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HSRC

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POST ZONDO THE FUTURE OF DEMOCRACY

REPORT ON A COLLOQUIUM

HELD ON 22 JUNE 2023, CSIR INTERNATIONAL CONVENTION CENTRE

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ABBREVIATIONS AND ACRONYMS

Adv	Advocate	NACAC	National Anti-Corruption Advisory Council
AG	Auditor-General	NCPS	National Crime Prevention Strategy
AGSA	Auditor-General of South Africa	NEDLAC	National Economic Development and Labour Council
ANC	African National Congress	NGO	Non-governmental organisation
AO	Accounting Officer	NICIS	National Integrated Cyber Infrastructure System
CASAC	Council for the Advancement of the South African Constitution	NPA	National Prosecuting Authority
CEO	Chief Executive Officer	OECD	Organisation for Economic Cooperation and Development
CFO	Chief Financial Officer	OUTA	Organisation Undoing Tax Abuse
CHPC	Centre for High Performance Computing	PARI	Public Affairs Research Institute
COD	Certificate of debt	PFMA	Public Finance Management Act
COGTA	Department of Cooperative Governance and Traditional Affairs	PhD	Doctor of Philosophy
COVID-19	Coronavirus disease	PDA	Performance and Development Agreement
CPO	Chief Procurement Officer	POCA	Prevention of Organised Crimes Act
CSIR	Council for Scientific and Industrial Research	PPACA	Public Procurement Anti-Corruption Agency
DCES	Developmental, Capable and Ethical State	PPFA	Political Party Funding Act
DDG	Deputy Director-General	PRASA	Passenger Rail Agency of South Africa
DG	Director-General	PRECCA	Prevention and Combating of Corrupt Activities Act
DIRISA	Data Intensive Research Initiative of South Africa	SANReN	South African National Research Network
DOJ&CD	Department of Justice and Constitutional Development	SARS	South African Revenue Service
DPE	Department of Public Enterprises	SASAS	South African Social Attitudes Survey
DPSA	Department of Public Service and Administration	SES	Socio-economic status
Dr	Doctor	SIU	Special Investigating Unit
DSI	Department of Science and Innovation	SOE	State-owned enterprise
DSO	Directorate of Special Operations	TOR	Terms of Reference
EA	Executive Authority	TRC	Truth and Reconciliation Commission
eRKC	e-Research Knowledge Centre	UDF	United Democratic Front
FICA	Financial Intelligence Centre Act	UNCAC	United Nations Convention Against Corruption
GI-TOC	Global Initiative against Transnational Organized Crime	UNCTOC	United Nations Convention against Transnational Organized Crime
HOD	Head of Department	(Zondo) Commission	Judicial Commission of Inquiry into allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State
HSRC	Human Sciences Research Council		
ICC	International Criminal Court		
ID	Investigating Directorate		
IPID	Independent Police Investigative Directorate		
MEC	Member of the Executive Council		
MP	Member of Parliament		

INTRODUCTION

A colloquium entitled “Post Zondo: The Future of Democracy” was held on 22 June 2023 at the Council for Scientific and Industrial Research (CSIR) International Convention Centre, in Pretoria, South Africa. The three-fold purpose of the colloquium was:

1. To reflect on state capture and the findings of the “Judicial Commission of Inquiry into allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State” (known popularly as the “Zondo Commission”) in a public arena outside of the courts
2. To gauge public appetite for democracy as the best form of governance for South Africa; and
3. To read the mood of South African influencers (politicians, businesspeople, civil society activists, academics, and investigative journalists) who have been standard-bearers for the democratic project.

The colloquium constituted a key outcome of a project being conducted by the Developmental, Capable and Ethical State (DCES) research division of the Human Sciences Research Council (HSRC), South Africa’s statutory institution for research into the human and social sciences and the largest body of its kind on the African continent. Dubbed the “Future of democracy”, the project seeks to continue the work of the Zondo Commission, in the first instance by recording, for posterity, the outputs of the Commission, to be housed in a legal library accessible to legal practitioners and scholars, the three arms of the state (the executive, the legislature and the judiciary), academics, organised business, organised labour, civil society, and the public at large.

In the wake of the capturing of the state investigated by the Zondo Commission, however, the project seeks also to explore societal attitudes not just to the outcomes of the Commission but to democracy itself, which has come under threat as the high levels of corruption epitomised in the attempted capture of the South African state have necessitated a reassessment of the best form of governance for South Africa. A final outcome of the project will be a book on the future of democracy that synthesises the body of work on the Zondo Commission, the colloquium here reported upon, and perspectives on the future directions of democracy in and for South Africa.

This report begins with a background to the conceptualisation of the Post Zondo: The Future of Democracy colloquium, proceeds with an account of the colloquium itself, and concludes with reflections on responses to and events following the colloquium.



BACKGROUND TO THE COLLOQUIUM

The Post Zondo: The Future of Democracy colloquium arose, as its title suggests, from the Zondo Commission, a brief account of which follows.

THE ZONDO COMMISSION

The Preamble to a summary report synthesising the reports of the Zondo Commission (Bohler-Muller, Cosser, Pienaar et al. 2022) provides a succinct account of the establishment of the Commission and its interpretation of its mandate:

The Public Protector’s report, dated 14 October 2016, was released on 2 November 2016. Then President Mr Jacob Gedleyihlekisa Zuma ... was directed to appoint a commission of inquiry to investigate the matters identified in the report. Failing in his attempt to have the remedial action set aside, Mr Zuma was ordered by the High Court — the Full Court of the Gauteng Division, Pretoria — on 13 December 2017 to appoint this Commission. In terms of the Court’s order, the Judge who would head the Commission was to be given the power “to investigate all the issues using the record of the Public Protector’s investigation and the State of Capture Report, No 6 of 2016/17 as a starting point.” This order echoed the wording of paragraph 8.6 of the Public Protector’s remedial action. In compliance with the Court’s order, and by Proclamation No. 3 of 2018 signed on 23 January 2018 (“the Proclamation”), Mr Zuma appointed this Commission.

As a judicial commission of inquiry, the Commission functioned on a legal and constitutional foundation. It had to make findings of fact and related issues of law. It had constantly to assess whether facts concerning people and events were relevant to its mandate. The Commission’s understanding of state capture guided it in determining how to approach the facts before it; in determining what conclusions or findings it could and should make; and in determining the resulting recommendations. While the concept of state capture was the central framing issue of concern for this Commission, neither the Public Protector’s report nor the TOR defined the concept.

To paraphrase a submission made when the hearing of evidence before the Commission commenced: it bears emphasis that state capture is not just about corruption. It is not even just about widespread corruption. Corruption may be part of state capture but state capture is more than that. State capture, at least in theory, concerns a network of relationships, both inside and outside government, whose objective is to ensure the sustained exercise of undue influence over decision-making in government and organs of the state for private and unlawful gain. The Commission’s purpose was to examine whether the evidence before it, considered altogether, indicated only a series of unrelated, ad hoc instances of corruption, or whether there had been a coordinated and deliberate project of state capture (Bohler-Muller, Cosser, Pienaar et al. 2022: ii-iii).

The Commission, chaired by then-Deputy Chief Justice Raymond Zondo and held from January 2018 to June 2022, heard testimony from more than 300 witnesses over 429 days of public hearings – all of which, being televised and livestreamed, was accessible to the public. Transcripts of each hearing were posted on the Commission’s website (<https://www.statecapture.org.za>) the very next day. The records of the Commission comprise 1.7 million pages of documentary evidence – which includes statements, affidavits, investigative reports and other forms of evidence (PARI 2022). As oft repeated at the colloquium, the Commission accumulated more than a petabyte (equivalent to one million gigabytes) of information and data, only a portion of which was used in the hearings. As PARI (2022: 2) puts it, “This evidence is a valuable public archive for South Africa’s young democracy, and it should be appropriately catalogued and stored” (emphasis added).

RATIONALE FOR THE COLLOQUIUM

The Zondo Commission presented the final volumes of its Report to the President of South Africa on the evening of 22 June 2022. A year later, to the day, the HSRC mounted the **Post Zondo: Future of Democracy** colloquium. The timing of the colloquium was deliberate: one year after the Commission’s work officially ended, it was important to take stock of where the country found itself and where it wanted to go.

The concept note for the colloquium provides the rationale for the event.

CONCEPT NOTE

The “Judicial Commission of Inquiry into allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State” – known colloquially as the Zondo Commission – presented the final volumes of its Report to the President of South Africa on 23 June 2022. The Commission’s volumes of the Report were released to the public by the President on every occasion of their submission to the President since January 2022.

The sheer scale of the investigations and their findings, presented in over 5 000 pages across six volumes, attest to the extent and the gravity of state capture as revealed through the evidence painstakingly assembled and distilled by the Commission – evidence which has far-reaching implications for the democratic future of the South African state. The immense amount of data generated by the Commission that can be – and is being – used for investigations and prosecutions; but it goes beyond this: the data, in excess of a petabyte in size, should be available to anyone who has an interest in the contents of the reports and their supporting evidence.

As the Department of Science and Innovation (DSI) we are committed to facilitating access to this data for scholars and researchers who are able to analyse what happened over the period ruled by the Guptas, Bosasa and other captors and predators of the state. We cannot find solutions if we do not understand the root causes and tactics of state capture and we cannot prevent future abuse if we cannot recognise the patterns and signs of the abuse of power.



Research has shown that democracy is on the decline in South Africa, as it is globally. One of the main concerns expressed in public opinion surveys is that this decline can be attributed to declining trust in government as a result of corruption. This is problematic as declining trust is most evident amongst the youth and may negatively impact election turnout in 2024.

The Commission, cognisant of the role that state research institutions would need to play beyond the life of the Commission and in order to protect the Republic from repeats of state capture, invited the Human Sciences Research Council (HSRC) and the Council for Scientific and Industrial Research (CSIR), through the Ministries of Science & Innovation and of Justice & Constitutional Development, to play a part in the setting up of the libraries and legal record of the Commission.

As part of its future role coming out of its support for the Commission's work the HSRC conceptualised and launched its own initiative in 2022 to shore up the "Future of Democracy": a project, led by the HSRC with the CSIR as partner, to provide ongoing research support to the Commission; to curate and preserve the records of the Commission in a special-purpose library; to gauge attitudes to the Zondo Commission's findings and to democracy itself through public opinion surveys; and to convene a colloquium and publish a book on the future of democracy.

The upcoming colloquium is one of the highlights of this research project, where Chief Justice Zondo will share his thoughts on the experience of leading the Commission and how the work he started can be taken forward. It is hoped that a key output will be a seminal book on the future of democracy.

The colloquium has three purposes: to reflect on state capture and the findings of the Zondo Commission in a public arena outside of the courts; to gauge public appetite for democracy as the best form of governance for South Africa; and to read the mood of South African influencers (politicians, business people, civil society activists, academics, and investigative journalists) who have been standard-bearers for the democratic project. Accordingly, the colloquium will feature presentations by a cabinet minister, senior government official, the Chief Justice of South Africa (who will deliver the keynote address), HSRC researchers, and leading civil society actors.

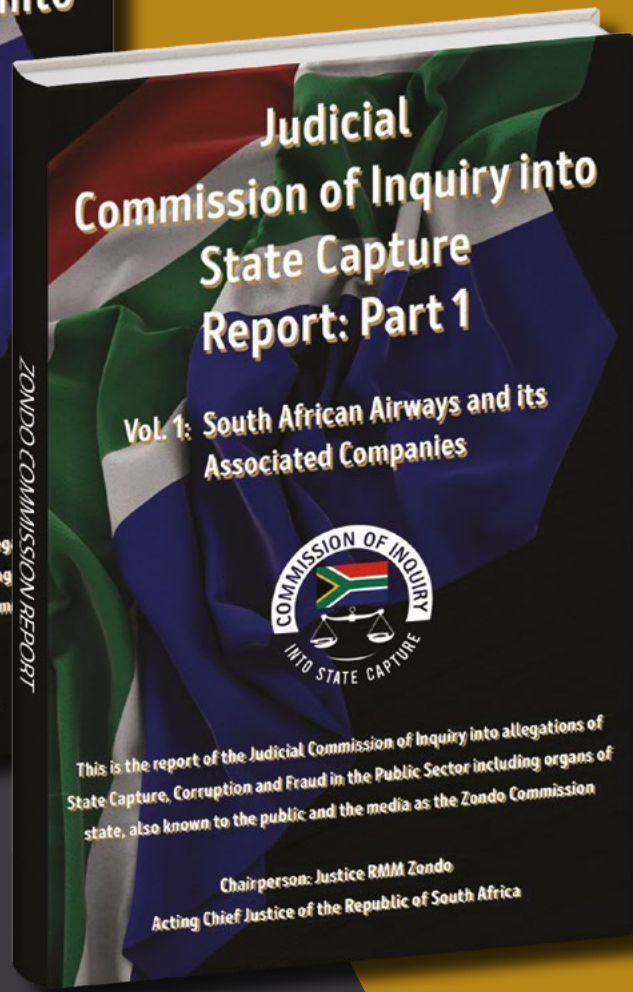
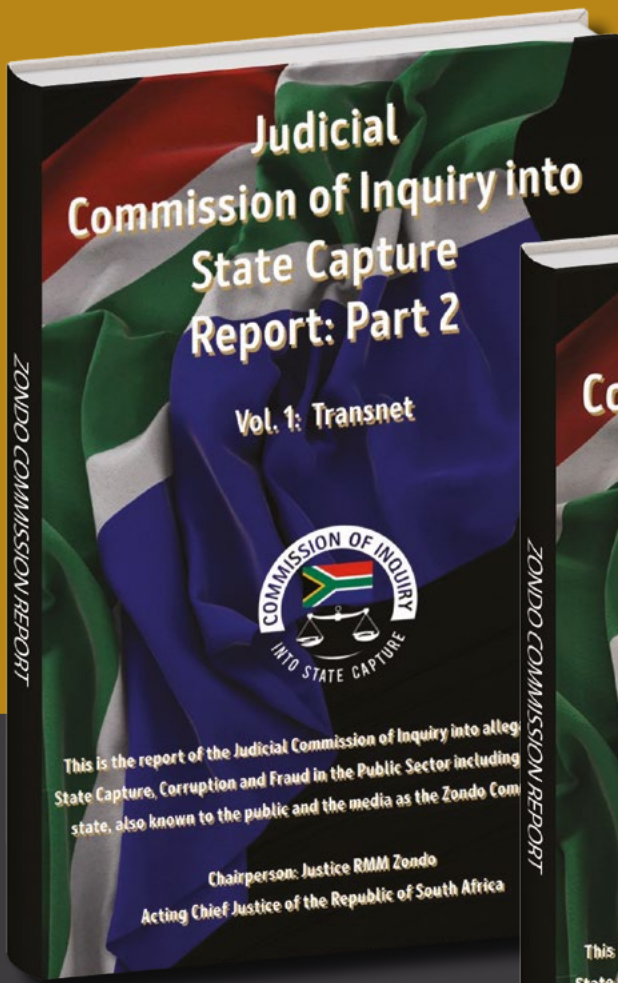
Each presentation will be followed by a period of discussion in which specially invited guests with expertise in the areas under consideration will lead the conversation – following which the discussion will be opened to the floor.

This colloquium is intended to mark a seminal moment in the country's trajectory, coming after the initial dust of the Zondo Commission has settled, as key figures in the state capture narrative are brought to book, and as the country heads towards a general election in 2024. It presents an opportunity for "we the people" to take stock of what has happened and to begin to chart a way forward that has the best interests of all who live in South Africa at heart.

However, there is a risk: should South Africans fail to witness the implementation of the Commission's recommendations or the prosecution of the main perpetrators of state capture, disillusionment may grow, and with it the accelerated demise of trust in government and democracy. It is thus incumbent on all of us to act in the national interest by searching for answers to a myriad difficult questions about how we conduct ourselves, in public and in private.

It is to be hoped that this event will add impetus to efforts to sustain the democratic project through promoting engagement with the Zondo Commission's reports and crystallising the lessons that can be taken from it.





The HSRC is grateful to the Department of Science & Innovation and the Department of Justice & Constitutional Development for their support for this project.

THE COLLOQUIUM

FORMAT OF THE COLLOQUIUM

An in-person colloquium was decided upon to maximise networking opportunities, particularly in the aftermath of the COVID-19 pandemic, when almost all engagement occurred online. In the context of a colloquium on the future of democracy, having ‘people in the room’ epitomises democracy in action (“democracy” being derived from the Greek *demos*, people, and *kratia*, power, rule).

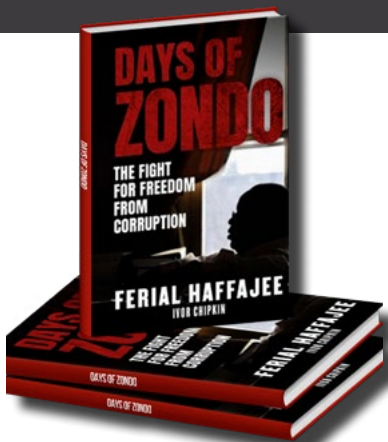
An all-day event (10:00 to 16:30) allowed for presentations by a variety of stakeholders (from the executive, the judiciary, academia, and civil society) and for discussion sessions following the presentations.

The whole proceedings were filmed and broadcast live on YouTube, members of the media were in attendance in particular to cover Chief Justice Zondo’s address.



PROGRAMME FOR THE COLLOQUIUM

The colloquium was opened by the Programme Director, Ms Ferial Haffajee, Associate Editor of the online newspaper *Daily Maverick* and author of a book on the Zondo Commission, *Days of Zondo. The fight for freedom from corruption*. She welcomed the Chief Justice, the Minister of Higher Education, Science and Innovation, former Justices Richard Goldstone and Johann Kriegler, and the audience to the colloquium.



Prof Narnia Bohler-Muller, Divisional Executive of the DCES research division of the HSRC and leader of the Future of Democracy project at the HSRC, made introductory remarks that sought to contextualise the day’s proceedings.

PROGRAMME DIRECTOR: Ms Ferial Haffajee, Associate Editor, *Daily Maverick*

09:30	REGISTRATION; TEA / COFFEE
10:00	INTRODUCTORY REMARKS: <i>Prof Narnia Bohler-Muller</i> , Divisional Executive, Human Sciences Research Council (HSRC)
10:10	A VISION FOR THE FUTURE OF DEMOCRACY PROJECT <i>Dr Blade Nzimande</i> , Minister of Higher Education, Science & Innovation
10:25	KEYNOTE ADDRESS: <i>Chief Justice Raymond Zondo:</i> Has the capturing of the state placed our democracy at risk?
10:55	DISCUSSION
11:25	TEA / COFFEE
11:50	PART 1 <i>Dr Benjamin Roberts</i> , Research Director and <i>Mr Ngqapheli Mchunu</i> , Researcher, HSRC: South African Social Attitudes Survey (SASAS) and online survey results
12:20	DISCUSSION
12:40	PART 2 <i>Adv. Gary Pienaar</i> , Senior Research Manager, HSRC: Implementation of recommendations to date
13:00	DISCUSSION
13:20	LUNCH
14:10	PART 3 <i>Prof Itumeleng Mosala</i> , Secretary of the Zondo Commission into State Capture: The role of academics and researchers going forward <i>Dr Dibuleng Mohlakwana</i> , Director, HSRC & <i>Mr Rethabile Khutlang</i> , Research Group Leader, Council for Scientific and Industrial Research (CSIR): Access to the State Capture archives
14:40	DISCUSSION
15:00	PART 4 <i>Adv. Vusi Pikoli</i> , Senior Advisor, Global Initiative against Transnational Organised Crime and former National Director of Public Prosecutions: Organised crime and how to combat it
15:20	PART 5 <i>Prof Mbongiseni Buthelezi</i> , Executive Director, Public Affairs Research Institute: The Zondo Commission and Civil Society
15:40	DISCUSSION
16:10	CONCLUSION <i>Prof Narnia Bohler-Muller</i> , Divisional Executive, HSRC: How can we ensure the protection of our democracy in future?
16:20	CLOSING REMARKS <i>Dr Cassius Lubisi</i> , Chair, HSRC Board
16:30	CLOSURE AND TEA / COFFEE



PRESENTATIONS

PROF NARNIA BOHLER-MULLER:

INTRODUCTORY REMARKS

Prof Bohler-Muller added her own welcome to participants to the colloquium, highlighting the transparency of a process in which the reports were submitted to the President and simultaneously published on the Commission’s website. The Commission and the Presidency were to be congratulated for that level of transparency.



From left: Chief Justice Raymond Zondo, Dr Cassius Lubisi, and Prof Narnia Bohler-Muller

The colloquium was honoured to have the Minister of Higher Education, Science and Innovation, the Chief Justice, the CEO of the HSRC, Prof Sarah Mosoetsa, the Chair of the HSRC Board, Dr Cassius Lubisi, in attendance, as well as former Justices Kriegler and Goldstone – the two former Justices of the first Bench having laid the foundation for the country’s constitutional trajectory. The presence of every member of the audience – and especially of the young people in it, who had an opportunity to learn from the proceedings – was greatly appreciated.



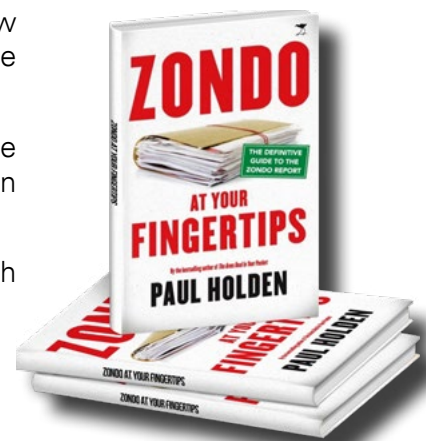
Prof Sarah Mosoetsa

While the colloquium necessarily dealt with the past – on the “seediness and filth” of state capture – essentially it looked forward, assessing where the country was going, whether its trajectory had changed, and whether its democracy was at risk. As stated by the Chief Justice, corruption had no place in a constitutional democracy, depriving people of the services to which they were entitled. Ways had to be found to stop corruption, or at least to reduce it to an absolute minimum. It was to be hoped that, given the great minds assembled at the colloquium who would share their thoughts, there would be a space for deeper reflection about the meaning of a developmental, capable and ethical state.

The aim was to provide evidence-based research and commentary on how to strengthen democracy through transparent governance, accountable leadership, and reinvigorated public participation and civic engagement.

In his new book, *Zondo at your fingertips*, Paul Holden, who gave evidence at the Commission, had posited a number of ways in which the Commission had changed South Africa:

1. Resources had been deployed to an extent unmatched since the Truth and Reconciliation Commission
2. It exposed a political reality that could not be obscured or denied
3. The Commission was truly globally unique
4. It was a really powerful centralised node to draw in the investigative capacities of the state
5. There were concrete results
6. It was an act of unparalleled and quite radical transparency; and
7. The Commission’s approach to civil society was a breath of fresh air.



Besides acknowledging these significant changes and calling for the state capture perpetrators to be in orange, to be brought to book, the country had to go even further, to build a state and a society that put people, and the planet, at the centre. Looming large in recent years, the revelations of state capture had cast a deep shadow on the capacity of the state as a whole to ensure a better life “for all who lived in this beautiful country.” This had called into question the legitimacy of the state as well as that of the Constitution and had led to diminished trust in democracy and in the constitutionally established institutions meant to uphold democracy.

The country could not afford to be complacent or to lose hope – hope that still lay in the Constitution, not only as a legal document but as a testimony to transformative thinking and aspirations underlaid by values and principles that all should hold dear. Loose talk of a Constitution that had failed the people, of democracy that had failed the people, was disingenuous and dangerous. South Africa needed a mass campaign by civil society, business, the media and political organisations – “we the people” – to increase knowledge and understanding of the role of the Constitution. The country needed to create awareness, it needed even at the level of early childhood development, primary, high school and tertiary education levels to teach the values of the Constitution, which would boost a sense of ownership over the Constitution that had birthed the country’s democracy. Chief Justice Zondo and the Commission were able to do their work precisely because the Constitution had provided an enabling framework for such endeavours. For those who wished to pillage and plunder the coffers of the state, the Constitution was a hindrance. It should remain so. In the words of the late Justice Ismael Mohammed, who had written “so beautifully”:

The South African Constitution . . . retains from the past only what is defensible and represents a decisive break from, and a ringing rejection of, that part of the past which is disgracefully racist, authoritarian, insular, and repressive. A vigorous identification of and commitment to a democratic, universalistic, caring and aspirationally egalitarian ethos is expressly articulated in the Constitution. The contrast between the past which it repudiates and the future to which it seeks to commit the nation is stark and dramatic.

It was the future which occupied the minds of colloquium participants, one that was starkly and dramatically different from the past.

DR BLADE NZIMANDE:

A VISION FOR THE FUTURE OF DEMOCRACY PROJECT

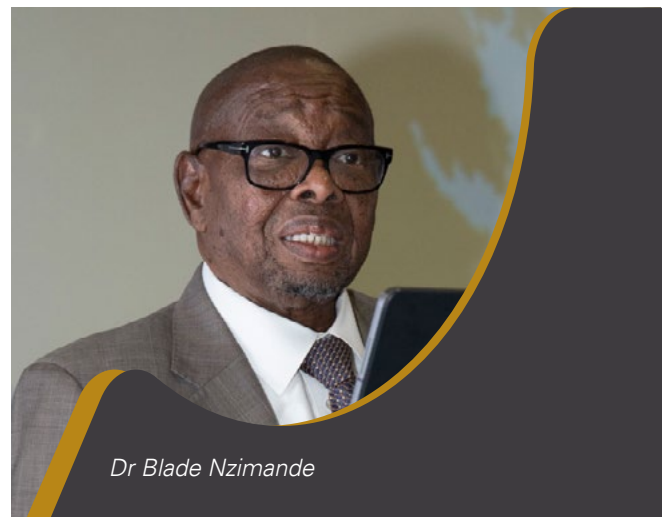
The Zondo Commission had produced an enormous amount of data, which could be and was being used for investigations and prosecutions – as it should be. But for Dr Nzimande’s ministry the Commission went beyond this. The data – more than a petabyte in size – should be available, for research, to anyone who had an interest in the contents of the report and its supporting evidence.

The Commission, through Prof Mosala, had approached the Department of Science and Innovation late in 2020, with the blessing of the Chief Justice Zondo, to ask if the records of the Commission could be properly stored and made available for research. The Department was more than happy to be playing this role, accepting it because the report of the Commission was part of the country’s history – as unpalatable as this might be – and therefore it was a record that needed to be used appropriately.

This was perhaps the most important Commission after the TRC [Truth and Reconciliation Commission]. Making this comparison brought up the question of the records of the TRC: where were they? Were they being properly stored? Were they being mined, in terms of research?

Part of the reason, from a research perspective, for looking at the Zondo Commission record was also to identify gaps that needed to be filled – whether for purposes of prosecution or for posterity: for the truth to be told.

For instance, one of the big gaps in the TRC and in the history of the country was the role that the media had played in its complicity in the atrocities of the apartheid regime – particularly the mainstream media.



Dr Blade Nzimande

“ ... it was a day for making history. ”

Unfortunately they had refused to participate in the TRC. That was a gap and a story that still needed to be told. Those gaps should not be allowed, since they deprived the country of its own history.

Dr Nzimande pointed out that he was at the colloquium as a Minister – but also as a Minister with a particular history: a former academic; a participant in the struggle against apartheid; and a participant in the task of reconstruction and rebuilding and transforming the country. Some of the key questions that should be asked arising out of the Zondo Commission reports were, first: what were the gaps that needed to be filled on state capture – because the Commission had done its best, and the work it had done was really appreciated? But were there still gaps – as illustrated in relation to the TRC, a gap in the role of the media? In the TRC there were still glaring gaps: who had killed the Craddock Four? The details of the assassination of Chris Hani had never come out in full – and the TRC had said so. Research could play a very important role – even if not for prosecution, but for posterity – towards completing the country’s history.

This question is about the people’s own struggle against apartheid. How had such an expensive struggle become so cheap – and sold and bought as contained in the Commission’s report? It was very important, therefore, that the Commission’s report became a living document that should help the people tell their story.

However, history was not just about the past. To define history only in terms of the past was not to understand history. History was about the past, the present, and the future – again, pointing to the importance of the colloquium theme about posing questions about the country’s democracy. How could it be ensured, Dr Nzimande asked, that such things as contained in the Zondo Commission report not be allowed to happen again? It was often said that any society that did not understand its history did not have a future. Therefore, as unpalatable as this report was, it was part of the country’s history and needed to be treated as such.

What lessons, he asked, could be learned, looking forward, in terms of the country’s history? First, was the South African situation a unique one? That question suggested the need to do some serious comparative work and analysis, so that South Africans learned from others but also that South Africans taught others their own experience. All those sections of humanity committed to a better life for all should be able to share those experiences – so that such things did not happen again. In taking forward the findings of the report or reports, it would also be important to undertake a critique of the report itself.

One critical question that needed to be asked about what was contained in the Commission’s report was to what extent South Africa’s adoption of the Washington Consensus in 1996 had laid the basis for state capture. How could it have been assumed that the unfettered operation of a free market could address the huge inequalities that the country inherited? Had Dr Nzimande appeared before the Chief Justice, he said, he would have presented this question. Judges might only be interested in the ‘facts’ before them; but as researchers that was the question that needed to be asked. It was also important for researchers to look at the connection between the contents of the TRC report and the contents of the Zondo Commission report. That was an important part of telling the people’s own history and of understanding where they were.

The Commission’s report tended to assume that where the state had failed, the private sector could correct. But there was a problem with that – because corruption involved the public and the private sector. It was a partnership, a combination, that was always there. This needed to be examined critically – as part of reading, not of rubbishing, because anyone who tried to rubbish the work of the Commission would not succeed. The idea was not to rubbish the Commission but to enrich its work so that the country emerged with something better.

A message to Dr Nzimande’s DG [Director-General] and senior officials, who were in the room, was that they should find money to support research into the report of the Zondo Commission – including the establishment of one or two Research Chairs, using the National Research Foundation. The Department would not be able to provide all the money that would be needed but committed itself to making a financial contribution.

The colloquium was a very important day for Dr Nzimande’s two departments, he concluded, because it was a day for making history.

CHIEF JUSTICE RAYMOND ZONDO:

HAS THE CAPTURING OF THE STATE PLACED OUR DEMOCRACY AT RISK?

Chief Justice Zondo thanked Prof Bohler-Muller and her team for inviting him to be part of a very important gathering to address participants on the topic “Has the capturing of the state placed our democracy at risk?”

The colloquium was being held exactly one year since he had submitted the last two parts of the report of the state capture Commission to the President. It was on the evening of 22 June 2022 that he handed Parts 5 and 6 of the Commission’s report to the President.



Chief Justice Raymond Zondo

At that point, he and some members of his team had been working continuously for about 36 hours without sleeping as they pushed themselves to finish the report and hand it over to the President. The whole nation was waiting; and as some members of the audience might have recalled, there were some postponements before the final report was handed over to the President.

They [the Commission’s writing team] were exhausted; but Chief Justice Zondo wanted to take the opportunity since the handover of the last parts of the Commission’s report to once again acknowledge the contribution of the whole team in the Commission – the legal team, the investigation team, the Secretariat, everybody. He also wanted to take the opportunity as he reflected on that time to say that he continued to be very grateful to the people of South Africa who had supported the Commission even when it was going through some of its most difficult times.

Ordinary South Africans, civic organisations, NGOs; there were many people who sent emails, many people sent messages, even when it was very difficult, who told the team that they stood with it and to please continue with the work of the Commission. Those who supported them in that way enabled them to continue even when it was very difficult. It was therefore important, a year after the handover of the final report, and the Commission looked back, to acknowledge the role that many people had played in ensuring that the Commission could continue with its work.

In response to the question he had been asked to address, “Has the capturing of the state placed our democracy at risk?”, the answer was an unequivocal ‘yes’. However, it was necessary to start at the beginning, which was that when the Commission began its hearings it invited two international experts on state capture to give evidence before it. Those were Professors Kaufmann and Hellman. They gave a definition of state capture that included that state capturers made illicit payments to government officials in order to get them to change the rules of the game, or rules and regulations, in order to advantage them. In their article “Seize the state, seize the day” they [Professors Kaufmann and Hellman] had provided the following definition of state capture: “State capture is defined as shaping the formation of the basic rules of the game – i.e., laws, rules, decrees and regulations through illicit, non-transparent private payments to public officials.”

The Commission did not regard this definition as embracing all forms of state capture. In South Africa, those who had pursued state capture in SOEs [state-owned enterprises] had not sought to have any rules, laws or regulations changed. The state capture pursued by the Guptas and their associates was anchored in the influence and control they had over the head of state, who was also the President of the ruling party, ensuring that he would engineer the removal from strategic positions in SOEs of persons who would not be prepared to cooperate with the Guptas in wrongdoing, but that he would appoint to those strategic positions people who would cooperate with the Guptas and with their associates.

Notwithstanding the fact that state capture in South Africa, whether by the Guptas, or Bosasa, or Bain & Co., had not included that any regulations be changed, the Commission found that state capture had happened in the country.

The South African version of state capture entailed having great influence or control over government officials, who included the head of state, and the use of payments to politicians and corrupt government officials to ensure that existing rules and regulations would be breached for the purpose of advancing their [the Guptas'] business interests. The changing of rules and regulations was not an essential requirement of state capture.

It was important that we refresh our memories a bit about how in particular the Guptas had gone about their project of state capture. There was no doubt, if one were to go through the evidence heard by the Commission, that the Guptas and those who worked with them had planned this project in good time and had worked on it for quite some time. In 2009 there was a general election, after which President Zuma became the President of the country. But the Guptas had been close to the family for quite a few years before that.

That was 2009; so for about two years President Zuma did not want the position of CEO of Transnet to be filled, because he wanted Mr Gama. This was at a time when Mr Gama had gone through a very fair disciplinary process chaired by a member of the Johannesburg Bar – an independent person who had written a very thorough judgment and had made findings against him. Nevertheless, Mr Zuma wanted Mr Gama to be the CEO of Transnet. But for over two years the vacancy was not filled. On the 7th of December 2010 the Guptas' newspaper came out for the first time; it said Mr Brian Molefe would be the CEO of Transnet. Within three or four months thereafter he had become the Group CEO of Transnet.

Moving from Transnet at that time to Denel, it was apparent that the Guptas had already been working at Denel. In 2011 they met with Mr Riaz Saloojee, who was CEO of Denel, and tried to see if he would cooperate with them; but they were frustrated because he didn't do so. It seems that they then left that project – or shelved it – also because the Denel Board was very professional and had done a very good job. It seemed from all the evidence that the Board comprised people of integrity. What the Guptas had done in the meantime was that in 2015 they went to Eskom. They had been to Transnet – Mr Brian Molefe was there – and they had put certain people into the Board of Transnet; they then moved to Eskom. The month of March 2015 became very important in the Guptas' state capture project, because a lot of things happened during that month.

But 2015 was also important because later in the year other events happened which went to the issue of state capture. In March 2015 there was a meeting involving Mr Zuma, Mr Dumyeni, and a gentleman called Mr Linnell, where they were going to discuss the removal of certain officials from Eskom. That meeting did not ultimately have Mr Zuma in it; but the other two continued. Then on the 8th of March there was a meeting in Mr Zuma's official residence in Durban where the plan for the removal of certain officials from the executive of Eskom was discussed. But that plan had not been made in that meeting; that plan had been made elsewhere. The real people behind it were not in that meeting – except for Mr Zuma, who spent a certain amount of time there. Then on the 10th of March there was a Board meeting at Eskom.

The 10th of March was also an important date in that it showed how the Guptas went about their project of state capture. At Melrose Arch on the 10th of March Mr Essa met with Mr Okker from Eskom. The two of them had invited certain officials of Eskom to discuss with them the fact that there were going to be certain suspensions, plus the issue of who would act in which positions. On the 11th of March the suspensions happened. Within three or four months they [the suspended officials] were removed completely; they were offered lots of money to go away. And in the meantime Mr Brian Molefe was seconded from Transnet to Eskom – he whose assumption of the position of CEO of Transnet had been foretold by the Gupta newspaper. Mr Anoj Singh took the position of Chief Financial Officer. The rest of what happened was well known. But they then took exactly that plan they had used at Eskom and went to Denel; and at Denel they made sure that Minister Brown, whom the Commission found had a relationship with the Guptas (which she denied), made sure that most of the people who were appointed to the Board of Denel had a relationship with the Guptas.

Whether one was dealing with the phenomenon of state capture as defined by Professors Hellman or Kaufmann or with the South African version of state capture, state capture had placed South Africa's democracy at risk. State capture was about greed, selfishness, and criminality. Where it had happened in South Africa, the head of state was captured; and he had used his constitutional and legal powers to make decisions that advanced the business interests of the Guptas. What demonstrated beyond any doubt that state capture had placed the country's democracy at risk was when one considered the role of the National Assembly. Section 42(3) of the Constitution provided that the National Assembly was elected to represent the people. So when the National Assembly failed to protect the people against state capture, it failed in its duty.

When you represented someone in a forum, you were supposed to protect that person's interests; and if you failed to do that, you had failed in your duty. Apart from providing that the National Assembly was elected to represent the people and to ensure government by the people under the Constitution, section 42(3) of the Constitution went on to provide that the National Assembly, in representing the people, ensured government by the people under the Constitution by choosing the President, by providing a national forum for the public consideration of issues taken democratically, and to ensure that it performed its oversight functions over the Executive.

The Commission in its report had detailed various instances during the Gupta's state capture where Parliament – the National Assembly – had failed to take steps that would have made sure that state capture had been exposed early – that would have made sure that it was stopped before South Africans lost over R58 billion through the Gupta's state capture. The reason why it [Parliament] had failed was well known: it was because the majority party had refused to agree to the establishment of an inquiry to investigate the allegations. There were a number of instances where there was an opportunity for the majority party in Parliament to agree; but it did not. Therefore the Guptas continued with their project; and the transactions that happened afterwards happened because they had not been stopped by Parliament when it could have stopped them.

As Chief Justice Zondo had said on previous occasions, if another group of people were to have done exactly what the Guptas had done to pursue state capture, Parliament would still not have been able to stop it – simply because he had seen nothing that had changed.

The question that arose, then, was that if Parliament was not able to protect the interests of the people, if there were attempts at another state capture, who would protect the people? He could think of only two possible answers. The one was that, if certain electoral reforms were made which allowed people to have more power over members of Parliament, with constituencies, there might be a chance that a number of Members of Parliament who knew what was the right thing to do would be prepared to say "no" to their own parties when their parties wanted them to do something that was against the interests of the people.

The other possibility was one that the Commission had pointed out in its report, namely, that there should be an anti-state capture and anti-corruption commission that worked the same way as the Commission that he had been honoured to chair – a commission which could call anybody, whether the President or any Member of Parliament or any Minister, to come and answer questions where there were allegations of corruption and state capture. Even if the majority in Parliament did not want certain questions to be asked, or wanted to protect certain Ministers and the President from certain questions, then, in that commission there would be full opportunity for everything to be explored and for the evidence and answers to be given in the open. At least, therefore, nothing could be swept under the carpet.

The last issue was simply that the citizens of the country had to be trusted. Chief Justice Zondo believed in active citizenry; he believed that the people of South Africa should take their destiny into their own hands. They were the ones who should say that they had had state capture and that it was not going to happen again. ***They had to be the ones who said "never, and never, and never again."***

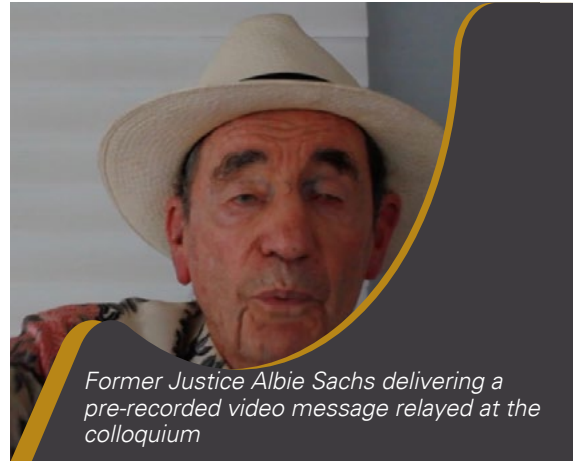


Chief Justice Zondo being presented with a gift as a token of appreciation for his address by Dr Thobeka Zondi (DCES, HSRC)

JUDGE ALBIE SACHS:

VIDEO MESSAGE TO CJ ZONDO

The colloquium organisers had invited certain persons to be respondents to the main colloquium presentations – not in direct response to their presentations but to make contributions within the framework of the session topics. The first respondent was former Justice of the Constitutional Court Albie Sachs, who, unable to be physically present at the colloquium, had a video recording of a tribute to Chief Justice Raymond Zondo prepared in advance. Click [here](#) for the video message.



Former Justice Albie Sachs delivering a pre-recorded video message relayed at the colloquium

Judge Sachs expressed regret at not being able to be at the colloquium to hear the Chief Justice speaking and to feel part of what was an extremely important occasion. He wished to underline how significant the Zondo Commission was already – how in a way it had already transformed the landscape in South Africa. It had had an enormous impact already on what one might call the South African culture – what people were saying, demanding and thinking, how people on the ground felt.

“Raymond Zondo ... warm, collected, focused ... imbued with the spirit of the Constitution”

It was then that the nation heard the name of Raymond Zondo. He had not been very prominent until then; Deputy Chief Justice, one of the team of eleven up on Constitution Hill. They saw and heard Raymond Zondo, an unlikely hero – not someone who went around smiting enemies, making speeches, projecting himself; warm, collected, focused, one who happened to have a very lovely baritone voice that made listening to him a pleasure – not something that all members of the Judiciary had. But above all, imbued with the spirit of the Constitution, and focusing on the task at hand.



Mr Vonani Chauke, alongside Chief Justice Zondo

MR VONANI CHAUKE:

RESPONSE TO ADDRESS BY CHIEF JUSTICE ZONDO

The second response to the address by the Chief Justice was provided by Mr Vonani Chauke, the Deputy Auditor-General of South Africa. Mr Chauke indicated that the audit profession had met with the Chief Justice two weeks prior to the colloquium. He had stressed that the Auditor-General of South Africa (AGSA) needed to audit *all* public entities. However, this was a difficult undertaking given the sheer number of public entities.

So while the AGSA appreciated the vote of confidence in it by the Chief Justice, it was impractical to audit everything.

The foundation of accountability, Mr Chauke asserted, was an active citizenry. Sometimes professionals hid behind their profession without behaving as citizens. The model for preventing future state capture would be to rely on the citizens of the country, who should lead by example.

This meant being visible in our communities, being proactive in the face of challenges. In the AGSA ecosystem auditing was only undertaken “after the fact” – as demonstrated in the unearthing of corruption surrounding the recent COVID-19 pandemic. Other lines of defence needed to be in place and acted upon. The accountability system of the country had been weakened; it needed to be strengthened, especially at Board level. Boards did not work – as demonstrated in Chief Justice Zondo’s address. The whole system had been premised on people of integrity making decisions on behalf of the state or state-owned companies.

But as the Chief Justice showed, Boards, which should have held their executives to account, had been weakened. Nevertheless, certain people (certain executives in Eskom, for example) had stood their ground – underscoring the need for a protective environment for whistle-blowers. The Zondo Commission proposal for a standing anti-state capture anti-corruption body to be established to fight corruption was good; but Mr Chauke’s fear was that it would be overburdened unless everyone played their part in ensuring ethical behaviour at every level of the system.

It was apparent – returning to the issue of company Boards – that the voices of Board members who had integrity were not heard; some resigned rather than speak out. How, asked Mr Chauke, did one as a responsible citizen elevate messages about things going wrong in a context of questionable ethical decisions being made? An appointments committee in an organisation was a good thing – but it depended on the integrity of people in that committee.

Mr Chauke emphasised that the AGSA accountability framework needed to be interrogated and implemented. But everyone needed to play their part within the ecosystem; why, for example, would a Portfolio Committee not hold a Minister accountable? Why would Cabinet in totality not want to do their work? AGSA had been meeting with various entities to promote the importance of everyone assuming responsibility at the level at which they worked.

What AGSA had seen over the last few years was a change in attitude; where previously billions had been lost, the losses were now being reduced. Money was now being returned – which was a positive sign. AGSA wanted to change the culture of the public sector – in terms of Culture 2030. People should not see the public sector as a piggy-bank but should enter it to serve. The AGSA wanted to see the entire ecosystem strengthened; it did not want to be the last line of defence.



DR BEN ROBERTS AND MR NGQAPHELI MCHUNU:

SOUTH AFRICAN SOCIAL ATTITUDES SURVEY (SASAS) PERCEPTIONS OF THE COMMISSION: SURVEY RESULTS

Dr Ben Roberts and Mr Ngqapheli Mchunu presented the findings of South African Social Attitudes Survey (SASAS) and recent online surveys of public attitudes to the Zondo Commission and to democracy in South Africa.

Recent years had seen mounting attention and concern about corruption. The share of South Africans listing corruption as a “most important problem” had increased threefold over the last 20 years (10% in 2003; 36% in 2021), which had affected the perceived quality and performance of democracy and had a bearing on political legitimacy and behaviour, with changing electoral norms being observed. Public perceptions were crucial for determining public awareness and understanding, measuring public confidence and trust, identifying perceived impact and effectiveness, and policy intervention.

The research aim of the surveys of public opinion was to gain a conceptually grounded understanding of attitudes towards corruption, state capture and the Zondo Commission.



From a methodological perspective, four surveys had been conducted between late 2021 and mid-2023 – a combination of national representative and online surveys. The SASAS series involved nationally representative surveys of persons 16 years and older in their private residences (through face-to-face interviewing). Individuals were selected by random probability methods. The response rates to the SASAS surveys were 2 837 (81%) in 2021 and 3 105 (85%) in 2022. The data were benchmarked to mid-year population estimates. The online surveys involved non-probability convenience sampling. Survey 1 was conducted in December 2021 (n = 8 666) and Survey 2 in June 2023. Both surveys adhered to strict ethical and quality control protocols. The key findings of the surveys were as follows.

In terms of perceptions of corruption, 62% of respondents felt that “quite a lot” of or “almost all” politicians were involved in corruption (58% in 2021; 66% in 2022); only 4% stated that “almost none” were involved in corruption. In terms of exposure to corruption, 49% reported that a government official had asked them or a close family member for a bribe or favour in return for a service in the last five years (this was the average across the 2021-2022 SASAS surveys). In terms of cadre deployment, 28% in 2022 believed cadre deployment had increased corruption, 12% said it had decreased corruption, 19% said it had no effect on corruption, while 41% had not heard of cadre deployment.

What emerged from the surveys was a somewhat circumscribed knowledge of state capture amongst respondents. Only a third (34%) had moderate to high knowledge of state capture (14% high; 20% moderate), while over 40% had no knowledge of state capture (31% had never heard of it; 12% were unsure). Knowledge of state capture was higher among those perceiving that there were greater levels of corruption among politicians, those with more experience of attempted bribery by public officials, and among men, black African adults, the better-educated, the employed, the non-poor, city dwellers, and those in the Western Cape and Mpumalanga.

The greatest perceived impact of state capture was on Eskom, followed by its impact on the economy, political leaders, and service delivery. There was an increase in perceived impact from 2021 to 2022 – the largest increases being observed among respondents in the Eastern Cape, Free State and Western Cape and also among black African and Coloured adults. State capture’s impact was highest among Indian / Asian and White respondents, people with a post-matric, the employed, and the non-poor. A positive relationship obtained between knowledge of state capture and the perceived impact of state capture.

In response to the question of whether enough was being done to prosecute those involved in state capture, in 2022 almost two-fifths (37%) of South Africans felt not enough was being done, a quarter (27%) felt enough was being done, and the rest were ambivalent or undecided. The proportion of those believing not enough was being done increased by 9 percentage points between 2021 and 2022.

As in the case of awareness of state capture, knowledge of the Zondo Commission and its work was found to be fairly poor. A third (34%) of respondents had moderate to high knowledge (12% high; 21% moderate), while over 40% had no knowledge of state capture (33% never heard; 13% unsure). There was a strong correlation (0.7) between awareness of state capture and knowledge of the Zondo Commission. A strong class bias was found to exist, the better-educated, the non-poor, and city dwellers being most aware of the Commission.

The surveys also gauged public attitudes to trust in the Zondo Commission – in terms of effectiveness and fairness. Equal shares of the public rated the Commission poorly and favourably on evidence gathered in 2021, but poor evaluations increased between 2021 and 2022. Better informed and better educated persons were positive in their evaluations. This issue was a crucial determinant of Commission performance evaluations.

On the issue of how often the Zondo Commission had made mistakes, again, equivalent shares of the public evaluated the Commission positively and negatively. There was an insignificant attitude change between 2021 and 2022. Adults who were male and white were more likely to think the Commission had made mistakes. This issue was a moderately important driver of Commission performance evaluations. In response to a question about the length of time the Commission had taken to do its work, the public was far more likely to be negative (thinking the Commission had taken too long) than positive. Negative assessment became more pronounced between 2021 and 2022. Levels of agreement that the Commission had taken too long to do its work were highest amongst men and the better educated. Perceptions of time taken to complete activities were *not* a good predictor of job performance evaluations.

From the perspective of whether the Commission had been fair and impartial in its decision-making, equal shares of the public evaluated the Commission positively and negatively on impartial decision-making in 2021. There was little change between 2021 and 2022. Positive evaluations were highest in Gauteng and lowest in Limpopo. Perceptions of procedural fairness was an important predictor of Commission performance evaluations. On the issue of distributive fairness – whether the Commission had protected the interests of the rich and powerful above those of ordinary people – the public was far more likely to have provided a negative than a positive response – i.e., believing that the Commission was biased towards the rich and powerful. Between 2021 and 2022 negative evaluations increased, being highest among adults in KwaZulu-Natal and Gauteng. Distributive fairness perceptions were a powerful determinant of Commission performance evaluations.

The issue of moral alignment with the Commission was gauged through the responses to the question of the extent to which the Commission had the same sense of right and wrong as respondents did. Of those that had heard of the Zondo Commission before, a third (33%) felt a sense of shared moral values with the Commission – double the share (16%) of those who felt a misalignment in values. The picture was stable from 2021 to 2022. Of those who had heard of the Commission before, a third (32%) felt a sense of duty to support the decisions and recommendations of the Commission, 19% did not display a sense of duty, and a large share was neutral or uncertain (48%).

A stronger sense of duty was apparent in 2022, following the release of Commission's reports.

Overall confidence in the Zondo Commission was measured by the extent which respondents felt it had done a good or a bad job. Of those who had heard of the Commission before, 27% expressed satisfaction with the performance of the Commission (thinking it had done a *good/very good* job), 19% were discontented, while 54% were neutral or uncertain. Satisfaction with the Commission's performance seemed to be associated with its effectiveness in tackling crime and corruption, while discontentment was linked to concerns about financial waste, bias, and delays in resolving cases.

The exposure of those that are corrupt has been good. As people of this country we are now well aware that no one can be trusted, our political leaders have failed us.

I believe that the Zondo Commission has extracted the truth about state capture and massive corruption.

Accountability emerged as most important for *negative* evaluations, as the following comments illustrated:

They did a good thing by exposing them but we all know that they won't be prosecuted.

How could most politicians are not prosecuted when they loot millions of tax [...] whereas poor citizens are placed in jail without a long investigation.

The Commission has done a bad job because no one will be prosecuted and that's a waste of taxpayers money.

Arresting the people involved is taking to long, even though they know who they are.

The Commission tried to expose people but failed to put those people behind bars.

Taxpayers were looted and nobody was arrested for doing corruption in the government.

The final set of findings from SASAS and online surveys conducted by the SASAS team at the HSRC pertained to the outcomes and implementation of the Zondo Commission.

In response to the assertion that evidence presented at the Zondo Commission would result / was resulting in the arrest of corrupt individuals, among those who had heard of the Commission around a third (35%) of the adult population agreed in 2021/22. Agreement was highest amongst younger adults, persons with a higher level of education, and those who were either students or learners. Disagreement was highest amongst the older adult population. Respondents were more likely to agree with the assertion that prosecutions would follow if they believed that the Commission had done a good job.

Among those who had heard of the Zondo Commission, slightly over a quarter (28%) of the adult public believed that the Commission would eventually result in less corruption in the country, while 25% of respondents disagreed with this assertion. Significant predictors of these responses were that the Commission had done a good versus a bad job, and that it had been successful in gathering evidence.

Had the Zondo Commission been a waste of money? Among those who had heard of the Commission, around a fifth (22%) disagreed that the Commission had been a waste of resources in 2021/22. However, a third (34%) agreed that the Commission had been a waste of money in 2021/22. Significant predictors of those responses were whether the Commission had done a good versus a bad job, that the authorities were doing enough to prosecute the perpetrators of state capture, trust in the effectiveness and fairness of Commission, and the legitimacy of the Commission.

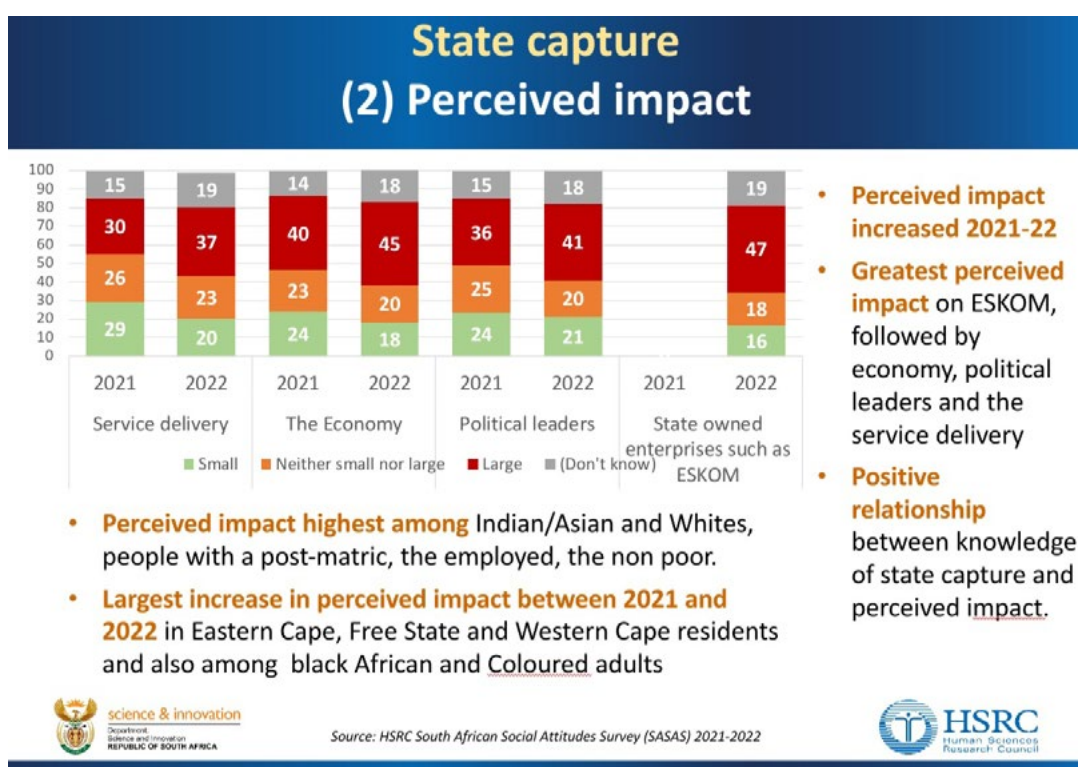
Responses to the question of whether the final decisions / recommendations of the Zondo Commission would be implemented depended on when the question was asked. The wording of the SASAS 2022 assertion was: "President Cyril Ramaphosa will implement the final decisions of the Commission."

A third (32%) of respondents were optimistic in 2022, 19% were skeptical, while close to half were neutral or uncertain. In response to the assertion in the 2023 online survey that “The final recommendations of the Commission will be successfully implemented” there was a public split between optimism and scepticism, with a slightly higher level of scepticism. Analysis of open-ended reasons for this split revealed that positive views were linked to a sense of political will, trust in political processes, and those who were hopeful about prosecution, while negative views were linked to fear of continued corruption, lack of accountability for the guilty, empty promises, and lack of political will.

Responses to the issues of whistle-blowing and cadre deployment were also canvassed through the surveys. Seven out of ten (71% of) adults who had heard of whistle-blowing indicated in the SASAS 2022 survey indicated that it was “very” or “somewhat” important for whistle-blowers to be protected. Just under half (46%) of adults indicated that whistle-blowers received no protection or only minimal protection. From the online survey of 2023 it emerged that there was strong support for the Zondo Commission recommendation that there should be greater protection for whistle-blowers. In terms of cadre deployment, the 2023 online survey showed that a clear but narrower majority supported the Zondo Commission recommendation that cadre deployment be ended.

Dr Roberts and Mr Mchunu concluded their presentation with an assertion that the HSRC surveys had provided the most detailed evidence to date on public perceptions of the Zondo Commission and expectations of outcomes, emphasising the following points:

- The procedural justice model seemed to apply to evaluations of the Zondo Commission
- Trust (effectiveness, fairness) and the legitimacy vested in the Commission mattered for overall confidence in the Commission
- Confidence in the Commission, in turn, shaped views on outcomes in terms of likely success of implementation, with arrests and prosecutions, and in winning the fight against state-level corruption
- The public was largely complimentary about the Commission’s gathering of evidence – but if prosecution did not meet public expectations, a harsher retrospective view of the Commission was likely to emerge, raising questions about the ultimate value of the Commission
- Given the level of national attention given to state capture and Zondo Commission activities, it remained surprising that awareness of state capture and the Commission was relatively low
- Ambivalence and uncertainty in the responses to the surveys reflected growing institutional mistrust and concerns about democratic performance after nearly 30 years of democracy in the country; and
- The successful implementation of the Zondo Commission recommendations would therefore seem to be crucial for maintaining and promoting faith in justice in South Africa.



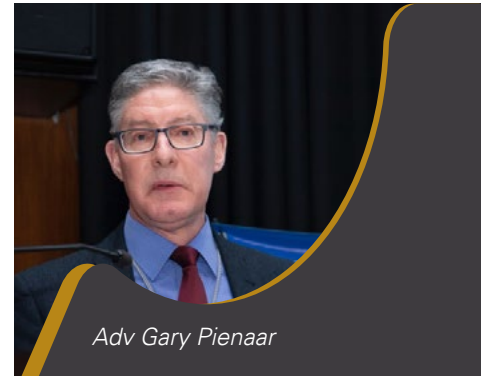
ADV GARY PIENAAR:

IMPLEMENTATION OF RECOMMENDATIONS TO DATE

In his presentation under the rubric “Implementation of the recommendations [of the Zondo Commission] to date”, Adv Gary Pienaar reflected on the Zondo Commission’s recommendations from the perspective of accountability and ethical leadership. The key mechanisms of state capture, he started out by saying, were the strategic positioning of individuals in positions of power through the abuse of the appointment and dismissal process and use of this positioning to control and manipulate public procurement, financial and contracting processes in SOEs and in the public sector more widely for private gain. This strategy had been accompanied by the appointment of individuals in positions of power in law enforcement and tax administration to ensure protection from sanction.

The ability to place politically connected persons on Boards and in key posts within SOEs and the public administration was “the essential mechanism of state capture”. A significant enabling factor was the failure to implement section 195 of the Constitution, which envisaged a public administration that was professional, effective, impartial and developmental.

Many dubious appointments had been made in key positions, many experienced and honest officials having been ousted to make way for those facilitating state capture and corruption.



There had been no effective mechanisms to prevent cronyism and cadre deployment from continuing to dominate appointment to Boards and to senior executive offices. A lack of compliance, transparency and accountability in the appointment of Board members and senior executives had enabled the capture of SOEs.

The Commission had recommended, first, a truly independent and transparent process for the appointment of SOE Boards and executives free from political manipulation, such that the ultimate appointment made by a Minister was genuinely the result of a merit-based selection process.

Second, the Commission had recommended the establishment of a Standing Appointment and Oversight Committee to ensure, in public hearings, that any nominee for Board appointment or as CEO, CFO or Chief Procurement Officer (CPO) of an SOE met the professional, reputational and eligibility requirements for such a position. Third, the Commission recommended that AGSA, or auditors who demonstrated requisite capacity, should audit SOEs; and fourth, that there be a return to the original intent of the Public Finance Management Act (PFMA) to let managers manage, while holding them accountable.

AGSA was reviewing the usefulness of the concept of irregular expenditure. It might focus instead on identifying corrupt or suspicious expenditure, or expenditure incurred in bad faith. The Public Service Amendment Bill, moreover, provided for a clearer delegation of administrative and financial responsibilities to Accounting Officers (AOs).

The Commission had also recommended that Executive Authorities (EAs) should not be involved in operational and administrative matters that were the responsibility of AOs. The ‘political-administrative interface’ clearly needed clearer delineation of powers. Regular ethics and governance training (for example, by the National School of Governance [NSG] and the Public Service Commission [PSC]) was needed for all public representatives and public servants, along with integrity testing. Lifestyle audits had started, while psychometric integrity testing was under development.

From the perspective of the separation of party (the ANC) and state (South Africa), a National Framework towards Professionalisation of the Public Sector (not just the Public Service) had come before Cabinet in October 2022. And while the ANC had retained cadre deployment as party policy in December 2022, various Bills were in the process of being drafted or brought before Parliament: the Public Administration Management Amendment Bill [B 10—2023]; the Public Service Amendment Bill [B 13—2023]; and the PSC Amendment Bill – expected in 2023/24.

A series of public sector reforms were also under way. These included:

- A National Framework for Professionalising the Public Sector
- An independent PSC, which would coordinate and oversee (a) the recruitment and selection of Directors-General (DGs), Deputy DGs (DDGs), Heads of Department (HODs) and municipal managers; and (b) appointment on the basis of required qualifications, skills and training
- The Head of Public Administration was to be the DG in The Presidency; no longer would Ministers, Premiers and Members of the Executive Council (MECs) be responsible for recruitment, promotion and dismissal
- Clearer delegations of administrative functions from EAs to AOs.
- AOs and employees reporting directly to them being prohibited from holding senior office in a political party; and
- A prohibition on doing business with the state before a 'cooling off' period had been implemented.

Echoing the final part of Chief Justice Zondo's address at the colloquium, the Commission, Adv Pienaar reported, had found that in several instances Parliament had not been effective in holding the Executive to account. Two of the Commission's recommendations related to the electoral system: Parliament should consider whether introducing a constituency-based electoral system would enhance the capacity of Members of Parliament (MPs) to hold the executive accountable; and Parliament should consider whether it would be desirable to enact legislation which protected MPs from losing their party membership merely for exercising their oversight duties reasonably and in good faith.

Two further recommendations were that Parliament should consider whether it would be desirable for it to establish a committee to exercise oversight over the President and the Presidency (there was to be a study tour in July 2023 to consider models); and that more opposition party representatives be appointed to chair portfolio committees (which Parliament had rejected).

In relation to the abuse of power, the Commission had stated:

It is therefore recommended that the Government give consideration to the creation of a statutory offence rendering it a criminal offence for any person vested with public power to abuse public power vested in that person by intentionally using that power otherwise than in good faith for a proper purpose. Such potential violations might range from the case of a president of the Republic who hands a large portion of the national wealth, or access to that wealth, to an unauthorised recipient to the junior official who suspends a colleague out of motives of envy or revenge.

A further recommendation leading to the creation of a criminal offence pertained to "constitutional and political malpractice":

Given the extent to which certain public representatives failed to exercise their power, and the resultant massive losses to the fiscus and the suffering caused to vulnerable members of the public, in respect of PRASA-related matters, and the premium that the Constitution places on accountability, perhaps it is time for South Africa to ensure that its public representatives fulfil their obligations by introducing a form of sanction for what may be termed constitutional and political malpractice.

Given the focus on public procurement during the hearings of the Zondo Commission – the public procurement system had been the primary site for the diversion of state resources, particularly from SOEs, which had the largest procurement, capital and operational budgets – it was unsurprising that public procurement had featured prominently in the Commission's recommendations.

In addition to making recommendations pertaining to the public sector, the Commission also had recommendations applicable to the private sector. The Commission's report had found that private company suppliers and professional service firms had engaged in corruption to secure state contracts. This had been enabled by a failure to enforce procurement rules, anti-corruption laws and professional ethics. (One response to this was that the Auditing Professions Act had specified that "Errant auditors face fines of up to R25-million [per offence of improper conduct] under new legislation" as reported by the *Daily Maverick* on 19 June 2023.)

Concluding his presentation, Adv Pienaar indicated that while anti-corruption strategies had been in place for many years, the Zondo Commission recommendations had shown that these measures and strategies had not succeeded and that more needed to be done. The Commission's recommendations had to be seen to be implemented and justice seen to be served against those who had profited from the abuse of power and state capture. Government had in response undertaken to implement certain remedial and corrective measures; it remained to be seen how far these would go to curb corruption and further attempts at state capture. It was clear, however, that if there were no swift action, citizens would lose patience with democracy – the consequences of which could be possible unrest, and low voter turnout in the 2024 elections.

MR KARAM SINGH:

RESPONSE TO PRESENTATION BY ADV PIENAAR

Mr Karam Singh, the Executive Director of Corruption Watch, had been invited to be a respondent in the session on implementation of the Commission's recommendations to date.

He began his response by commenting on a general sense of disappointment at the slow pace of implementation of the recommendations of the Zondo Commission. The Presidency had put out very few public statements about implementation of recommendations to date – which was something of a straw man, because as seen from Adv Pienaar's presentation a fair bit of progress had been made. He [Karam Singh] hoped that reports were going to Cabinet and that there would be some public statements coming out shortly.

The number of persons implicated in the report who remained in cabinet was the big elephant in the room. The President had said he noted such comments having been made – but there was no action, no sense of actual accountability for those individuals.

In terms of the recovery of money lost to state capture, the most recent figures – which dated back to a Presidential press release in 2022 – were that R2.9b had been recovered and returned to the affected entities and that SARS had collected R4.8m in taxes arising from the work of the Commission. It was known also that analysis by the Financial Intelligence Centre had identified a further 595 individuals and 1 044 entities who might have been implicated in the flow of funds from state capture. A further R12.9b was subject to preservation orders. Juxtaposing the numbers, the Commission cost a billion, Paul Holden said R59b had left the country, there was about R13b under preservation orders and a collection of just under R5b.

Of the plus-minus 360 recommendations of the Zondo Commission, 202 were referrals for additional criminal investigation. The President's Action Plan mentioned 59 actions.

On the issue of rebuilding the capacity of the criminal justice system, the Investigating Directorate (ID) had been made permanent but was still experiencing serious teething problems, including the presentation of the legislation to make it permanent. The timing of that move was deemed curious given that there was a National Anti-Corruption Advisory Council [NACAC], which was considering the institutional architecture to deal with corruption. It was clear that the ID did not fit the *Glenister* judgment requirements or South Africa's obligations under the UNCAC [United Nations Convention Against Corruption] in terms of a dedicated anti-corruption agency.

Looking at the structural recommendations – the recommendations that were focused on seeking to future-proof democracy and prevent the further recurrence of state capture – these recommendations involved:

- The creation of a permanent anti-corruption commission and a public procurement anti-corruption agency (the President's response to that seemed to have been to kick that into touch because it was something that the NACAC would look at)
- Widescale procurement reforms
- The stabilising and reform of state-owned enterprises
- Responding to the abuses by the private sector
- Reform of intelligence agencies
- Protection and incentivisation of whistle-blowing
- The restoration of SARS

- Improving measures to combat money-laundering
- Reforms to the electoral system; and
- The creation of different statutory offences relating to the abuse of power and constitutional or political malpractice.

In terms of the Public Procurement Bill, the recommendations of the Zondo Commission on procurement were quite wide ranging. There had been quite a significant civil society critique of that Bill, which was broadly not aligned with the Zondo recommendations. There was also serious concern that the Bill was misaligned with the Constitution in terms of the requirements in section 217 around a fair, equitable, transparent, competitive and cost-effective system; that procurement had been subject to significant litigation around preferential procurement and the like. It was not clear that the Bill provided the necessary structure to answer a lot of those questions. It was very much a piece of framework legislation. One of the other critiques was that there was excessive delegation of Parliamentary prerogative, the premise that agility and flexibility best came through a piece of framework legislation supported by subordinate legislation and regulations. There was nothing in the Bill around incentivising whistle-blowing.

With the Procurement Bill and the seven or eight other pieces of legislation, some of which had not even come before the various Parliamentary committees, there was a big question around what would happen to this legislation given that the current Parliament was on limited time. There was discussion about the possibility of some big omnibus Bill coming in at some stage – so that would be a very interesting space to watch.

In conclusion, there was a big question mark around who was driving accountability in the private sector in their role in state capture. It was known that Bain had been effectively banned, that there had been various settlement agreements in which money had been paid back.

There was the proposed prosecution of McKinsey, which would be interesting to watch. There had been discussions within civil society groupings around a comprehensive approach to looking at reparations from private sector actors implicated in state capture – on the basis that that was not going to happen from the NPA or elsewhere – another space to watch.

“Where to from here?” was the big question. Had the Zondo Commission been a Hollywood blockbuster Hollywood would definitely have gone for “Zondo II: The Return of the Judge”. But that was obviously not going to happen. He took particular interest in an anti-corruption, anti-state capture standing commission, basically, which the President had kicked over to NACAC, to Firoz [Cachalia] and his team to look at. But a standing commission of inquiry into state capture was a very provocative recommendation and something that additional attention should be given to.

In terms of the establishment of a standing commission of inquiry into state capture, Prof Firoz Cachalia (University of the Witwatersrand), who was in the audience, was called upon by the Programme Director, Ferial Haffajee, to outline progress achieved by NACAC, which was established in 2022 and which he chaired.

Prof Cachalia reported that four NACAC working groups had been set up: on whistleblowing; on legislative reform; on procurement; and on institutional architecture. One single agency, he indicated, might not be the best option. But a new institution would probably be established. The proposals on institutional architecture in the Zondo Commission’s report were speculative and unsubstantiated. Prof Cachalia and his team were working with the DOJ&CD, the NPA, the SIU, and other bodies in the criminal justice cluster to decide how best to proceed.

PROF ITUMELENG MOSALA:

THE ROLE OF ACADEMICS AND RESEARCHERS GOING FORWARD

Prof Mosala indicated that, when he began working in the Commission in 2020, the writing of the Zondo Commission report by the Chairperson himself had not yet begun. Hearings and investigations were still underway. In the first meeting Prof Mosala attended – a meeting of the Executive (Adv Paul Pretorius, Mr Terence Nombembe, the Chief Justice and himself) – he discovered that the Commission was financially “stuck”: it had run out of money.

Lawyers and investigators had not been paid for more than six months. The Chief Justice asked Prof Mosala, who had formerly been a DG, to speak to his DG colleagues about finding a solution.

Prof Mosala had a meeting with Dr Phil Mjara, DG of the DSI, and questioned, on the grounds that investigations were tantamount to research, why the research institutions of the state could not contribute to the work of the Commission.

Dr Mjara talked to Minister Nzimande and to Derek Swartz [Special Advisor to the Minister], who thought it was a good idea. Prof Mosala then spoke to the HSRC and CSIR about the future of research in the country and that they were looking at a problem [corruption and state capture] that required very serious research. Research institutions should not wait until the Commission had completed its report but could assist the Commission immediately.



Prof Itumeleng Mosala (right) with Prof Narnia Bohler-Muller and Chief Justice Raymond Zondo

Paul Pretorius had told him [Prof Mosala] that there should be a professional record, at the end of the Commission in case the Commission’s findings are taken on review, and that the record should be compiled from that point onwards. In thinking about the many records the Commission had already accumulated, he was reminded of the TRC. However, as pointed out by a colleague, the data collected by the TRC paled into insignificance compared to the sheer volume of documentation assembled by the Zondo Commission – a petabyte of data, or 500 billion printed pages of material. The six Parts, 22 Volumes, 5 500 pages of the Commission’s report were written on only 10% of the data amassed by the Commission.

Having travelled the world, Prof Mosala had not come across so sizeable a collection of data on just one subject: corruption. With the help of the HSRC and the CSIR Prof Mosala and colleagues were establishing two levels of data collection: one, a library of all general documentation – most of which was used to write the Commission’s report – comprising data that were transformed, interpretable and therefore usable. The second library, separate from the first, was for the 90% of the petabyte, which was still in rough form and had not yet been processed.

Sophisticated tools were needed to mine the data. The millions of data sets that will accrue from these data will provide huge opportunities for the country’s researchers to mine – for dissertations and theses and articles. Many data scientists and data analysts could be trained to work with these data. Other sectors of society were also gearing up to work on the data; but for them to be able to work on the material, it had to be processed in a digestible form.

While legal scholars were familiar with the way in which the Commission’s judicial report had been written, the material had to be processed in other, non-legal ways for people beyond the legal profession to understand.

DR DIBULENG MOHLAKWANA:

ACCESS TO THE STATE CAPTURE ARCHIVES

Information, Dr Mohlakwana began, was one of the elements that would shape the future democracy of the country. The importance of information in a democratic society was evident from Kofi Annan's assertion that "If information and knowledge are central to democracy, they are the condition for development." And as Thomas Jefferson said, "Information is the currency of democracy."

This should be related to what Minister Nzimande had said that morning about history being about the past, the present and the future: it was in the main through information that history was preserved. Information, Dr Mohlakwana said, was the lifeblood of democracy. Without adequate access to key information about government policies and programmes, citizens and Parliamentarians could not make informed decisions, and incompetent and corrupt governance would be hidden under a cloak of secrecy.



Dr Dibuleng Mohlakwana

The role of the HSRC in the state capture project was to establish the Record Centre / Records Library, and to organise records to facilitate access and re-use of the information in order to inform the future.

The Commission had generated valuable information for the country's democracy. Over 64 000 records had been produced (which could easily exceed 100 000 records once all records had been accounted for), comprising affidavits, statements, letters of request, exhibits, Government Legal Framework Publications, and applications for cross-examination, postponement, recusals, etc. The HSRC was working to make these records retrievable and usable for the future.

The HSRC was undertaking this recording process for a few reasons: to preserve the information; for access and reuse; and to promote good governance (transparency, efficiency, and accountability). In terms of transparency, access to information promoted transparency in government, which fostered accountability. In terms of public participation, information empowered citizens to participate in government and make informed decisions. And in terms of accountability, information about public officials and government actions promoted accountability and helped prevent corruption. The preservation of information was also being undertaken to promote efficient government operations and allow for sharing of information across government programmes.

To facilitate discoverability and access, each record needed to be gone through individually, and all records had to be organised into a system – the system acquired by the HSRC through the CSIR. Using best practice, the HSRC had to index, or use metadata elements, to organise those records in the system, called DSpace. International best practice was also being followed in terms of records management. Approval had been obtained from the Library of Congress, which authorises subject headings across the world, to approve "state capture South Africa" as an authorised subject heading. The national legal framework was also adhered to in the organising of those records.

Also, each e-record was linked to its equivalent print record.

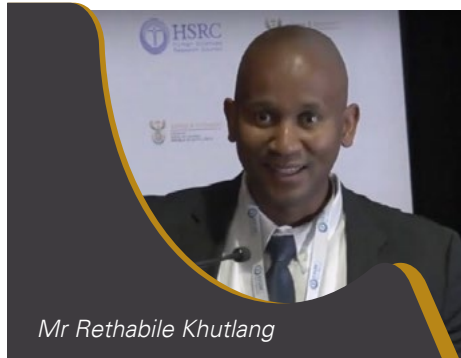
Sometimes there were duplicates in terms of formats but also of subject matter linking; it was important to eliminate duplicates and to ensure integration. Currently, the team was digitally indexing the records, identifying duplicates, linking different record formats of the same subject matter, and establishing the physical Records Centre.

Dr Mohlakwana showed a screenshot of the system they were using (entitled "State capture legal library"), which she said was user friendly. It would be made accessible at the right time – when the custodians of the system decided to make it accessible.

She concluded her presentation by emphasising that management of and access to the records of the Commission were critical to the future of democracy. Transparency and accountability were vital components of a healthy democratic society. Finally, citizens should continue to demand transparency and access to official records and data to ensure that democracy remained vibrant and strong.

MR RETHABILE KHUTLANG: ACCESS TO THE STATE CAPTURE ARCHIVES

Mr Khutlang emphasised that the CSIR was in a supporting role, assisting the HSRC to use data science to organise the data emanating from the Commission, providing the ICT infrastructure to host the library and legal record of the Commission, and developing a data and research framework for future research needs by research institutions, communities and state agencies that would require access to curated data or tools for data analysis.



The CSIR was contributing to the project because it had:

- The mature data science capability to catalogue the data of the Commission and could create robust tools to analyse the data
- High-speed networking infrastructure – SANReN [the South African National Research Network] – and high-performance computing infrastructure – CHPC [the Centre for High Performance Computing]; and
- The requisite data management infrastructure – DIRISA [the Data Intensive Research Initiative of South Africa]

All residing under the National Integrated Cyber Infrastructure System (NICIS). These ingredients had positioned the CSIR to assist in the development of a data and research framework to promote the usage of the Commission’s data in future.

To date, the CSIR had prepared the infrastructure to host the library being developed by the HSRC. The CSIR was developing a dashboard to assist in assimilating the reports of the Commission by research institutions, communities and state agencies; the dashboard would eventually not only offer data, but also offer tools that researchers could utilise for more data analysis. The dashboard was not live yet (though it would be soon). Currently using public-facing data, using the final reports, he and his team were creating a dashboard that one could use, for example, to analyse one particular individual. If one wanted to know the relationship between Rethabile and state capture one would input “Rethabile” as a key word and then all the paragraphs, all the interactions Rethabile had with state capture would come up.

If you wanted to look at a particular event – March 15 2010, he recalled, was one of the key dates of state capture – one could find context and gain an understanding far more quickly than having to read through all the volumes. This was the value the CSIR wanted to add.

Mr Khutlang concluded his presentation by showing a couple of slides demonstrating the public face of the dashboard and what one could find based on a key word.

The screenshots show the following features and callouts:

- Search Interface:** Includes filters for date (1 Jan 2009 – 13 Feb 2023), volume, and other categories. A callout explains: "Other Filters: Not sure what will be possible to extract from the reports so there might be extra filters such as places, events, people, etc." Another callout says: "Keywords: Add keywords, still define search operators and method." A third callout says: "Table Search: Here you can search the result table to narrow down the results." Buttons for "APPLY FILTER" and "Download the search result as csv" are visible.
- Home Page:** Features a "TIMELINE infographic" and a "Welcome to the Future of Democracy" message. The message lists features: "It will communicate with the database storing ingested data. It will allow for storage of analyzed data. It will show visualizations that can be manipulated by the user. It will offer filtering and search functionalities. It will offer the ability to compile reports." Buttons for "DATA DISPLAYING" and "ADVANCED ANALYSIS" are present.
- Data Display (Chronological Sequence):** Shows a list of records with a callout: "Filter options: Possibly limited to place or event, depending on the filter option that will be added." Another callout says: "Table: Just contain data that was used to sequence diagram, with a additional view option and keywords/Topics (other columns can be added)." A table shows columns for Date, Entities, and Keywords/Topic. A callout explains: "Entities: Entities can be anything from people, places, company, etc. depending on what can be extracted and identified accurately." Buttons for "Download the search result as csv" and "1 2 3 ... 10 >" are visible.
- Data Display (Mind Map):** Shows a network diagram with a callout: "Sub maps: If possible and options for sub-maps, or selected specific entities, so just just strong or just weak connections." Another callout says: "Table: Just contain data that was used to create map." A callout explains: "No Linkage Analysis: Currently this is just a co-occurrence of entities (entities might be places, people, events depending on what we can extract)." Buttons for "Download the search result as csv" and "1 2 3 ... 10 >" are visible.

ADV VUSI PIKOLI:

ORGANISED CRIME AND HOW TO COMBAT IT

It was strange, Adv Pikoli began, that 29 years down the line the colloquium was talking about the future of democracy when it should have been talking of the consolidation of democracy; but this was no doubt because of the challenges being faced.

Adv Pikoli reminded the audience that the Preamble to the South African Constitution 1996 clearly stated that the Constitution had been adopted as a supreme law of the Republic.



In terms of the Preamble South Africa had committed to taking its rightful place as a sovereign state in the *family of nations*. This meant that South Africa would no longer be isolated (as it was under apartheid) but would be a global player attracting all the consequences of globalisation – transnational organised crime being one of them.

Adv Pikoli was convinced that it was this interconnectedness that had inspired Dr Mark Shaw, the Director of Global Initiative Against Transnational Organized Crime (GI-TOC), to write in the Foreword to the Strategic Organized Crime Risk Assessment, South Africa 2022, ***“Organized crime is an existential threat to South Africa’s democratic institutions, economy and people. In tackling and disrupting organized crime effectively, the policy makers must have a strategic understanding of the nature and risk of organized crime including the complexity and evolving character of the entire criminal ecosystem.”***

The South African Constitution sought to cure the past defects of South African society, which in the main was undemocratic and segregationist based on racial discrimination as a result of the Group Areas Act and Separate Amenities Act, which had marginalised the black and largely poor communities. There was no effective policing in those areas and they became breeding grounds for gangs, drugs and extortion. The only visible law enforcement activities manifested themselves in political oppression and suppression of political dissent.

The apartheid system was in itself a corrupt system that lacked transparency and accountability. The Preamble and the substantive provisions of the 1996 Constitution had sought to remedy this defect and had enabled the nation to sign and ratify a number of UN Conventions – like the United Nations Convention Against Corruption (UNCAC), the United Nations Convention Against Transnational Organized Crime (UNTOC), the Rome Statute – which established the International Criminal Court (ICC), and so forth.

Those UN Conventions became the sources and foundations of the Prevention and Combating of Corrupt Activities Act (PRECCA) and the Prevention of Organised Crimes Act (POCA), and the Financial Intelligence Centre Act (FICA) as a weapon against money laundering and financing of terrorist activities.

Whilst the 1994 democratic elections had ushered in the dawn of freedom and democracy, they had also created new criminal opportunities on a global scale, allowing South Africa to be integrated into the global illicit economy.

The adoption of the National Crime Prevention Strategy (NCPS) by the Cabinet in 1996 had to be seen within the context of addressing the apartheid spatial design. The four pillars of the NCPS were a) The criminal justice process (re-engineering); b) Reducing crime through environmental design; c) Public values and education; and d) Transnational organised crime. This meant that South Africa had to adopt new methods of fighting crime and organised crime because the state could no longer use the same old methods of fighting crime. Hence the establishment of the Directorate of Special Operations (DSO), popularly known as the Scorpions, with its innovative troika methodology of *Intelligence-driven* and *Prosecution-led Investigation*, which proved to have been very effective.

Crime in general and organized crime in particular offended the spirit and letter of section 198 of the Constitution, which clearly stated that “National security must reflect the resolve of South Africans, as individuals and as a nation to live as equals, to live in peace and harmony, to be free from fear and want and to seek a better life.” This section placed the responsibility and authority for national security at the doorstep of both Parliament and the National Executive; therefore failure to ensure national security was a violation of not only this section but also of the human rights in the Bill of Rights.

The objects of the police services as stated in section 205(3) of the Constitution were to “prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property and to uphold and enforce the law.”

Whilst there were different definitions of organised crime, it was generally accepted that *organised crime* meant planned and coordinated criminal behavior and conduct by people working together on a continuing basis. Policy makers and law enforcement agencies needed to be strategically and tactically clear on domestic organised crime syndicates, transnational organized crime syndicates and international crimes and have a lucid understanding of how at times all these three crime syndicates could merge into one – for example, in corruption, cybercrime, terrorism, terrorism financing, human trafficking, and money laundering. It was for this reason that the Global Initiative Against Transnational Organized Crime was calling for a closer collaboration and working together of the two United Nation Conventions – the United Nations Convention Against Corruption (UNCAC) and the United Nations Convention Against Transnational Organized Crime (UNTOC). Keeping a rigid wall between the two conventions was in fact counterproductive.

The strategic organized crime risk assessment by GI-TOC showed that there was irrefutable evidence that in South Africa 15 main illicit markets were currently active. Those illicit markets were at different levels of development: some were stable and highly developed, some were just stable, whilst some were increasing. GI-TOC had identified five key characteristics of organized crime in South Africa: connected; diverse; embedded; entrepreneurial; and violent.

Adv Pikoli went on to propose five ways in which to combat organised crime:

1. Restore the *political will* displayed in the first three administrations led by Mandela and Mbeki. This period saw the country adopting a number of international legal instruments and their subsequent domestication – for example, PRECCA, POCA, FICA, etc. A single and independent law enforcement agency needed to be established, with dedicated capacity to focus on grand corruption and organized crime. This independence had to enjoy the protection of the Constitution so as not to suffer the same fate of the disbanding of the DSO.
2. Ensure specialised training and the acquisition of critically needed skills – forensic, digital, and cyber-crime and security.
3. Professionalise and depoliticise law enforcement agencies. This would be consistent with section 199(7)(a) and (b) of the Constitution. This was also in line with the basic values and principles of public administration as stated in section 195 of the Constitution, which spoke to a high standard of professional ethics.
4. The heads of the law enforcement agencies had to be appointed in a transparent and competitive way that would ensure that the best person was appointed and was a person of unquestionable integrity.
5. International co-operation in criminal matters was key, particularly in terms of extradition and mutual legal assistance. There was a need to deepen knowledge and understanding of and create expertise in the areas of extradition laws and requirements of various and varied jurisdictions and to also reciprocate such actions.

Adv Pikoli concluded by quoting again from Dr Mark Shaw in his Foreword to the Strategic Organized Crime Risk Assessment South Africa 2022:

South Africa’s criminal ecosystem is complex and evolving. It impacts the lives of millions, together with the country’s economic health and ultimately its political and democratic integrity too. The state’s law enforcement responses to date have failed to check the expansion and evolution of organized crime. But it is not an insurmountable challenge: the problem can be tackled. With the right leadership, long-term strategic vision and resources and with a systemic institutional overhaul of its crime-fighting agencies, South Africa can and will defeat organized crime.

PROF MBONGISENI BUTHELEZI:

THE ZONDO COMMISSION AND CIVIL SOCIETY

Along with the Judiciary, South Africa’s civil society had been credited with having been something of a saving grace against the worst of what state capture could have done to South Africa – specially under the Presidency of Jacob Zuma. Prof Buthelezi referred to two main sources upon which his presentation was based: the social justice sector review report, called “Critical reflections on the social justice sector in the post-apartheid era” (published in 2020); and a chapter by Luke Spiropoulos in a recently released book entitled *State capture in South Africa: How and why it happened*, edited by himself and Peter Vale.

He began with a negative definition of civil society, saying that there had been much criticism of organisations that had fought for better water, better service delivery, etc. – those fighting for them having been accused of being agents of foreign interests. Gwede Mantashe had been most vocal in articulating this position. The social justice sector review had reminded the country that this position had been vocally articulated by former president Thabo Mbeki – his government having been under fire for its neo-liberal turn – in fact since 1996, as Minister Nzimande had pointed out in his talk that morning.

The second criticism was what had been called the NGO-isation of civil society – the shift from what in the 1980s had been the UDF [United Democratic Front] tradition, in which community mobilisation was largely voluntary, with NGOs being fairly small and supporting the work of self-organised communities.

The criticism had been that since the 1990s there had been a professionalisation of NGOs – which had driven a wedge between ‘grass-roots’ NGOs and well-resourced so-called ‘blue chip’ NGOs. Both of these criticisms were ways of calling into question the legitimacy of organisations supporting grass-roots struggles.

The question that was often asked – in Parliament, for example, where organisations like Corruption Watch made presentations on Bills before Parliament – was ‘Who do you represent?’ The other famous question was ‘Who elected you?’

Moving on to a positive definition of what he was talking about, Prof Buthelezi said that despite attempts to delegitimise civil society action, especially when it challenged the state and political parties, social justice organisations were fighting for a fairer distribution of burdens, of resources, and of gains in society. According to the sector review, they had done so, among other strategies, by holding political parties, different arms of the state, and corporate entities accountable. In doing so the sector had pulled South Africa back from the precipice with regard to corruption and state capture.

The modes of working that had been used by the sector had been research, mass communication, mobilisation, strategic litigation (critically), and protest action and strikes. Most of those organisations and individuals had taken a great deal of inspiration from the United Democratic Front in the 1980s and early 1990s.

What, then, had social justice organisations done to pull the country back, as claimed by the sector review report? Luke Spiropoulos had reminded the country that in 2016 and 2017 it had observed “the largest anti-government protests in post-apartheid history.” In part, this was the outcome of several strategies employed by social justice organisations, as well as of events and actions undertaken by others, including political parties – and as Ferial [Haffajee] had reminded the colloquium earlier that morning, the South African Communist Party had been one of the most vocal early critics of state capture.



Prof Mbongiseni Buthelezi



Spiropoulos identified the following strategies that had been used:

- *Public communication.* Leaving aside commercial media, which had exposed many instances of state capture, Spiropoulos singled out organisations such as AmaBhungane, Right to Know Campaign, the Ahmed Kathrada Foundation, OUTA [the Organisation Undoing Tax Abuse], and of course Corruption Watch as having played a critical role in having exposed state capture – including, among other things, New Age breakfasts, changes to SOE Boards – Transnet and Eskom – as well as late-night Cabinet reshuffles.
- *Legal mobilisation.* Another chapter in the book, by Jonathan Klaaren, delved into this. The Helen Suzman Foundation had brought to court a case when Anwa Dramat was removed as head of the Hawks. CSOs had intervened by writing letters to government departments on the so-called rogue unit at SARS. But as some of the interlocutors Spiropoulos had interviewed also argued, “legal action alone cannot change parliamentary votes or the intra-party politics required to deal with state capture and hold those involved to account. Thus, another approach was needed that could put pressure on Parliamentarians and ANC members and potentially change public voting patterns.” That approach was public mobilisation. Those individual and collective actions had also led to the protests seen in 2017 and 2018 – to the #zumamustfall movement referred to earlier. To those efforts one could add analytical work such as that done by the State Capacity Research Group initiated by Mark Swilling and Ivor Chipkin, which had published in 2017 a report called “Betrayal of the promise: How South Africa is being stolen”.

Turning to the Zondo Commission and how social justice organisations had engaged with the Commission, Prof Buthelezi pointed out that when then Public Protector Thuli Madonsela’s “State of capture” report recommended a commission of inquiry into state capture, a number of social justice organisations had quickly got behind that call. In November 2018 those initial organisations and more had come together to form what they called the Civil Society Working Group on State Capture, which had expanded to a coalition of 23 organisations, including Corruption Watch, Open Secrets, Right to Know Campaign, and many others. That group of organisations had set itself the mandate of supporting and strengthening the work of the Commission – by, amongst other things, making public statements when the Commission came under attack from people who were called before it, while also providing oversight over the Commission in the public interest. That included criticising the Commission when they thought it was making mistakes.

The Civil Society Working Group had also undertaken such activities as hosting the people’s hearing on state capture at Constitution Hill and running what was called the #dearjudgezondo social media campaign to get ordinary people to voice how state capture had affected their lives – including, for example, the collapse of the Passenger Rail Agency, PRASA, and how it had affected how people got to and from work. Those interventions were aimed at filling some of the gaps – where the Commission could not get to call ordinary people who did not have the required skills to make a submission to the Commission.

In conclusion, Prof Buthelezi posed the question, for the Civil Society Working Group and for civil society organisations and civil society more broadly, “where to from here?” Presently, the civil society working group was writing a joint response to the President’s submission to Parliament on how the recommendations of the Commission were going to be implemented. The Working Group’s own response would soon be submitted to Parliament and released publicly.

Finally, despite dismissals, civil society, said Prof Buthelezi, was “baked into South African democracy”. As the social justice review report had reminded the country, “the South African Constitution, itself an outcome of vibrant social justice struggles, presupposes a dynamic, active civil society – active across the full spectrum of rights enshrined in the Constitution.” The question that needed to be asked, then, was what were the best ways to collaborate between different arms of the state and civil society, and between different civil society organisations and business for the advancement of the country’s democracy?

PROF NARNIA BOHLER-MULLER:

HOW CAN WE ENSURE THE PROTECTION OF OUR DEMOCRACY IN FUTURE?

The Constitution, Prof Bohler-Muller said, needed to be seen as a living document; and it should be ensured that the values of the Constitution remained with the people: dignity, equality, freedom, ubuntu. Those were the things that should guide the people – the things that should guide the people who served the country. There was a need to re-think leadership in South Africa – to adopt an attitude of servant leadership: doing something for the public good instead of for one’s selfish interests and for power.

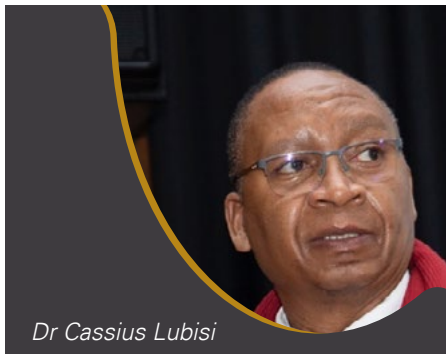


Prof Narnia Bohler-Muller

She ended with a quote from Ferial [Haffajee’s] book *Days of Zondo*:

I found the Commission both a horror and an honour to cover. It formed part of the arsenal in the flight for freedom from corruption. And as a great man taught us, it’s always a long walk to freedom; while another reminded us that the arc of the moral universe is long but it bends towards justice.

The Commission had allowed the nation to glimpse Martin Luther King’s moral arc; but it was up to the people to ensure that it bent towards the just and the good.



Dr Cassius Lubisi

DR CASSIUS LUBISI:

CONCLUDING REMARKS

Dr Lubisi’s task was to express gratitude to all the speakers and to the participants for being part of an historic occasion. There were those who had continued trying to discredit the Zondo Commission by raising the issue of how much it cost to run the Commission. He had a word for those who criticised the Commission as having been a waste of money.

He came from an education background, and they had a saying in education, “If you think education is expensive, try ignorance.” He paraphrased this as **“If you think the Zondo Commission was expensive, try the loss of our hard-fought democracy.”** South Africa should not be “penny wise and pound foolish”.

State capture was the antithesis of South Africa’s aspiration to be a developmental state. One of the characteristics of a developmental state was the notion of relative autonomy – which referred to the state’s ability to act with all stakeholders without pursuing the narrow interests of any of those external stakeholders. One worked with them, but one did not come in to work for the narrow interests of those stakeholders. Hopefully the researchers who would be mining the Zondo Commission archives would be able to explore the lessons learned from the work of the Commission to strengthen the systems and mechanisms of relative autonomy, professionalisation, and address the administrative-political interface.

Research should also draw lessons about the very architecture of the post-apartheid state – a state that was largely and easily hollowed out given its post-cold war formulation as a transactional state. Because post the cold war many states throughout the world had become transactional states. That was one of the things that had to be rethought in the wake of what the Zondo Commission had told the country.

However, one had to move beyond that, because the research should not be limited to mechanistic solutions but should go to the heart of the national consciousness. That was key because what differentiated humans from animals was that humans had a consciousness. It was that national consciousness that had to be awakened in the light of the evidence that had emerged from the Zondo Commission. The Zondo Commission and its data – however unpalatable, as the Minister had described it earlier in the day – were a legacy that the current generation bequeathed to future generations for them to be more vigilant and more decisive than the current generation had been in preserving South Africa’s democracy and realising the greater ethical goal of creating a better life for all. Dr Lubisi concluded by thanking the organisers of the conference for providing an opportunity to participants to reflect on the importance of the Zondo Commission.



AFTER THE COLLOQUIUM

The responses to the colloquium were many and varied. While a summary of some of the early responses is provided here (as at 22 July 2023, a month after the colloquium), responses of various kinds – in the media, from the three arms of the state (the Legislature, the Executive and the Judiciary), and from other forums – are likely to emerge.

The first response came on the same day of the colloquium itself from Parliament, in response to Chief Justice Zondo’s claim that if another group of people were to have done exactly what the Guptas had done to pursue state capture, Parliament would still not have been able to stop it – simply because he had seen nothing that had changed. A press release issued by Parliament on Thursday 22 June 2023 (Parliament 2023) “*expresse[d] shock and strong objection to the recent remarks made by Chief Justice Raymond Zondo ... about Parliament. It [was] inappropriate for the Chief Justice, representing one of the arms of state, to engage in public attacks on Parliament.*” The Chief Justice’s “*public attack*” had encroached on the doctrine of the separation of powers, which “*require[d] each branch of government to respect the roles and responsibilities of the others.*”

Parliament should be given the necessary space, the press release went on to say, to fulfil its obligations. It had “*taken decisive steps to address the recommendations of the State Capture Commission ... [including] developing rules and guidelines to enhance its oversight processes ... [and] conducting research to explore international best practices.*” To hold the Executive to account and to monitor progress on the implementation of the initiatives it had taken, its Rules Committee “*had decided that quarterly reports on the progress of these initiatives [had to be] tabled.*”

On the same day (22 June) *Daily Maverick* gave extensive coverage to Chief Justice Zondo’s comments (Njilo 2023), not just about the inability of Parliament to stop state capture but about “*The majority party’s failures*”, the “*Public attack*” imputed to the Chief Justice by Parliament, his comments about “*Who [would] protect the people*”, and “*A permanent corruption commission*” among other options he had proposed for preventing further corruption and state capture.

CORRUPTION OP-ED

A return to the values of the Constitution can change the trajectory of our nation’s story



South Africans implicated in State Capture, from left: Former Cabinet minister Malusi Gigaba. (Photo: Gallo Images / Sharon Seretto) | Former SAA board chairperson Dudu Myeni. (Photo: Gallo Images / Veli Nhlapo) | Former president Jacob Zuma. (Photo: Felix Dlangamandla / Gallo Images) | Bogus Prasa engineer Daniel Mthimkhulu. (Photo: Supplied)

By Narnia Bohler-Muller

27 Jun 2023



ZONDO REPORT, ONE YEAR LATER

State Capture 2.0: The corruption warning lights are flashing on the SA political patronage system



Illustration: Jocelyn Adamson | Murdered Gauteng Department of Health whistle-blower Babita Deokaran. (Photo: Facebook) | Former Eskom CEO André de Ruyter. (Photo: Gallo Images / Rapport / Deon Raath)

By Ferial Haffajee

24 Jun 2023



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Parliament accuses Chief Justice Raymond Zondo of public attack – here’s why

Parliament said Zondo’s remarks amounted to a public attack, which was inappropriate for a representative of one of the arms of State.



Parliament was shocked and condemned remarks made by Chief Justice Raymond Zondo recently. The former head of the State Capture Commission said he does not believe lawmakers could stop a repeat of the Gupta years.

READ: [State capture report: ANC was financed by ‘the proceeds of crime’ more than once](#)

PARLIAMENT POWERLESS TO HALT REPEAT OF GUPTA YEARS, SAYS ZONDO

The Chief Justice’s comments about Parliament were also summarised by *eNCA* (Moloto 2023).

In a *Daily Maverick* article on 24 June 2023 Ferial Haffajee, Programme Director of the Colloquium, herself commented on aspects of the Zondo Commission and the extent to which its recommendations had been or would be implemented. She pointed out that Frank Chikane, recently appointed chairperson of the ANC’s Integrity Commission, had noted that all those implicated in the state capture inquiry had not voluntarily appeared before the Integrity Commission. Nor were former president Jacob Zuma or former Cabinet minister Malusi Gigaba, the most prominent politicians implicated in state capture, be likely to appear in court, since they often worked through the Boards which they had appointed, or as in the case of Dudu Myeni, through intermediaries.

While the ID had enjoyed some success, however, “the methods of patronage systems in the state and state-owned enterprises, using the procurement budgets that [were] now at more than R1-trillion, ha[d] intensified.” The huge losses at Eskom claimed by André de Ruyter, the assassination of Babita Deokaran for questioning buying patterns at a hospital in Gauteng, and the Digital Vibes spend on public health communication had underscored Chief Justice Zondo’s assertion that his inquiry had uncovered merely “the tip of the iceberg”.

In an op ed in *Daily Maverick* on 26 June 2023 Lawson Naidoo, Executive Secretary of CASAC, argued that there was no “rigid delineation of powers” between the three arms of the state, the chief aim behind the principle being to prevent the concentration of power in any one arm. A system of checks and balances had been envisaged. “The tensions that may arise”, he went on to say, “are in fact an indication that the checks and balances are being exercised. If any of the branches adopts a supine attitude it undermines the whole scheme.” Arguing that Parliament had in fact done little to date to implement the Zondo Commission recommendations, Naidoo pointed to two examples. Legislation to bolster the protections afforded to whistle-blowers and to make the ID in the NPA a permanent structure had not yet been brought before Parliament (resulting in further victimisation of whistle-blowers and the inability of the ID to attract skilled expertise through the offer of long-term contracts); and it was unclear whether any progress had been made with regard to the President’s undertaking to assess the positions of members of his Executive who had been implicated in state capture, since none of them had been removed from office.

One week after the event *Business Day* (Moosa 2023) reported on a meeting between Parliament’s presiding officers and the Chief Justice, the outcome of which, once National Assembly Speaker Nosiviwe Mapisa-Nqakula and National Council of Provinces Chairperson Amos Masondo had “clarified that the perception that parliament was not implementing recommendations ... [was] far from the truth”, was that all parties “acknowledged the mutually reinforcing nature of the legislature and judiciary.” Ms Mapisa-Nqakula and Mr Masondo “commend[ed] the constructive meeting with [the Chief Justice]” and “expressed [their] gratitude for the frank discussions had.”

Elaborating on the Parliamentary press release of 22 June, Ms Mapisa-Nqakula indicated that the National Assembly was implementing 19 recommendations, 11 of which had already been completed. Parliament had started recruiting for various advisory roles, hiring legal and other advisers to strengthen its capacity. Parliament’s indication in its press release a week before that it would conduct a “study tour” of the UK, whose parliament had a sub-committee dedicated to holding its prime minister accountable, was in response to one of the Zondo Commission’s recommendations about oversight of the Executive.

Mail & Guardian

POLITICS / 22 JUN 2023

Zondo: Parliament still doesn’t have the ability to stop state capture

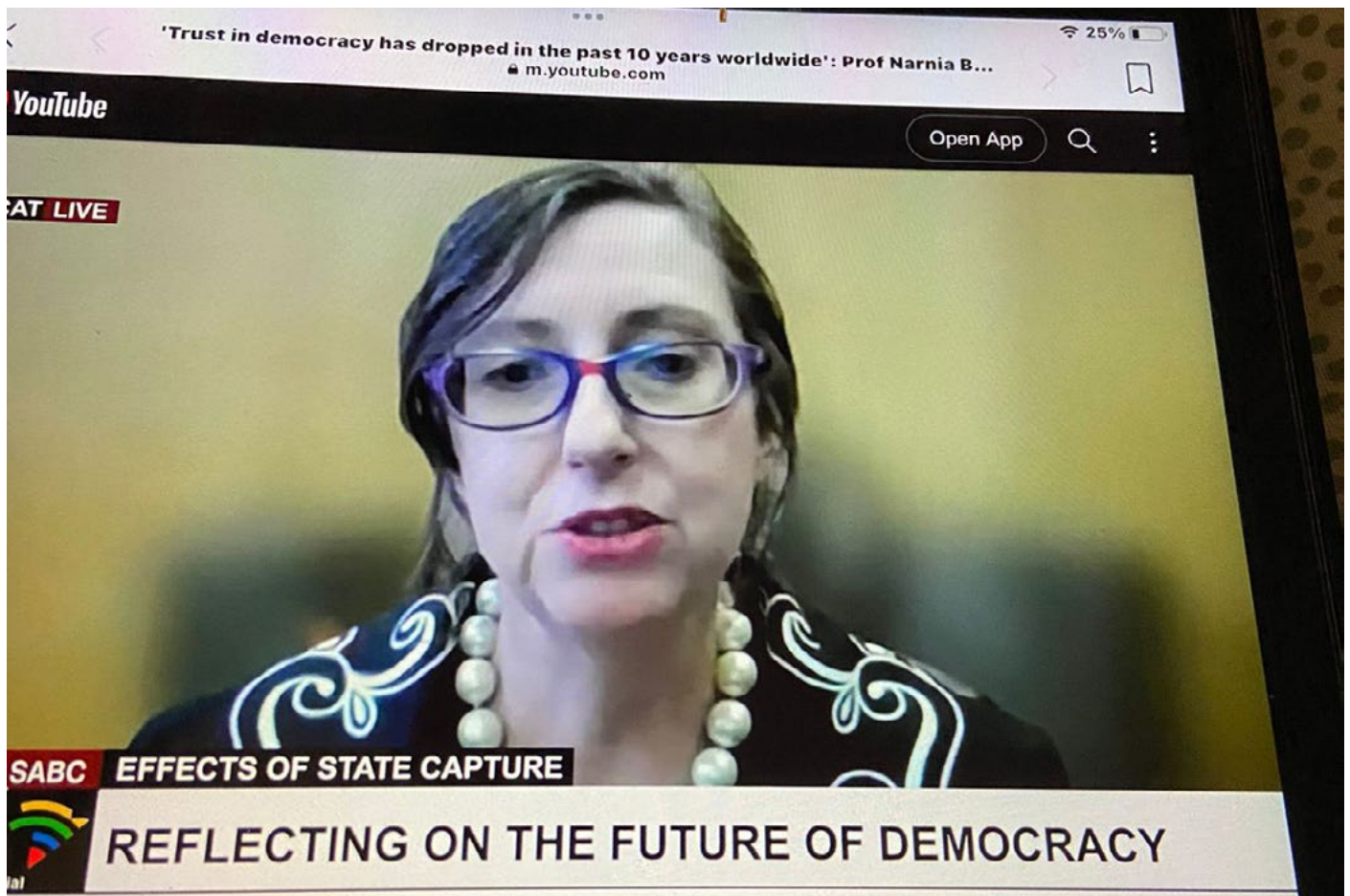
By Des Erasmus



Finally, an op ed in *Daily Maverick* on 27 June 2023 by Narnia Bohler-Muller went beyond a rules-based approach to countering state capture to set out a values-based paradigm not only to prevent state capture and corruption in the future but to offer a way to embody, in everyday life, the core principles and values of the Constitution. The section sub-titled "A constitutional and values-based approach to preventing State Capture and corruption", which had been scheduled to be presented at the colloquium but because of time constraints had to be curtailed, elaborated this paradigm.

Read more [here](#).

We need to rebuild support for the Constitution as a living document that enables us to thrive as individuals and as a nation.



REFERENCES

Bohler-Muller, N. 2023. A return to the values of the Constitution can change the trajectory of our nation's story. *Daily Maverick*, 27 June. Available at: <https://www.dailymaverick.co.za/article/2023-06-27-a-return-to-the-values-of-the-constitution-can-change-the-trajectory-of-our-nations-story/>

Bohler-Muller, N., Cosser, M., Pienaar, G., Steyn Kotze, J., Nkosi, M., Rule, S., Makoe, M., Davids, Y.D., Houston, G., Roberts, B., Hart, T., Lunga, W., Mohlabane, N., Gordon, S., Zondi, T. & Mchunu, N. (2022). Summary report on the Judicial Commission of Inquiry into state capture. (Commissioned by the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector, Including Organs of State). Available on request at: <https://repository.hsra.ac.za/handle/20.500.11910/19640>

Haffajee, F. 2023. State Capture 2.0: The corruption warning lights are flashing on the SA political patronage system. *Daily Maverick*, 24 June. Available at: <https://www.dailymaverick.co.za/article/2023-06-24-state-capture-2-0-the-corruption-warning-lights-are-flashing-on-the-sa-political-patronage-system/>

Moloto, M. 2023. Zondo advocates for permanent anti-state capture commission. *eNCA*, 23 June. Available at: <https://www.enca.com/news/zondo-advocates-permanent-anti-state-capture-commission>

Moosa, T. 2023. Zondo and parliament hold 'constructive' meeting after scathing speech. *Business Day*, 29 June. Available (to subscribers) at: <https://www.businesslive.co.za/bd/national/2023-06-29-zondo-and-parliament-hold-constructive-meeting-after-scathing-speech/>

Naidoo, L. 2023. Raymond Zondo on Parliament and State Capture – perhaps he had a constitutional duty to speak out. *Daily Maverick*, 27 June. Available at: <https://www.dailymaverick.co.za/article/2023-06-27-zondo-on-parliament-perhaps-he-had-a-duty-to-speak-out/>

Njilo, N. 2023. Parliament is incapable of preventing another State Capture bid, says Chief Justice Zondo", *Daily Maverick*, June 22, 2023. Available at: <https://www.dailymaverick.co.za/article/2023-06-22-parliament-is-incapable-of-preventing-another-state-capture-bid-says-chief-justice-zondo/>

PARI (Public Affairs Research Institute). 2022. The Zondo Commission: A bite-sized summary. Available at: <https://pari.org.za/wp-content/uploads/2022/09/PARI-Summary-The-Zondo-Commission-A-bite-sized-summary-v360.pdf>

Parliament. 2023. Criticisms made by Chief Justice Zondo against Parliament. Press release. Available at: <https://www.parliament.gov.za/press-releases/criticisms-made-chief-justice-zondo-against-parliament>

The Presidency. 2022. President appoints members of the National Anti-Corruption Advisory Council. Available at: <https://www.thepresidency.gov.za/press-statements/president-appoints-members-national-anti-corruption-advisory-council>

VIDEO LINKS

Link to Part 1 of the colloquium: https://youtu.be/wuM_V2iVb1Q

Link to Part 2 of the colloquium: <https://youtu.be/F6W3BndwNlk>

Link to tribute to Chief Justice Zondo by Albie Sachs: <https://we.tl/t-E04q6CtWT9> (Wetransfer link expires 31 December 2023).



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