

Zondo – Some results are already in

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A young friend expressed her dismay about what she had seen and read in the media since the release of the final Zondo Commission report. With the recent avalanche of bad news about rising food- and petrol prices, and interest rate costs, the commission had given her some hope. However, the responses she had heard and read in our media made her feel that hope was in vain, or even naïve.

I believe that many of the responses that left her desperate came out of too-narrow a focus. When will the first people be in jail? Are they going to pay the money back? Valid questions. However, the commission and its report are not a single event and shouldn't be judged only by how many convictions flow from it. It is part of a much bigger picture. What is more, we have already seen consequences flowing from the processes leading up to the release of the final report.

Open society dynamics

The story starts in 2009, when the late Mandy Rossouw travelled to Nkandla, observed what was going on, reported on it and started a wildfire. The fire would keep flaring up as the Guptas used Waterkloof Airbase (2013), Des van Rooyen was appointed Minister of Finance for four days (2015), Mcebisi Jonas alleged that he had been offered a R600 million bribe (2016), church leaders held hearings with their flocks and published their *Unburdening Panel Report* (2017) and a group of academics from four universities published another report, *Betrayal of the Promise: How South Africa is Being Stolen* (2017). A number of thorough, explosive books were published, including *The President's Keepers*, *How to Steal a City*, *Enemy of the People* (all in 2017) and others. We have also seen remarkable citizen activism with the strongest street protests since democracy after Zuma's brazen attack on the Treasury in March 2017, (when the minister and deputy minister of finance were both fired, and the ratings agency, S&P Global, downgraded South Africa to junk status).

Throughout this period, numerous court cases were brought by civil society, Judges showed courage and independence in their rulings. Investigative reporters did an exemplary job, like their predecessors did during the Watergate scandal in the USA and South Africa's own information scandal in 1977. They were often supported by whistle blowers, especially in the case of the Gupta leaks in 2017.

Central to all of this was the 2016 report, *State of Capture*, written by the Public Protector at the time, Thuli Madonsela. This took matters to a whole new level.

An independent media, the courts, the office of the Public Protector, whistleblowers, churches, judges, academics, NGOs, political parties, authors, and street protests all constitute the forces of an open society.

Making it official

Against this backdrop, the Zondo Commission had a dual impact. Firstly, it brought the fight against corruption and state capture into official state processes. Secondly, just like the Truth and Reconciliation Commission 25 years ago, it held a mirror up to society and shaped public opinion.

Without the commission and open society activism, the Public Protector's 2016 report would have come to naught. Remember, then President Jacob Zuma defiantly declared that nobody could force him to appoint a commission. Yet, the courts did force him to do so. He then tried to obfuscate matters by making the original terms of reference so wide

that the commission would have drowned under its mandate. Again, it was the High Court that called him to order.

The commission created a platform where all the disparate strands of information were drawn together. Although much information had been publicly available, some of the evidence before the commission was new and shocking, like the Bosasa revelations and the shenanigans at the security establishment led by Arthur Fraser. The commission put it all together and it gave it official credibility. President Ramaphosa now has four months to report on how the recommendations will be implemented. Regulations have also been changed to enable the National Prosecuting Authority to use the evidence at the Zondo Commission.

Shaping public opinion

Then there is the court of public opinion. Seeing people held accountable in a very public forum was an unusual experience for South Africans. Former top officials including Jacob Zuma, Arthur Fraser, Brian Molefe and others who had acted with such impunity (as if they were untouchable), were cut down to size. Even the current president testified and was criticised in the final report.

Public accountability shapes public opinion and in the end, politics. The public hearings and final reports also helped South Africans to understand the reach and the impact of the rot in a way that ongoing news reporting cannot do. Like the Truth and Reconciliation Commission 25 years ago, it meant that denial about corruption was no longer possible.

It is fair to say the hegemony that the ANC enjoyed over large parts of the electorate has been weakened. So far opposition parties have not capitalised on it, but our politics are shifting. A friend quotes Gramsci, 'The old world is dying, and the new world struggles to be born: now is the time of monsters.' The Zondo Commission process and reports are helping to slay some of the monsters. It is not over yet, and that is the point ... it is not over.

What if?

Many people feel that if the culprits are not in jail, nothing has really changed. Let's think about that. What if the open society dynamics had no impact and the commission was never appointed?

Thuli Madonsela's state capture report would be gathering dust and we would not know the true extent of the rot. Politically, the court of public opinion probably cost Mrs Dlamini-Zuma the presidency. Her ex-husband would have stayed on in his office for another 15 months to the end of his term. Imagine what he could have done, especially to Treasury. Tom Moyane might still be at SARS and Brian Molefe at Eskom. Shaun Abrahams could still be in charge of the NPA and Arthur Fraser of State Security, the latter happily dishing out money to illegitimate beneficiaries. Dudu Myeni might still be at SAA. And of course, the Guptas could very well still be in Saxonwold and not in jail in Dubai.

Effectively, we have seen a change in government. Not in parliament or the legislative branch, but certainly in the executive. A sitting president and his core network of enablers in the executive branch of government and State-owned Enterprises (SOEs) were kicked out. It gave the country and critical state institutions a fighting chance to recover. The fight is not over and not all enablers have left. But the country is undeniably better off than five years ago.

It would be naïve to declare an end to corruption. Even so, though it is difficult to measure this, my sense is that public tolerance of corruption has declined. Reflect back: at the start of Nkandla there was denial and vociferous defence of the mansion being build in the veld. People put themselves through extraordinary contortions to defend it. Compare that to the enormous public reaction to Covid corruption. Big shift in attitude. Winston Churchill's words after the Battle of Britain may be appropriate, 'It is not the end, it is not even the beginning of the end, but it is perhaps, the end of the beginning'.

So what?

- The Zondo Commission cannot be judged against one simple metric like how many people go to jail. Enormous consequences have already flowed from the process.
- Open society forces, including the commission itself, held up a mirror so South Africans could see the reach of the rot and corruption in society. As with apartheid atrocities after the Truth and Reconciliation Commission, denial is not possible anymore.
- In the process, public opinion shifted enough to lead to a change in government and in the top structure of critical institutions. Imagine if the old order was still in charge.
- That unique creation of our constitution, the Public Protector, played a significant role and we can be proud of this.
- Individuals matter. Compare Madonsela and Mkhwebane – same office, same founding legislation, same powers, but a very different outcome. Something to keep in mind when filling critical vacancies.
- Like the Truth and Reconciliation Commission 25 years ago, the Zondo Commission is fairly unique and something South Africans should celebrate.