

## **The recall of (ex-president) Thabo Mbeki – its meaning and lessons**

By Oupa Lehulere

The recall of President Thabo Mbeki was not only unconstitutional in terms of the ANC constitution, it also revealed deep undemocratic tendencies within the ANC, and its tendency to ignore its own constituency when making important national decisions. This development will have negative implications for the ANC's accountability as an organization.

The recall of ex-president Thabo Mbeki has thrown the entire party-political scene in South Africa into turmoil. Shortly after the 'recall' of the president of the republic, the ANC fractured and opened up a political situation that was completely unforeseen just a few weeks ago. The social movements in general, and the left in particular, have to take stock of the situation that is unfolding and its implication for movement building. In particular, this split in the ANC is taking place on the eve of the 4<sup>th</sup> general election, and it is clear that the changing political terrain that followed the 'recall' will have a profound impact on the way the election campaign of the various ruling class parties will unfold, if not on the election outcomes themselves.

### **Was the 'recall' of Thabo Mbeki a sign of a 'robust' democracy?**

The claim that the recall of Thabo Mbeki is a sign of the maturity of South Africa's democracy has been stated so frequently that it has become an 'obvious' truth. Very few of those who make this claim have seen it necessary to show how this recall shows the strength of SA's democracy. This is particularly striking given the fact that a few weeks earlier there was fear (in the commercial press anyway) that South Africa's democracy was under threat. All this changed because of the court judgment by Justice Nicholson.

The extent to which the recall of Thabo Mbeki represented a vibrant democracy must be judged relative to a number of factors:

- i. Was the recall of the country's president undertaken in terms of the constitution of the ANC?
- ii. Given that Mbeki was the president of the republic, and that he was being 'recalled' from his position as president, what role did the representative institutions of the country play in the process?
- iii. What does the whole process of recall tell us about the character of the ANC?

Once we have dealt with these issues I will then proceed to draw lessons for the social movements.

### **The point at issue**

In order to avoid unnecessary confusion in this discussion, we need to clear a few issues from the start. Firstly, no one should be beyond recall by either a political party, by parliament or indeed by any organisation. This is true even if the person being recalled occupies the highest office in the land. Indeed, the recall of public officials may be initiated by an organisation to which they belong, and not just by the public institution they are elected to. The weakness of South Africa's constitution is precisely that it makes no provision for the recall of public representatives by the electorate – the masses.

### **The recall and the ANC constitution**

President Mbeki was 'recalled' by the National Executive Committee (NEC) of the ANC. Thus the first point is to examine if the NEC had such authority to recall Mbeki from public office, or indeed to recall a sitting president of the ANC. Further, we need to examine whether any structure of the ANC has the powers to recall a member that is "deployed" to public office.

According to the ANC constitution, all public officials deployed by the ANC must abide by the constitution of the ANC and the code of conduct for elected representatives. The constitution also makes provision for disciplinary proceedings against a member who fails to observe the organisation's constitution and policies. If the NEC was of the opinion that Mbeki had violated the policies and constitution of the ANC, then it had to refer the matter to the National Disciplinary Committee (NDC). In terms of the constitution the NEC had no right whether or not Mbeki was guilty of 'abuse of state power'. What the NEC had to do was to discuss whether a basis for a charge exists, proceed to lay a charge if it agreed, and refer the matter to the NDC.

The 'recall' of Mbeki by the NEC therefore violated the organisation's constitution. On the night of the 'recall' the ANC took its constitution and threw it into the dustbin.

### **The recall, the ANC constitution and the role of the public**

The ANC's violation of its own constitution did not end when the NEC turned itself into accuser, prosecutor, judge and executioner. Up to today, the public does not know, and has never been informed about the charges that led to the recall. Nor has the public been informed about the reasoning that led to the 'guilty' verdict. The president of the ANC, Jacob Zuma, defended the refusal to discuss the decision of the ANC in public on the basis that it was an internal ANC decision. The constitution of the ANC, on the other hand, establishes accountability to the public and requires that the decision of the Disciplinary Committee be 'publicly announced'. The refusal by the ANC to share with the public the charges, the decision and its basis therefore represents a further violation of the constitution of the ANC.

Does the ANC need to be publicly accountable to the public for its 'internal' decisions? The accountability of the ANC to the public about its 'internal' processes goes beyond legalistic consideration. While the ANC has a membership that participates in its daily life, the policies of the ANC would not be realised if it were not for the millions of members of the public that vote for it and support its various activities. The accountability of the ANC to these millions derives from the fact that building democracy and social justice cannot be privatised. All decisions of the ANC as a public organisation must therefore be subject to public scrutiny, and be judged against the yardstick of social justice. When an organisation fails to fulfill the basic tenets of social justice in its internal decision, it throws into doubt that organisation's commitment to social justice. For this reason, the mass of the people expect trade unions to treat their own workers better than the way capitalists treat their workers.

### **The role of parliament and government**

Many opposition parties have argued that the ANC should have subjected the recall of the republic's president to the parliamentary process. The ANC, on the other hand, chose to privatise the whole process and settle it in the privacy of the NEC. The important thing to remember is that the 'deployment' of Mbeki to the position of president was effected with the participation of the masses. This is different to the deployment of Gwede Mantashe to the position of General Secretary of the ANC, which involved ANC members only. Therefore, when it comes to 'recalling' public officials, there are other levels of accountability that an organisation has to observe. In a case like this it's not just enough to 'inform' the public about the decision - it becomes necessary to *involve* the public. The constitution of the ANC

recognises that the case of public officials is different to that of an ordinary member when it come to matters of disciplinary processes. In effect, the constitution gives the right to recall members from public office to the NDC exclusively. The public cannot be involved when the person must be “deployed” to a position, and it is excluded when that person’s deployment is reversed. Parliament, therefore, had a fundamental right to debate the removal of the president, and the head of government had a right and a duty to defend himself against his accusers *in front of all the representatives of the people*.

### **The recall and the character of the ANC, and lessons for movements**

Contrary to the ‘analysts’ who sang the praises of the ANC’s recall, the recall of president Mbeki reveals deep anti-democratic tendencies in the ANC, and confirms the fears of many that the ANC has become a danger to democracy. A decision taken in violation of the basic democratic norms established by an organisation (in this case its constitution) cannot be a sign of the vibrancy of democracy. Although the ANC hid behind the Nicholson judgment when it ‘recalled’ Mbeki, the substance of its decision was consistent with the attacks it had launched on the judiciary (‘counter-revolutionary judges’), its attempts to intimidate the Human Rights Commission, its violation of Kwezi’s rights in the rape trial of Jacob Zuma, as well as the present practice of its members intimidating political opponents (in particular the Shikota party).

The fundamental lesson that comes out of the recall for the movements is that democracy cannot be privatised, *and that the internal democratic processes of an organisation of the people belong to the people*. Our accountability must therefore go beyond ‘announcing’ decisions that have an important bearing on our democratic credentials. We need to open our internal processes to the scrutiny of the masses. Only then can we be true to our stated aim of deepening democracy.

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