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Zondo commission – Parliament failed by the ANC, MPs tell Zondo

The ANC in Parliament should not “scapegoat” the party’s former president Jacob Zuma, after knowing for so long that state capture was happening, without taking responsibility for its non-action. This was said by DA chief whip Natasha Mazzone as she concluded her evidence before the commission of inquiry into state capture on Monday.

She was the second witness to answer questions on Parliament’s oversight role during the period that the commission is investigating. Earlier in the day, former chairperson of the standing committee of public accounts (Scopa), Themba Godi, also gave evidence.

“It cannot be that we sit at a commission like the Zondo commission, that looks at state capture, and honestly say to one another that the entire cabinet did not know that state capture was happening,” said Mazzone.

“We cannot stay under oath and say to Judge Zondo that the very person who was head of government business and head of the cadre deployment programme of the ANC did not know that state capture was happening. It is impossible.”

Her reference was to the time in which President Cyril Ramaphosa headed up government business in his capacity as deputy president. It was also around the period when allegations of state capture were beginning to get attention, said Mazzone, in Parliament. It was, however, because of the ANC majority standing, that the party’s MPs were always able to usurp decision making on critical issues.

A chairperson of a committee can make or break whether that committee is able to execute their duty as put down in the rules, and more importantly as envisaged in the oath of office that a member of Parliament takes.

Mazzone said when the DA first asked within the relevant parliamentary structures for an inquiry to be held to look into the running of state-owned entities, they either got excuses or no responses at all. In 2016, former public enterprises minister Lynne Brown told Mazzone in a letter responding to one such request over Eskom’s 2015 pre-payment to Gupta-owned Tegeta Exploration and Resources for future coal supply, that Tegeta’s commercial sensitivity should be respected and could not be made public.

This was the beginning of a long, difficult course taken by opposition parties to get a full-on investigation by Parliament to happen. The 2017 inquiry into Eskom was only made possible because of the divisions that had started to emerge among the ANC.

Godi shared the same sentiments of frustration for opposition parties due to a lack of accountability in ANC structures in Parliament. Members of the executive should be people of integrity, who take the cue from oversight measures taken by Parliament. But the dynamics of that relationship depend on how the majority part navigates the separation of power. “If one party is dominant, the extent to which oversight will be effected depends on the internal dynamics of that party,” he said.

Scopa, he said, operated differently from other committees, because a decision was taken for members not to use the structure to grandstand on behalf of their parties. This was not an easy task. It took a while for its ANC members to begin to operate as independent committee members.

One other challenge to committees was the reshuffling at the five-yearly change of Parliament, following elections. For members to stay true to the commitments of their committees, they would have to be retained for their institutional knowledge. None of the members of Scopa from Godi's term, which ended in 2019, were retained, despite their individual contributions to the committee. The DA's Tim Brauteseth, for instance, is an expert in forensic sleuthing, but for some reason the party saw it fit to remove him from Scopa.

Despite its united and independent approach, Scopa, like other committees, was not heard. Godi said the committee made several recommendations for supply chain regulations to be changed in government departments and entities, but these were never adopted. Much of what was reflected every year in Auditor-General audit outcomes were issues that could have been resolved if Scopa had been taken more seriously.

Evidence leader Advocate Alec Freund put to Godi that despite Scopa doing its job well, there was a widespread breakdown in financial controls in government departments.

"That is an important contradiction to be kept in mind as we move along, because we did our work very, very well. But the outcomes of that work were reflected in a negative direction from the reports of the Auditor-General, year in and year out."

The executive also did not display a political will to eradicate financial breakdown, he added, and failed to follow through on changes Scopa recommended. For example, in 2013, on the recommendation of Scopa, the executive resolved to have all supply chain management staff in the public service vetted, but this was thwarted by the State Security Agency, which said its regulations did not allow for such.

Godi gave further perspective: "99% of the time Scopa relied on Auditor-General reports that were signed on and approved by ministers and Parliament." Despite this, irregular expenditure continued to rise.

Commission chairperson Deputy Chief Justice Raymond Zondo asked if, faced by a failing executive, Scopa did not consider taking its recommendations to the president. "If one looks at the Scopa regulations, which the National Assembly adopted, we always indicated that these are not new issues. These are persistent issues," Godi replied, so the need to elevate to the president should not have arisen, as Parliament is the oversight structure.

"It was really, really, heartbreaking, at least for us who wanted to do good for our people. We knew that these wasted monies were supposed to change the lives of people out there in the rural areas, out there in the informal settlements who were unable to get services because money is being expended in ways that are contrary to the laws of legislation."

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