordingly, Judge Mokgoro recommended that both Jiba and Mrwebi be removed from office.

The retired judge was very critical of Jiba's lack of conscientiousness in considering the reputation of the NPA before her own. The judge concluded: "We find that Jiba's conduct has the effect of seriously damaging public confidence in the NPA. We find that as a senior member of the NPA, Jiba has displayed irreverence to the courts and indifference to their processes, resulting in adverse comments being made against her."⁶⁹

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

Mrwebi was found, among other things, to have acted against the interests of the NPA when he withdrew the charges against the erstwhile Crime Intelligence boss, Richard Mdluli.⁷⁰ Moreover, he was depicted as lacking an understanding of the law and how it is applied. In this regard, the Commission observed: “The courts have levelled criticisms and concerns in the manner in which Mrwebi has discharged the duties of his office and conducted himself towards the courts. Mrwebi’s conduct was openly at variance with what is expected of a person in his position.”⁷¹

The Mokgoro Enquiry concluded with the observation, among others, that NPA officials are required to be completely devoted to the rule of law, without fail, as the country depends on it. To this end, the enquiry maintained:

“As the sole entity constitutionally mandated to prosecute on behalf of the State, in the face of the scourge of crime, the confidence that the public enjoys in the NPA is what prevents individuals from taking law into their own hands. This confidence underpins the social contract. It lies in the belief that the State can offer protection where laws are not respected.”⁷²

After having studied the findings and recommendations of the Mokgoro Enquiry, President Ramaphosa ended the tenure of both Jiba and Mrwebi on 25 April 2019 and duly informed them.⁷³ In compliance with section 12(6) of the National Prosecuting Act (No. 32 of 1998), President Ramaphosa will furnish Parliament with documentation comprising his decision, as communicated to Advocates Jiba and Mrwebi, the report of the enquiry that serves as the basis for his decision, as well as the submissions made by both advocates in response to the report.

It is a truism that some have misgivings about the value of commissions of inquiry.⁷⁴ Ostensibly to counter this line of thinking, President Ramaphosa has created an impression that the country’s commissions will bring to book those who have been involved in malfeasance. Stating the ultimate objectives of the commissions that are currently underway and the ones that may be established in future, Ramaphosa once told his audience:

⁷⁰ Richard Mdluli is alleged to have been an ally of former President Zuma. A career policeman, he has been in the service for over 30 years. His name started to appear in the public domain around the time former National Police Commissioner, Jackie Selebi, was being prosecuted for corruption and then President Zuma was fending off similar charges. See Zintle Mahlati, “Suspended Crime Intelligence Boss Richard Mdluli ‘Relieved of his Duties’”, *IOL*, 17 January 2018. Retrieved from: <https://www.iol.co.za/news/politics/suspended-crime-intelligence-boss-richard-mdluli-relieved-of-duties-12770906> [Accessed 11 June 2019].

⁷¹ The Presidency, “Enquiry in Terms of Section 12(6) of the National Prosecuting Authority Act 32 of 1998”.

⁷² *Ibid.*

⁷³ The Presidency, “President Removes NPA Advocates Jiba and Mrwebi from Office”, *The Presidency*, 26 April 2019. Retrieved from: <http://www.thepresidency.gov.za/press-statements/president-removes-npa-advocates-jiba-and-mrwebi-office> [Accessed 6 June 2019].

⁷⁴ CapeTalk, “Are Commissions of Inquiry a Waste of Time in SA? Experts Share their Views”, *CapeTalk*, 22 January 2019. Retrieved from: <http://www.capetalk.co.za/articles/334897/are-commissions-of-inquiry-a-waste-of-time-in-sa-experts-share-their-views> [Accessed 4 June 2019].

“While these Commissions will in time make findings and recommendations in line with their mandates, evidence of criminal activity that emerges must be evaluated by the criminal justice system. Where there is a basis to prosecute, prosecutions must follow swiftly and stolen public funds must be recovered urgently.”⁷⁵

Continuing, Ramaphosa became more pragmatic:

“To this end, we have agreed with the new National Director of Public Prosecutions, that there is an urgent need to establish in the office of the NDPP an investigating directorate dealing with serious corruption and associated offences, in accordance with section 7 of the NPA [National Prosecuting Authority] Act.

I will soon be promulgating a Proclamation that will set out the specific terms of reference of the Directorate. In broad terms, the Directorate will focus on the evidence that has emerged from the Zondo Commission of Inquiry into State Capture, other commissions and disciplinary inquiries. It will identify priority cases to investigate and prosecute and will recover assets identified to be the proceeds of corruption.”⁷⁶

True to his word, on 20 March 2019, Ramaphosa proclaimed the establishment of the Investigating Directorate in terms of section 7(1) of the NPA Act (No. 32 of 1998). The new directorate is tasked with investigating “common law offences including fraud, forgery, uttering, theft and any other offence involving dishonesty”.⁷⁷ According to the communiqué by the Presidency, the directorate will also probe:

“any unlawful activities relating to serious, high profile or complex corruption including but not limited to offences or criminal or unlawful activities arising from the following commissions and inquiries:

- The Zondo Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State promulgated under presidential proclamation No. 3 of 2018 in Government Gazette No. 41403, 25 January 2018;
- The Nugent Commission of Inquiry into Tax Administration and Governance by the South African Revenue Service (SARS) established by presidential proclamation No. 17 of 2018 published in Government Gazette No. 41562 constituted on 24 May 2018;
- The Mpati Commission of Inquiry into Allegations for Impropropriety regarding the Public Investment Corporation, as published in Government Gazette No. 41979 of 17 October 2018; and
- Any other serious, high profile or complex corruption case referred to the new directorate by the National Director, in accordance with section 28(1)(b) of the NPA Act.”⁷⁸

Conclusion

If one were to give President Ramaphosa the benefit of the doubt, he appears to be acutely aware of the enormity of the challenges with which the country is confronted.

⁷⁵ The Presidency, “President Cyril Ramaphosa: 2019 State of the Nation Address”, *The Presidency*, 7 February 2019. Retrieved from: <https://www.gov.za/speeches/president-cyril-ramaphosa-2019-state-nation-address-7-feb-2019-0000> [Accessed 4 June 2019].

⁷⁶ *Ibid.*

⁷⁷ The Presidency, “President Cyril Ramaphosa proclaims NDPP Investigating Directorate to strengthen fight against corruption”, *The Presidency*, 20 March 2019. Retrieved from: <https://www.gov.za/speeches/president-cyril-ramaphosa-proclaims-ndpp-investigating-directorate-strengthen-fight-against> [Accessed 4 June 2019].

⁷⁸ *Ibid.*

He equally seems to appreciate that resolving them will take some doing. He captured this in his inauguration speech subsequent to the ANC's victory in the 8 May 2019 general elections. On that day, the newly minted President stated:

"In recent times, our people have watched as some of those in whom they had invested their trust have surrendered to the temptation of power and riches. They have seen some of the very institutions of our democracy eroded and resources squandered. The challenges that we face are real. But they are not insurmountable. They can be solved. And we are going to solve them."⁷⁹

From a rhetorical perspective, Ramaphosa's words would have appealed to his audience because they resonated with what most of the audience had witnessed and/or were witnessing. Stated differently, Ramaphosa managed to adapt to his audience.⁸⁰ He was speaking to what he understands are the real concerns of ordinary South Africans. The President seems to have succeeded in grasping what Perelman and Olbrechts-Tyteca consider indispensable to argumentation when they maintain that "[in] argumentation, the important thing is not knowing what the speaker regards as true or important, but knowing the views of those he is addressing".⁸¹ Indeed, by being appreciative of the views of his interlocutors, President Ramaphosa had established the "community of minds" between himself and his audience.⁸² His interlocutors would therefore have viewed him as having something in common with them or as being in communion with them.

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⁷⁹ The Presidency, "Address by President Cyril Ramaphosa on the Occasion of the Presidential Inauguration", *The Presidency*, 25 May 2019. Retrieved from: <http://www.thepresidency.gov.za/speeches/address-president-cyril-ramaphosa-occasion-presidential-inauguration> [Accessed 7 June 2019].

⁸⁰ Chaïm Perelman and Lucie Olbrechts-Tyteca, *The New Rhetoric*, p. 23.

⁸¹ *Ibid.* 23-24.

⁸² *Ibid.* 14.