



South African Institute of Race Relations  
*The power of ideas*

# YEAR ONE

**HOW JULIUS MALEMA  
DESTROYED THE NPA'S CASE  
AGAINST JACOB ZUMA IN 365 DAYS**

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# ONE YEAR:

## HOW JULIUS MALEMA DESTROYED THE NPA'S CASE AGAINST JACOB ZUMA IN 365 DAYS

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### Abstract

*This is the story of the primary role played by then-ANCYL leader Julius Malema in the destruction of the National Prosecuting Authority's original case against former President Jacob Zuma. It spans the course of a year, from Malema's election as ANCYL president in April 2008 to the NPA's decision to drop all charges against Zuma in April 2009. It is told using Malema's own words, drawn from over 2 000 news stories that covered that period. Its purpose is threefold. The first is to demonstrate how Malema led the public charge, in a sustained and systematic fashion over twelve months, to promote the narrative that the case against Zuma was the product of a political conspiracy, with former President Thabo Mbeki at its heart; to that end, to show how he helped facilitate and justify the destruction of the NPA's case, attack the integrity of the judicial system and the Directorate of Special Operations ("the Scorpions") and divide the ANC itself. The second is to demonstrate how Malema swept the media up with him, how rhetorical grandiloquence and blunt demagoguery captured the public imagination while simultaneously destroying debate; how he established a repertoire in which personal and often petty politics moved to the front pages; and how he drove a conspiratorial fantasy without evidence, entirely hostile to reason and logic. Finally, on the back of this all, to illustrate how Malema established himself as the most poisonous and yet unaccountable leader in the ANC, an immunity he enjoys to this day.*

*Words were always just a means to an end for Malema, and the end was whatever he wanted it to be, regardless of trivialities such as denotation or meaning. Words were to be his weapons, and he would put them to powerful use.*

### Spring

*"At what point then, is the approach of danger to be expected? I answer, if ever it reach us, it must spring up among us. It cannot come from abroad. If destruction be our lot, we must ourselves be its author and finisher." — Abraham Lincoln*

Seemingly out of nowhere, Julius Malema was elected president of the African National Congress Youth League (ANCYL) on 8 April 2008. It had been a messy elective conference, marred by violence and allegations of subterfuge. In fact, so anarchic had the occasion been, the results came in six days after the conference had first convened and, even then, they would only be verified in June. It mattered not. Malema won by a whisker. 187 votes to be exact. His supporters carried him shoulder high to the podium. Outgoing ANCYL president Fikile Mbalula held his hand aloft. Born of chaos, unknown and seemingly innocuous, the 27-year-old Malema had arrived. He would soon explode onto the national stage.

Following the election, a lack of name-recognition produced headlines like "New ANCYL leader to get tough". But it didn't take long for Malema to produce a sample of the kind of bombast that would

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come to define his time at the top of the league. “As many people opposed to the youth league predicted that there was going to be blood on the floor and people were going to be fighting physically for positions; that did not happen”, he said.

It wasn’t true, of course. This from the Saturday Star’s report on the conference:

“The situation got out of hand yesterday, with delegates going further than the mere singing of derogatory songs about each other and waving placards of their preferred candidates in each other’s faces. Tempers boiled over and some rival delegates began throwing plastic water bottles at each other while others shoved each other and traded blows.”

At one stage, police had to be called in to quell what congress organisers called a “volatile” situation.

But Malema, being Malema, saw things differently. “We are very happy with the manner in which delegates behaved”, he would say. Words were always just a means to an end for Malema, and the end was whatever he wanted it to be, regardless of trivialities such as denotation or meaning. Words were to be his weapons, and he would put them to powerful use.

The first and primary beneficiary would be Malema’s own patron, Jacob Zuma, facing a potential trial for corruption, racketeering and money-laundering. Slowly at first and then with increasing menace and intensity, he would eventually bring his full rhetorical arsenal to bear on the case. And the consequences would be profound.

But, he started slowly.

As early as 27 April, Malema announced his intent in an interview with the Sunday Times. “I am going to raise it in the ANC NEC meeting. We will not rest until his case is over”, he said of Zuma’s predicament.

*“As the youth league we have declared his case political and therefore it should be resolved politically.”*

“As the youth league we have declared his case political and therefore it should be resolved politically.

“Zuma is going to be the face of the ANC’s election campaign and he will also be the country’s presidential candidate. We will not compromise on that.”

He meant it, too. Malema had his first target. And he would drive this message relentlessly.

Speaking to a crowd of around 1 500 supporters on 4 May, he would reiterate that “(w)e know this case is not a criminal case, it’s a political case”. He argued that “(i)t’s got everything to do with elections” and assured the crowd that “the coming president of South Africa will be Jacob Zuma, whether you like it or not”.

In a statement on 13 May, the ANCYL argued: “The ANC president will and can never get a fair trial, and therefore an urgent intervention is necessary”. Malema elaborated: “This case has been going on for almost seven years. Justice delayed is justice denied.”

He explained that he had met with ANC provincial chairpersons and secretaries to find a legal solution. “The meeting resolved to seek legal opinion on the possibility to have the trial struck off the roll and/or dismissed, including the possibility for the ANCYL making a presentation to court.” It was a necessity, he argued, because the case against the president was clearly the product of an agenda and potentially racist in its pursuit.

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“We have reached a point where our patience is being tested by counter-revolutionary forces who want to project the leadership of the ANC as the most corrupt, and especially black leadership, as though they can't lead our government.” Thus, he argued: “We have a responsibility, as young people, to defend the gains of this revolution.”

Legal experts described the move as “highly unusual, if not unprecedented”.

On 15 May, at a Chris Hani heritage exhibition, Malema would declare that “(i)t cannot be that Zuma will be on trial before 2009; the only time he will be on trial is in 2010,” before again punting his line that the allegations against Zuma were entirely political: “Those who were bitter that Zuma was elected ANC president were quick to charge him and issue a court date without following proper court procedures.”

By this stage, Malema was regularly being dubbed a “firebrand” in the media, as his growing reputation for being both outspoken and unequivocal began to define him. Noticeable in its absence was any attempt, at least so far as the public record is concerned, to debate or contest the merits of the case against Zuma. The facts of the matter were, to Malema's mind, irrelevant. It was essentially a political issue and, thus, everything and anything could be reduced to that.

Years later, in July 2017, Malema would say with some remorse: “We were told... [Former President Thabo Mbeki] is concocting charges against President Zuma, and that President Zuma is not corrupt – he is an honourable man – and therefore [Mbeki] is fighting against him because he has got his own ideas on how the ANC must go forward. And thank God we lived to see for ourselves that no one was actually concocting charges against Zuma. He was actually corrupt himself... We realised much more later, that we were actually misled.”

*“We have reached a point where our patience is being tested by counter-revolutionary forces who want to project the leadership of the ANC as the most corrupt, and especially black leadership, as though they can't lead our government.”*

There was, of course, much evidence to this effect at the time, not least in the judgment handed down against Shabir Shaik. But he ignored it all. Malema had the blinkers on back then. Facts were irrelevancies. Rhetoric, vitriolic and loaded with all the isms that make South African hearts flutter, was everything. And he was making quick work of destroying the country's ability to debate hard evidence. Soon enough, he would escalate his game to new heights, and, with it, his reputation.

## Summer

*“Before mass leaders seize the power to fit reality to their lies, their propaganda is marked by its extreme contempt for facts as such, for in their opinion fact depends entirely on the power of man who can fabricate it.” — Hannah Arendt*

Addressing a Youth Day rally in Thaba Nchu, Free State, on 16 June, Malema would make the statement that would come to define him. He declared that the ANCYL was “prepared to take up arms and kill” should the impending fraud and corruption court case against Zuma not be dropped.

“Let us make it clear now: we are prepared to die for Zuma. Not only that, we are prepared to take up arms and kill for Zuma.”

The remark was met by wild applause. He followed it up by describing the case as unwinnable and

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argued that the country could not afford to have a head of state standing on criminal trial, all of which was eaten up by the crowd.

There is only one thing that plays better than a conspiracy in South Africa: to be the victim of a conspiracy. Ironically, Malema, by his own later admission, was the victim of a conspiracy himself. In the moment, however, he had stumbled across the mother-load: the ultimate unprovable theory, one that hinged on hearsay and innuendo, couched in fear and subterfuge, which meant he could bypass the actual case against Zuma wholesale and, instead, drive a narrative fantastical in its veracity and seemingly immune to cross examination.

The next day, a thousand newspaper headlines echoed his war talk. And, this time, his name was front and centre. On the opinion pages, condemnation poured forth, as all and sundry sought to distance themselves from his remarks. The conversation was now about Malema.

The ANC responded, via its spokesperson Jessie Duarte: “The ANC has and will never require anyone to kill or die for the movement or any of its leaders.” But, despite the party’s call to avoid “any statements or actions that might inflame emotions or undermine the principled position of the organisation”, Malema was now blazing his own path.

In the face of almost ubiquitous condemnation, on 18 June he would not just double-down but amplify his message. In an interview with The Star, he would say:

*“Let us make it clear now: we are prepared to die for Zuma. Not only that, we are prepared to take up arms and kill for Zuma.”*

“We are prepared to die and take up arms only if the need arises... killing counter-revolutionary forces hell-bent on reversing the gains of our revolution ... there are people who are all out to destroy JZ.”

He would not name names, but said of these shadowy forces: “They are found everywhere, in all spheres of life, in all sectors, even within the ANC.

“They push their agenda, they will reach a point to engage directly, fire by fire, without using the law ... The only option (we have is to) engage through fire... There are still right-wingers who want to overthrow the black majority rule and are also found in the ANC.”

“We are a battalion,” Malema declared of his mission. “We are defenders of the revolution.”

He explained: “What triggered my statement is that people perpetuated division, undermining the leadership of the ANC.”

“We will not allow that, not in our lifetime. These people present themselves in different forms, some use religion, some the media, and some use their participation in the ANC.”

On all fronts, Malema was unapologetic. He told 702 Talk Radio he refused to say sorry and, to the Sowetan, also on 18 June, he would say: “The dragging of the Zuma case is an indication that there is more to it than meets the eye. We therefore, as the youth league, say that we are prepared to die for Zuma and take up arms and kill anyone who tries to stop him taking up the country’s biggest post [president]. We also say the only time Zuma will be tried will be in 2010. If anyone tries to put him behind bars, that person will first have to deal with us.”

But whatever the fallout in the media, make no mistake, it had worked. Charges were laid against Malema, the Human Rights Commission rebuked him, even ANC deputy president Kgalema Motlanthe condemned his statement. It mattered not. Each response only provided another platform for Malema to drive his message. There was only one conversation now. Any pretence at reason or rationality was

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dead in the water. And Zuma's case itself had become no more than an ice-breaker through which people might introduce their opinion on the ANCYL leader.

His response was typical: he was a victim himself, misunderstood and unfairly maligned. His words had been "taken out of context", he said. On 19 June, reading a prepared statement, Malema would complain: "It is our firm view that the statement has been regrettably blown out of proportion with a clear malicious intent and consequence."

"We never called on anyone to take up arms and kill", he said.

"What we meant was we are going to do everything in our power to make sure Zuma gets a fair trial. We have no intention to kill anyone. We never said we are going to take up arms and shoot to kill."

As if to throw the media a bone, he suggested he would drop the word "kill" and rather insist that the ANCYL would "pay the ultimate price".

And so, now, a game of words was introduced, of inference and context, and the media would indulge it fully. What did Malema really mean? Was it a metaphor? Did "kill" really mean "kill"?

Oh how the press revelled in the debate. How many column inches were devoted to the riddle. And Malema would feed it more fuel. In a letter to the press on 21 June, one Floyd Shivambu would emerge from the shadows to explain how Malema had been "misunderstood" and that, in fact, "(t)he metaphor of 'the will to live, die and kill for the preservation of Polokwane and the leadership elected at Polokwane' demonstrates the will of the youth of the ANC to guard the solutions and outcomes of the 52nd national conference".

*"The dragging of the Zuma case is an indication that there is more to it than meets the eye. We therefore, as the youth league, say that we are prepared to die for Zuma and take up arms and kill anyone who tries to stop him taking up the country's biggest post [president]."*

A favourite accompanying trick would be to tell the press exactly what it wanted to hear, only to turn around and state the polar opposite at a rally or meeting.

For example, in an interview with Chris Barron in the Sunday Times on 22 June, Malema was all respect and reasonableness. "We respect the courts and we respect the judiciary"; "Whatever decision they [the courts] arrive at, we will stand by that decision"; "we will not kill anybody" and "There won't be any violence, we will respect the law. We are law-abiding citizens", he said in various responses.

The very same day, in the Sunday Tribune, it was reported that Malema had told a Young Communist League rally in Clermont's Sugar Ray Xulu Stadium: "We are saying again that we are prepared to pay the highest price for Msholozzi... and when the time comes we will do so. We call upon the youth to do the same."

"Those who are saying we must apologise for the statement ... are not honest. The words we used may be sensitive to some people, but we will not apologise. We remain unshaken and we will not retreat."

And he was teaching others that the rewards for this sort of violent bluster were great and plentiful. Congress of South African Trade Unions general-secretary Zwelinzima Vavi would follow suit, on 21 June. Speaking at the funeral of Police and Prisons Civil Rights Union official Pretty Singonzo-Shuping, Vavi would say: "Because Jacob Zuma is one of us, and he is one of our leaders, for him, we are prepared to lay our lives (down) and to shoot and kill."

Sure enough, on 24 June, he would argue, like Malema before him, that his comments were "taken out of context".

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The context, he claimed, as with Malema, was the revolution. And Zuma, again, no more than a metaphor: “I singled out Jacob Zuma to: make an example. I said because Jacob Zuma is one of us and is one of our leaders, for him and for our revolution we are prepared to lay down our lives and for him we are prepared to shoot and kill.”

And so the game would play itself out again – the charges, the Human Rights Commission, the ANC distancing, the letters, the opinion pieces, the flood of outrage as yet another distraction took centre stage.

On 26 June, Malema would give an in-depth interview to the Mail & Guardian. In it, he would reiterate his call.

“This is a message of warning,” he said, “if you think we are asleep, you must know we are watching this agenda and we're prepared to die in defence of the leadership and the revolution.”

The agenda he described as follows: “The forces we defeated in 1994, the ultra-right-wing, the imperialists, and the colonisers. They have come together to undermine the ushering in of a democratic dispensation. They do this by projecting the ANC leadership as the most corrupt people, who are lazy, who are womanisers, who are drunkards, who want money that comes easily without hard work. We can't allow that to happen.”

*“Because Jacob Zuma is one of us, and he is one of our leaders, for him, we are prepared to lay our lives (down) and to shoot and kill.”*

For all the public condemnation, many inside the alliance were approving of Malema’s remarks. Gwede Mantashe, for example, said, “We refuse to condemn him because if we do that, we risk destroying him at this young stage. We should guide him through this phase until he is confident.” Young Communist League secretary Buti Manamela said, “I was at the rally and agree with the context within which he raised the matter. It is unfortunate that it has offended so many people.” Malema's remarks were catching on too.

When Jacob Zuma arrived at the podium to give the closing address at the second leg of the ANCYL's 23rd national conference on 29 June, he was greeted by chanting ANCYL members, who sang, “Shoot to kill for Zuma”. In response, Malema remained steadfast in his defence. “Don't impose liberal language (on us)”, he said, “We are using this (word) 'kill' to determine our passion and love in defence of the revolution.

“The sham of an investigation is challenging him, which has lasted seven years, has been so badly tainted the prospects of a fair trial is nothing but an illusion,” Malema bellowed from the podium.

By 4 July, the Human Rights Commission, after a meeting with Malema, had retracted its demand for an apology, saying this was in the interests of “moving forward”. Malema, in turn, had undertaken not to use the word “kill” anymore.

“We have to acknowledge that what we got fell short of what we asked for. What we sought was an apology. But I have to state that there was no political pressure,” Commission chairperson Jody Kollapen told the press. He would be pilloried for his compromise. It made no difference to Malema one way or the other. South Africa was dancing to his tune now, swept up in his fantasy and totally locked into the politics of personality. And he had other rhetorical tricks up his sleeve.

Ten days later, on 14 July, Malema would say at an ANCYL funeral: “We must intensify the struggle to eliminate the remnants of counter-revolution, which include the DA and a loose coalition of those who want to use state power to block the ANC president's ascendancy to the highest office of the land.”

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Did “eliminate” mean “kill”? More debate.

But, perhaps significantly, for the first time Malema turned his attention directly to the National Prosecuting Authority (NPA), which he accused of being in “relentless pursuit of an innocent man using state resources”.

“We remain firm,” Malema said, “in our determination to unleash every resource at our disposal to obliterate this sham of a case and expose the counter-revolutionary agenda it represents.”

Later, ANC spokesperson Zizi Kodwa would defend Malema’s remarks, arguing that the word “eliminate” could not be reasonably equated with the word “kill”. Rather, subsequent complaints from the Democratic Alliance and the South African Institute of Race Relations amounted to “the same of old story from people who like public grandstanding”.

By mid 2008, Malema had named Mbeki as one of the key instigators behind the “plot” to discredit Zuma, and his attention was increasingly turning towards the NPA. On 25 July, he would say: “The NPA has failed to produce a shred of evidence in its indictment against Zuma on more than two occasions until they did so in December, after the ANC national conference.”

He argued that evidence given before the Ginwala Commission by suspended NPA head Vusi Pikoli demonstrated that Mbeki “knew” about the 2006 raids on the offices of Michael Hulley, Zuma’s lawyer. “This reinforces our view of a political interference in the work of the NPA”, Malema said.

*“The NPA has failed to produce a shred of evidence in its indictment against Zuma on more than two occasions until they did so in December, after the ANC national conference.”*

As Zuma’s pre-trial got underway in August (he was challenging the NPA’s procedure and his right to make representations before it), Malema would use the frequent sittings at the Pietermaritzburg High Court to rally the crowds outside and propagate his message that everything was born of a political agenda to destroy Zuma and his reputation ahead of the 2009 elections. And, at the heart of it all, sat Thabo Mbeki and the NPA, the two working hand-in-hand to manipulate the justice system.

“We are in this trouble because of Thabo Mbeki and his people”, Malema would say outside the court on 4 August. “This problem was started by Mbeki.”

Malema went on: “Mbeki is a coward, he is dealing with his own comrades and they do not want us to tell you that... Mbeki must leave now and Zuma should become president now. The only way to solve that problem is to have an early election. Whether they like it or not, we are not going to leave Jacob Zuma here in court, but we are going to carry him all the way to the Union Buildings.”

The crowd erupted. Malema was not just dominating headlines but was the headline act in any story on Zuma. He would be quoted first, before other big-hitting Zuma fanatics like Vavi or SACP secretary-general Blade Nzimande. And, rightly so, they were all following his lead.

The NPA was being torn into at every opportunity. Vavi would accuse it of “employing” the media to run a public trial and of “leaking” selective information. Nzimande would reiterate his sentiments. ANC Women’s League president Angie Motshekga declared the investigation against Zuma was “flawed” and, thus, that the outcome of the trial could only ever be “flawed” itself. They all lined up, day-in and day-out. But it was Malema who defined the message and the tone.

And the pressure was beginning to bear fruit outside the alliance. Business Unity South Africa, so often the first to embrace appeasement as the solution to any political problem that threatens its well-

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being, would say in a statement on 27 August: “This matter [of Zuma] must be brought to closure so that the country can proceed with certainty of political leadership. If it requires a political solution, let a political solution be found.”

The sentiment that a “political solution” was the only viable solution had found its way into the press too, such was the ferocity of Malema and the weight of his threats, implicit or explicit. Writing for the Star, on 11 July, columnist Max du Preez would put it like this: “...we find wild men getting up on stages threatening to kill and we hear people we thought were responsible leaders launching attacks on the Judiciary and the Constitutional Court. We have not experienced anything like it since 1994. It is downright scary. At the same time the national mood has taken a huge dive... I’m saying we should seriously consider offering Zuma a plea bargain agreement and avoid all this drama. We can’t let him get away with it if he has committed a crime, which would be the case if we gave him indemnity or unqualified amnesty... If we removed the long, dark shadow of the criminal charges against Zuma, our politics would calm down and normalise very quickly.”

Elsewhere, his call was replicated in parliament. It was reported that chairperson of the justice committee, Yunus Carrim, supported a negotiated truce with Zuma, that was “legally and constitutionally tenable”.

You could hear Malema’s echoes everywhere.

*“Mbeki is a coward, he is dealing with his own comrades and they do not want us to tell you that... Mbeki must leave now and Zuma should become president now.”*

Also in parliament, the Directorate of Special Operations (“the Scorpions”) found its head on the chopping block as an obsession with political manipulation and intrigue inside the ANC had now manifested in a deep distrust in the one unit with the capacity and independence to investigate and prosecute high-level criminality. As public hearings into calls for its disbandment proceeded, Cosatu’s KwaZulu-Natal secretary Zet Luzipho threatened to “kill the Scorpions”. He would get his way soon enough.

Delivering the ANCYL’s submission to the relevant committee on 2 September, Malema would tell parliament: “There are people who served apartheid who are using the Scorpions and our laws to further the interests of the imperialists to serve the interests of the defeated minority.” Malema alleged that some ANC members had been “misled” by the unit, which was in fact, “serving the agenda of the imperialists” while fooling them into believing it was serving the interests of the majority.

## Autumn

*“Falsehood flies, and truth comes limping after it, so that when men come to be undeceived, it is too late; the jest is over, and the tale hath had its effect: like a man, who hath thought of a good repartee when the discourse is changed, or the company parted; or like a physician, who hath found out an infallible medicine, after the patient is dead.” — Jonathan Swift*

On 12 September, Judge Chris Nicholson found that Zuma had a right to make legal representations to the NPA, and that there had been various procedural violations on the NPA’s part, in the lead up to Zuma’s trial. He stressed that his finding had “nothing to do with the guilt or otherwise” of Zuma, only procedure. But, in making the finding, he found evidence of political interference, particularly on the part of Mbeki.

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Mbeki himself denied it all and undertook to challenge the judgment.

That, however, was irrelevant. Malema's fantasy had been endorsed by no less than a judge, making it not just ostensibly true, but transforming Malema himself into a political soothsayer, and he went straight for the throat: "The NEC has a responsibility to recall Mbeki; if not, we will recall them."

"This", he said, "is the second Polokwane."

But the NPA never left his sights. "Anybody who seeks to reopen it (the case) will be viewed as public enemy number one, with little or no interest of the country at heart. Prosecutions head Mokotedi Mpshe must respect and agree with that judgment," he warned ominously.

The phrase "public enemy number one" has an interesting history. Appropriated by J. Edgar Hoover and the FBI in the 1930s, it was used to define the most wanted criminals and gangsters. Of all Malema's bellicose intimidations over the course of his first year in formal politics, this threat, directed specifically at the head of the National Prosecuting Authority, stands out.

And he extended his foreboding ultimatum to Mbeki himself, warning him not to appeal.

"Nicholson's judgment teaches us the lesson that both politically and legally those who dig graves for others finally fall into those graves themselves," Malema said. He was joined in his lavish praise for Nicholson by Blade Nzimande, who described him as a shining example of a "progressive judge".

Zuma himself, who had quietly looked on as Malema had set South Africa on fire, paid due homage to those who had carried the torch for him. "I was asked why I was not stopping Malema and Vavi, but you have stood by me and have shown your unwavering support. I thank you for that."

They weren't done yet.

*"There are people who served apartheid who are using the Scorpions and our laws to further the interests of the imperialists to serve the interests of the defeated minority."*

Mbeki had been struck a massively damaging blow. His power had slowly, and by systematic design, waned to almost nothing as the infection that was Jacob Zuma and those who carried forth the disease decimated the president's legitimacy and influence. Zuma famously said of Mbeki at the time: "When the snake is dead, there is no point in continuing to beat it. You must not waste energy by beating a dead snake." But Malema, who had taken to labelling Mbeki a "sophisticated dictator" who had "abused state power", would not be called off.

The ANC's NEC was scheduled to meet on 19 and 20 September to determine Mbeki's future and, having already ratcheted up the pressure, Malema went further still.

"We must not continue to beat the dead snake; he [Zuma] is right, but we must bury it, and that will happen this weekend."

On 16 September he would call for the NEC to consider expelling Mbeki. "It's serious misconduct and we need to send a strong message through them and to the current leadership and incoming government that, if you dare do that, the ANC will expel you from its own ranks", he argued.

"We are leaving no stone unturned to ensure that Thabo Mbeki leaves."

"We have always said that the problem in this country is Thabo Mbeki and his people."

There was speculation that, should the NEC remove Mbeki, he may refuse to go. Malema had steeled himself against that possibility, too. In what The Times described as evidence of "little respect for the

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sanctity of the secret ballot”, Malema said that, should it come to a vote of no confidence in parliament, “(t)here is no secret ballot there”. He added: “Even if it is secret, we will know how everyone votes. Those who don't vote properly would be called in for disciplinary hearings. They are deployed there to carry [out] the mandate of the party.”

It was another expedient, temporal position from Malema, which, in years to come, would look silly and hypocritical. In 2018 – in the exact opposition situation, as Malema and the EFF fought for a motion of no confidence in Jacob Zuma to be conducted in secret – Malema would argue that it was not just necessary but essential, citing no less than the Constitutional Court itself in support of his argument:

“All the above cumulatively add to the creation of a toxic atmosphere which we submit as the EFF is sufficient enough grounds for a secret ballot in order to protect the integrity of the result of the vote, security and livelihood of MPs. We specifically refer you to the recent Constitutional Court decision in the matter of United Democratic Movement and The Speaker of The National Assembly ...”

Nevertheless, back in 2008, the blinkers had never been tighter. He had tunnel vision now. He could almost taste the thing he wanted most: the political and public decapitation of Mbeki. And the power that he had accumulated via a panicked press obsessed with personality and conspiracy, blunt intimidation and a court judgment, went to his head. It was one thing to blindly support Jacob Zuma – the party would stomach that much – but to threaten the NEC itself was a bridge too far. He would be sanctioned – a relatively meaningless dressing down, but the first formal clash with the party hierarchy; a conflict that, ultimately, would lead to his expulsion.

*“Anybody who seeks to reopen it (the case) will be viewed as public enemy number one, with little or no interest of the country at heart. Prosecutions head Mokotedi Mpshe must respect and agree with that judgment.”*

But that was far down the line.

On 20 September, the ANC recalled Mbeki. The relevant vote had boiled down to a show of hands, and the Sunday Times reported on 21 September that many had stood to condemn Mbeki in the face of some small support for him: “Arts and culture minister Pallo Jordan warned of the consequences for the ANC and the country, but others, like Tokyo Sexwale, Cyril Ramaphosa and [Blade] Nzimande, were adamant that Mbeki should go. Sexwale and Ramaphosa argued that Mbeki had hurt them and had abused state power to push them out of politics.” They got their way.

In the aftermath, Malema kept relatively quiet, a consequence of the temporary muzzle the NEC had applied to him (“ask the ANC, not me,” he told the Cape Argus when it enquired about his silence on 25 September). Mbeki announced that he would appeal the Nicholson judgment, as did the NPA. Kgalema Motlanthe, one of the few outspoken critics of Malema, was appointed caretaker president; Mosiuoa Lekota would lead a breakaway party from the ANC, and South Africa watched to see what was next.

One of the few things left standing, although only just, was the Directorate of Special Operations. Parliamentary proceedings had concluded and there were now two bills before the National Assembly – the National Prosecuting Authority Amendment Bill and the South African Police Service Amendment Bill – which would finally take its feet out from under it. If this outcome was the initial product of a Polokwane resolution, the likes of Malema had done much to help poison the well. On 23 October, the ANC terminated the Scorpions.

In her speech opposing both bills, DA shadow minister of police Dianne Kohler Barnard spoke of the “Malemification” of South African politics. Addressing the ANC benches, she said: “You have, in

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the process, created and fabricated enmity, both towards the Scorpions and between the SAPS and the Scorpions, where none previously existed.”

It was to no avail. In the years to come, fraud and corruption would become endemic in the national administration, and without the appropriate tools to investigate and prosecute such crimes, it would fairly thrive.

Malema was now a celebrity, notorious perhaps, but he had transitioned from the front and opinion pages to the society section. There would be stories about where he had been, who he had been seen with and the latest anecdotal thing he had said or done.

“Malema slinks in behind a pillar in the smoking section, where the air is less clear and the sting of some of the jokes less primed. He is not as tall as many would think, and his voice is less gruff than the way he is quoted in newspapers”, the Sunday Times wrote on 13 October, as it dedicated some 1 500 words to describing how Malema had attended a Sandown comedy club show.

But the conspiracy he advocated, even in the face of the Nicholson victory, never diluted. If anything, it intensified. In an interview with News24 on 10 October, he would once again set it out in full. Asked “Who do you think is responsible for discrediting Jacob Zuma and why?”, he replied as follows:

*“Arts and culture minister Pallo Jordan warned of the consequences for the ANC and the country, but others, like Tokvo Sexwale, Cyril Ramaphosa and [Blade] Nzimande, were adamant that Mbeki should go. Sexwale and Ramaphosa argued that Mbeki had hurt them and had abused state power to push them out of politics.”*

“The apartheid regime is still involved. The imperialists are still involved. There are people who have always wanted to oppress the black man, and they are still doing the same now. They are using the progressive laws of the ANC to discredit the good leadership of the ANC, so that they can be projected, so that the leadership of the ANC can be projected as leadership which is not responsible, very responsible, which can’t govern. So, it’s counter-revolutionary forces, which are determined to derail, even to reserve the gains of our revolution. Even internationally there are forces which want to micromanage the government of the ANC and they think with Zuma they can’t succeed. So they need a puppet. After Mbeki they would have wanted a puppet. I don’t know which puppet is that one. It’s for you to say, this is the type of puppet perhaps they are looking for. But they wouldn’t want somebody who stands firm in defence of the democracy and sovereignty of our country. It’s very important. So that our country doesn’t owe its loyalty and accountability to the outside world; instead it is accountable to its own people.”

It was the first time he would extend his conspiracy outside of racists, the apartheid regime and counter-revolutionaries at home, to malevolent forces abroad. In the other direction, he would use the same issue to bolster Zuma’s reputation, describing him as a “role model” that, “continues to play a role, a positive role in the development of young people... that person qualifies to be a role model, anybody who is prepared to lend a helping hand, and who cares about others, is a role model, and Zuma represents that very well.”

After a brief hiatus, Malema would return to the public spotlight towards the end of October and involved himself mostly with denigrating Lekota and those who had left the ANC with him. Addressing the ANCYL’s 64th anniversary rally in Witbank on 27 October, he would say that “(if) we as a nation tolerate such conduct, we run the risk of breeding a monster that will take our country to a civil war”, before warning: “We will deal with them harshly if they choose to play dirty.”

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It was a bitter and grudging side-show that ran all through November. At one point, Malema took Lekota to the Human Rights Commission himself, alleging that he had insinuated members of the ANCYL would “kill” anyone who did not vote for Zuma in the 2009 elections. But the media lapped it all up. It was Malema, after all.

Much of the public analysis revolved around Malema’s seemingly uncontrollable tongue and whether or not he constituted an electoral risk for the ANC in general and Zuma in particular. The source of both endless fascination and vilification (ANC secretary-general Gwede Mantashe described it as “Malemaphobia”), the pressure was beginning to mount. On 24 November, he would on Radio 702 offer up his apologies for his “kill for Zuma” remarks.

“If we did sound like we’re inciting violence, we are very sorry. That was not our intention; we’ll never incite violence. We’ll never do anything unconstitutional – we are law-abiding citizens of this country and we will protect the constitution of this country. We fought for it and we stand by it,” he said.

## Winter

*“Once you hear the details of victory, it is hard to distinguish it from a defeat.” — Jean-Paul Sartre*

December came and went, but, with the advent of a new year, Malema had the opportunity to return to what he did best: advocating for Jacob Zuma as the best and only candidate for the presidency, and simultaneously rubbishing the justice system and its various component parts.

*So, it’s counter-revolutionary forces, which are determined to derail, even to reserve the gains of our revolution. Even internationally there are forces which wants to micromanage the government of the ANC and they think with Zuma they can’t succeed.*

On 12 January 2009, the Supreme Court of Appeal, which had been quietly going about its business in the background, was due to deliver its judgment on the Zuma matter in Bloemfontein.

Launching the ANC’s election manifesto in East London, on 10 January, Malema would remind the crowd what he was all about. “We are taking you (Zuma) back to Pretoria, where they expelled you like you are nothing. We are taking you back there as something and the most important person, the president of the republic of South Africa.

“Those who thought you will never be president, they will be disappointed this year,” he said as the audience erupted.

The judgment – overturning the Nicholson ruling, and paving the way for the prosecution of Zuma – did not go Malema’s way. This from the Mail & Guardian on 12 January:

“A unanimous Supreme Court of Appeal (SCA) bench, led by overwrought deputy president Judge Louis Harms, dismissed Nicholson’s Zuma judgment with contempt, dedicating an entire section in the judgment to “The Judicial Function”, which basically tells Nicholson he didn’t know what he was doing... Harms erased all of that with one thick stroke, putting an abrupt end to the ANC’s short-lived euphoria after Nicholson’s judgment. It was, after all, a dream ruling for the ruling party, which now faces the real possibility of going into the 2009 elections with a fraud suspect at its helm.”

The ANCYL was having none of it. After studying the judgment for two days, Malema would say:

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“The court makes an odd allegation that comrade Zuma is delaying his appearance in court. It is now an open secret that the NPA is the one that delayed the prosecution of Zuma.” He accused the judges of having gone “overboard” and stuck to his core message: “You can't prove a political conspiracy in court” – something of an about-turn, since he had claimed previously that that was exactly what Judge Nicholson had confirmed.

But he reserved his most ominous observation for the supreme court judges themselves: “Judges can be spoken to by any other person”, he said, “knowing the tendencies of those ones who are against us. They, the ‘dark forces’, travel at night. They have got the potential to do anything.” His 2008 promise to the Sunday Times that he would “respect the law” seemed now to depend on the political implications of any given judgment, rather than principle.

“We will go to court when we are called, but we know that there is no court in this country that can provide a fair hearing for our president. Our president would never get a fair trial.”

Returning to the NPA, he would say: “We are not retreating from our call that the NPA must drop charges because there are no winnable charges against the president of the ANC. They must save this country, they must act in the interest of the country, they must drop the charges and then we proceed.”

*“Judges can be spoken to by any other person”, he said, “knowing the tendencies of those ones who are against us. They, the ‘dark forces’, travel at night. They have got the potential to do anything.”*

The judgment revealed just how much of Malema’s conspiracy was fantasy; his allusions to “the ultra-right-wing, the imperialists, and the colonisers” never featured in either the Nicholson judgment or the Supreme Court of Appeal’s demolition of it. There was no mention of any “counter-revolutionary forces hell-bent on reversing the gains of our revolution” nor “right-wingers who want to overthrow the black majority rule”. Certainly nothing about international forces seeking to “micromanage the government of the ANC”. And that is before one gets to Mbeki himself, who was exonerated.

Turns out he had it all wrong. Completely wrong. But then, he also had it completely right: Mbeki was gone, and the end surely justified the means.

Whatever the facts, whatever the scale of his ignorance or willing disbelief, none of it had any effect on Malema. It is remarkable in retrospect. His defence, a decade later, would be no more than gullibility. He has never said who, outside of Zuma himself, was pouring all this poison into his ear, but they must have upturned litres of the stuff. There were so many obstacles to him believing Zuma’s version. So many facts and details and evidence and argument. None of them affected him in the slightest. In fact, not once, over the course of an entire year, will you find one single piece of on-the-record analysis or commentary from Malema where he tries to actually prove anything he ever said. His argument, such as it was, constituted no more than an endless series of barbs, accusations, innuendo, allegations, suspicions, threats and declarations, all woven together with colourful soundbites. But, search as you might, you will find no actual argument anywhere. The truth is, he wanted to believe. As a result, he was as fanatical in his devotion to his fantasy as a cult member is in their delusion.

On 22 January, speaking at the Cape Peninsula University of Technology, Malema would declare Zuma “the most educated president”, because “he was educated by people on the ground”. He said of Zuma: “He understands that political economy means to put bread on the table. You don't need to go to Oxford University to know that.”

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In January 2016, Malema would address the Oxford Union, where he would complain that, “the state favours those who are corrupt” and that, on the path to becoming a “failed state”, South Africa was demonstrating all the signs of a dictatorship. In such a situation, Malema bemoaned, “if the president in South Africa does not like a corruption-fighting institution called Scorpions they go and close down that Scorpions so he can steal more than R250m, I don’t know what that is in Pounds”, he said to laughter.

Later, he would propose a state-funded programme to take South Africans to “the best universities in the world.”

In January 2017, Malema would say of Zuma: “The man hates education with everything in him.” But he would take his about-turn further still, championing in the EFF university degrees themselves as valuable and important commodities. When he obtained a BA honours in philosophy from Unisa in September 2017, the EFF would say in a statement: “We are proud of this achievement as it impresses upon all to value education.”

At the end of January, Malema declined an ANC nomination to stand as an MP in parliament, saying: “I think parliament is for old people, don’t you agree? It’s not my favourite place.”

The consequences of the damage he had done to public debate was now widespread and acute. The saying has it, one should never wrestle with a pig, because you will only ever get muddy yourself. But Malema was knee deep in the stuff and, at a whim, he could drag anyone into the morass with him. All personal and petty, and carefully facilitated in excruciating detail by the media. He would mock Naledi Pandor’s accent, and a hundred stories would follow; he would declare himself unwilling to debate Helen Zille’s “garden boys”, and headlines would boom his sentiment the next day; he would insult Lekota, Lekota would respond, the battle would go on and on, chapter and verse. Wherever he went, personal invective would follow. As debate declined, newspaper sales soared.

*“We are not retreating from our call that the NPA must drop charges because there are no winnable charges against the president of the ANC. They must save this country, they must act in the interest of the country, they must drop the charges and then we proceed.”*

In an article titled “The secret of Julius’s success”, on 26 February, Ray Hartley would put it like this: “Julius Malema has pulled it off. He has achieved that most prized of all things, the status of one-man news generator. He has produced a media loop that runs like this: he talks it gets reported, people respond with strong emotions, his party shuts him up, he talks.” The final stage of Malema’s effect on the media was the one where the media itself began to reflect on its own culpability.

In years to come this would become Malema’s standard operating procedure. The strategy he adopted in his first year – the use of conspiracy, victimhood, allusions to racism and prejudice, the reliance on fear and violence and the reduction of all debate down to personality – would prove to be Malema’s real legacy. What he achieved during the period of April 2008 to April 2009, was the destruction of South African debate, as relayed to the public by the South African media. It has never recovered.

On 21 February, at a Cato Manor rally in Durban, Malema would tell supporters: “If Jacob Zuma is corrupt, then we want him with all his corruption. We want him with all his weaknesses. If he is uneducated, then we want him as our uneducated president.” Zuma would later deliver on his request ten times over.

Also in February, Malema would make the following observation about corruption: “You must never role-model a rich person who can’t explain how they got rich. In the ANC we must not have corrupt

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people as role models. Corrupt means a simple thing – you can't explain the big amount in your bank account. In less than a year, you have got everything. Yesterday you were down and out, but today you have everything which shows in your fancy dress code.” It was the very definition of everything Malema refused to do himself.

March was defined by electioneering, as Malema relentlessly punted Zuma’s suitability for office, explicitly and implicitly continuing to damn Mbeki along the way, and, all the time, professing Zuma’s innocence.

“You can have many papers (degrees) but be useless,” Malema told youth rally in Galeshewe on 29 March. “You can have a Masters in Economics from London and be very useless and not know how to solve the problems of our people” – a not so subtle reference to the former president. As for Zuma, he would say: “Newspaper articles have found Zuma guilty and have sentenced him to death but we refuse to be dictated as to who our leader should be. We have fetched him from the grave and made him our president.”

That he had, and the end game was approaching fast. On 6 April 2009, almost a year to the day after Julius Malema had been elected leader of the ANCYL, the acting National Director of Public Prosecutions, Mokotedi Mpshe, announced his decision to drop the pursuit of all charges against Jacob Zuma, on the basis of secret recordings of conversations that, Mpshe argued, suggested the timing of the decision to charge Mr Zuma in 2007 had been manipulated. There were just 16 days to go until South Africa went to the polls.

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Prior to the announcement, and in anticipation of it, Malema had offered the following, seemingly self-defeating advice (given the threat he had directed at Mpshe and the NPA not six months prior): “We don’t want to speculate, we want to wait for an announcement, but if that is their thinking [to drop the charges], then they must have courage and not be intimidated by these noise-makers. That would be good as it is in the interests of South Africa.”

After Mpshe had delivered exactly what Malema was after, he was surprisingly muted, given the ferocity of his rhetoric over the preceding year. So, while the likes of Vavi would call for Mbeki to be prosecuted, Malema would suggest that was unwise. “If you charge Mbeki you are inviting unnecessary sympathy for him,” he argued, “because the highest price Mbeki paid was when we recalled him as president.”

And he would offer those implicated in the secret tapes – former head of the Scorpions Leonard McCarthy – and the attempted prosecution of Zuma – former NPA head Bulelani Ngcuka – his forgiveness. “Bulelani Ngcuka, McCarthy, whatever else they did, we should say as a South African society, let’s close this chapter; let’s move forward.”

He had won, totally and absolutely. How easily magnanimity comes to those that have humiliated and crushed their enemies.

Today Malema has also been forgiven (although, in truth, he was never even convicted), his crimes forgotten and certainly never dwelt upon. The country today, fragile and hypersensitive to any attack on

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the integrity of the courts or any threat to their independence, the slightest attack on the justice system is pounced upon. Perpetrators are wrung dry and hung out to bake in the withering gaze of social media, before being excommunicated. Not Malema. He is touted as a “genius”, a “master strategist”; “tactically brilliant”, “astute” and “very, very clever”. There is a good argument to be made, in truth, that he is no more than a gullible fool. But then he has turned even gullibility into a virtue, so perhaps not.

On 16 April, basking in the glory of his victory, Malema would once again turn to other matters close to his heart. Having assured that Zuma could now stand for election unchallenged, he told supporters in Cape Town that the ANC would target a “three thirds” majority on 22 April.

“Don't provoke us, it is us (ANC) who brought the nonsensical apartheid regime down. No opposition (party) will ever defeat the ANC. We want them all to combine so we can defeat them.”

“For those of you saying Zuma should not be president, (you) are daydreaming... he will be the best ever president of the Republic,” Malema roared.

The DA had, in the meantime, indicated that it would be initiating legal procedures for a judicial review of the NPA's decision, the first step on a long journey of its own to try and start to undo the damage Malema had done. Malema took time out to ridicule that option, too. “Champions of the constitution should support the NPA's decision,” he said. “This is not the first time it has decided to drop charges. It happens every day.”

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On 22 April, the ANC was elected back into government, with Zuma at the helm. All the doom and gloom predicted in the press, on the back of Zuma's own suitability and the wild, unconstrained demagoguery epitomised by Malema, came to nought as the party managed a whopping 65.9% at the polls.

Reflecting on the last year, Malema again reverted to his “closing chapter” metaphor, a recent favourite. “We are closing the chapter on eight years of suffering under dictatorship,” he would declare.

The age of Jacob Zuma was born.

## Winter Solstice

*“It is not necessary to accept everything as true, one must only accept it as necessary.” —  
Franz Kafka*

An abbreviated history of Julius Malema's relationship with Thabo Mbeki is worth setting out briefly, for it illustrates something above and beyond Malema's aptitude for conspiracy-driven fantasy and the defamation and destruction that inevitably accompanies it. Rather, his ability to manipulate the media and the country's goldfish memory, so that nothing is permanent, and no position set in principled stone.

At the height of his contempt for Mbeki, he would describe him variously but not only as a “sophisticated dictator”, a “coward”, a “snake”, a man who “abuses power” and, he implied, was generally “useless” at addressing the needs of people. When Jacob Zuma was elected president in April 2009,

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Malema would say: “We are closing a chapter of eight years of suffering under a dictatorship”. He would be replaced, Malema said, by Zuma, “the best ever president of the Republic.”

After some time in the political wilderness, expelled from the ANC for insubordination, Malema would return to national politics by establishing the Economic Freedom Fighters in 2013. His desire to oppose Zuma and the ANC, with whom he had fallen out dramatically, hinged on his ability to demonstrate some remorse for his words and actions as ANCYL leader.

This necessitated a series of public apologies. They were categorical. And he got straight to work. “I’ve made a terrible mistake and I am trying everything in my power to reverse that. This crisis was made by some of us ... we will do everything in our power to correct this terrible mistake we committed in Polokwane,” he said in 2013.

In February 2016, book-ending several similar acts of ostensible contrition, he said before parliament: “We are here today to once again apologise to former president Mbeki for being part of those who removed him on the basis of lies and rumours spread by the sitting president.” For the most part, however, his apologies were entirely personal and directed towards Mbeki rather than to the public whose interests he had so greatly harmed, the legal institutions and individuals he had destroyed and defamed jointly and respectively, or the media he had so misled.

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They included, in April 2014, an apology to Mbeki’s mother, Epainette. “I took an opportunity to also apologise to her about how we ill-treated her child,” Malema would tell 2 000 supporters in East London. These apologies proved to be as successful a rhetorical weapon as the crime did in the first place, mostly taken as a means to skewer Zuma rather to actually contemplate Malema’s culpability. Soon enough they bought Malema the redemption he needed, certainly among the media, which now rarely, if ever, looks back in anger.

He had, of course, been careful to lay the groundwork for all of this for some time before. Having got rid of Mbeki in 2009, it took only two years for his relationship with Jacob Zuma to sour so profoundly that, in June 2011, he had already declared: “Mbeki is the best leader the ANC has ever produced.” And, of course, no about-turn would be complete without both poles being flipped. Thus, in February 2012, he stated: “We have seen under President Zuma, democracy being replaced with dictatorship.”

And so, the democrat had become the dictator and vice versa. It is the absolutism of it all that is intriguing. Not just the juxtapositioning of ideas like the “best ever” and “dictator”, but the total love and the unmitigated hate that permeated each position. Graham Greene once wrote: “Hatred seems to work on the same glands as love: it even produces the same actions. If we had not been taught how to interpret the story of the Passion, would we have been able to say from their actions alone whether it was the jealous Judas or the cowardly Peter who loved Christ?” Zuma or Mbeki, you get the sense the ANC is the universal well from which all Malema’s emotions are drawn.

As if to complete the transition from foe to friend, following an impromptu meeting with Mbeki in August 2016, Malema said the former president had given him a “very, very positive response” when asked if he might vote for the EFF in the upcoming local elections. Malema said he was confident Mbeki would “do the right thing”.