

**The Battle is On: Government signals intention to defend the Quaker Peace Centre's action against the Arms Deal**

*Cape Town 3<sup>rd</sup> June 2017*

The Quaker Peace Centre's (QPC's) challenge to the South African government and others regarding that section of the Arms Deal won by British Aerospace [Operations] limited (BAe) has been taken up by the first and second defendants (the Government of South Africa and Barclays Bank PLC respectively), who yesterday served notice of their intentions to defend our action.

We find the timing opportune.

As arguably the first time that corruption on a grand scale reared its head, the Arms Deal paved the way for and is inextricably linked to the situation we find ourselves in in South Africa in mid-2017. The explosive information published on 1<sup>st</sup> June 2017 by the Daily Maverick's Scorpio Unit in partnership with amaBhungane simply confirms the findings, in rapid succession, of:

- The Public Protector's Report, *State of Capture* (October 2016);
- The publication of Pieter-Louis Myburgh's *The Republic of Gupta: A Story of State Capture* (April 2017);
- The South African Council of Churches' *Unburdening Panel Report* (18th May); and
- The release of the Report of a stellar array of academics based at four of South Africa's most respected universities: *Betrayal of the Promise: How the Nation is Being Stolen* (23rd May).

Reversing the BAe component of Arms Deal will mean:

- A strong message will be sent to those who have come terrifyingly close to destroying the democracy that so many died for, that enough is enough and bribery and corruption will be exposed, and those who perpetrate it will be held accountable;
- Our beleaguered fiscus will swell to the tune of R35 billion;
- We will no longer have to maintain aircraft we neither need nor know how to maintain.

The Quaker Peace Centre, Cape Town, was founded in 1987 by the Cape Western Monthly Meeting of the Religious Society of Friends (Quakers) in response to the repressive policies of apartheid and the need for developing non-violent methods of problem-solving, interaction and conflict resolution in South African society.

In the development of participatory democratic life in South Africa today, these founding Quaker values, peace testimony and principles remain central to the Centre's programme, as it broadens its base of membership and governance and responds to emerging needs in society.

It is QPC's considered opinion that the Arms Deal in its entirety works against peace in our country. Andrew Feinstein, formerly a senior ANC MP and chairperson of the

Standing Committee on Public Accounts (SCOPA), and subsequently author of *After the Party: Corruption and the ANC* (2009), highlighted the negative impact of the Arms Deal on democracy and socio-economic development. In fact, he argued, that Arms Deals are intrinsically corrupt and the global arms trade undermines accountable democracy.

In a country with amongst the highest levels of all forms of violence in the world (interpersonal, sexual, community), investing such huge amounts of money in an Arms Deal with such significant negative impacts in not only inappropriate but obscene. A society at peace with itself and its neighbours, and protecting the full range of rights provided for in our landmark Constitution neither needs nor can afford such a deal.

This is especially true in the case of the BAe component of the Arms Deal. Our claim is based on the unconstitutionality and illegality of the procurement.

BAe has paid a total of \$479 million in penalties for its corrupt behaviour in securing the South African Arms Deal among others, paying a total of £103-million (that's around R1.79 billion!)

It is on the basis of three independent causes of action that QPC seeks to overturn the procurement agreement and ensure the return to the National Fiscus of all monies already expended.

Two of the causes relate to the invalidity of the deal; the third relies on the deal being tainted by the corruption that attended its conclusion.

The first invalidity claim is based on a failure to comply with tender requirements of the Constitution and the second upon the lack of authority of the Minister of Finance to borrow money offshore to finance the deal. Should either of the invalidity claims succeed, the invalidity of the deal will involve returning the military hardware, with all money paid to date refunded.

A cancellation due to bribery and corruption has a penalty provision that kicks in and which entitles South Africa to 5% of the purchase price of hardware as pre-estimated damages.

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