

ANALYSIS

Jessie Duarte's onslaught on the Zondo Commission, decency and justice

By Stephen Grootes • 9 February 2021



ANC secretary-general Jessie Duarte. (Photo: Gallo Images / Netwerk24 / Lulama Zenzile) | Deputy Chief Justice Raymond Zondo. (Pho...

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The recent evidence at the Zondo Commission about the behaviour and conduct of the ANC's elected representatives in the National Assembly has shown how they put the party above the country, and would do it again. Instead of promising to change course or to fight corruption, the party's Deputy

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Secretary-General, Jessie Duarte, has attacked the commission itself, claiming the testimony there is an “onslaught on the people”.

It is obvious from Duarte’s first published response to the recent testimony that she believes ANC MPs were right to put party before country. She also says she will testify at the commission and that “inconvenient witnesses” are disappearing. But perhaps the most important element of her response is the complicated debate around how parties in a proportional representation system should remain as a coherent political force.

Testimony at Zondo Commission is an onslaught against the People

It is worrying that democratic centralism is the subject of a commission led by a judge who, with respect, practices his craft based on the narrow parameters of existing laws. One can only hope that the Zondo Commission is not going to turn our democracy into more of a neo-liberal concoction than it already is.



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Over the last few days the failure of Parliament and its MPs to prevent corruption from occurring during the time Jacob Zuma was president has been laid bare.

Some ANC MPs explained that it just was not done to take on the party. Makhosi Khoza said those who refused to toe the party line were labelled “counter-revolutionary”. Zukiswa Rantho said she had received threats for trying to uncover corruption at Eskom (<https://www.dailymaverick.co.za/article/2021-02-03-when-politics-collides-with-constitutional-responsibilities-of-oversight-and-billions-are-looted/>).

Perhaps a key moment occurred when former Transport Committee chair Dikeledi Magadzi was asked about the corruption at Prasa. She explained that it was decided not to pursue this too closely (<https://www.dailymaverick.co.za/article/2021-02-09-serious-corruption-at-prasa-and-bosasa-got-the-kid-glove-oversight-two-former-parliamentary-committee-chairpersons-say-they-did-their-best/>), even though it was in the public domain.

When Deputy Chief Justice Raymond Zondo asked her whether, knowing what she knows now, she would do the same thing again, she replied:

“Knowing what I know now, let me say, I still believe what the party had instructed me to do was correct.”

In essence, this was a member of Parliament saying she would cover up corruption again, because her party, the ANC had told her to.

Magadzi has been promoted since her actions during that era: she is now the deputy minister of transport.

In a [column](#) published in *Daily Maverick* on Tuesday, Duarte says this testimony is an “onslaught against the people”. She says that because the ANC, and the principle of democratic centralism are under attack, so are the people who voted for the ANC.

Duarte also says she will testify before the commission even though, “I know that my words and the words of some in our society will not be received without prejudice.”

There are several issues here that need to be examined.

The first is her attack on the commission and its timing. The commission has not made findings, nor has it issued a report. Any attack on Zondo or the commission is purely premature – unless Duarte is saying that the commission should not hear more evidence or exist at all.

If she is going to testify, then she has an opportunity to present her version of events – as do all of those implicated have an opportunity to give their versions. If they decide not to, as the man who was at the centre (<https://www.dailymaverick.co.za/article/2021-02-02-the-trump-of-nkandla/>), of all of this has done, that is their choice. The commission and the law and the courts will make decisions about how to handle that situation. But certainly, no one is preventing Duarte, or those implicated at the commission, from testifying.

The Trump of Nkandla



On Monday, Jacob Zuma’s apparent response to the Constitutional Court’s ruling compelling him to appear before the Zondo Commission appeared. He claims that he is being unfairly targeted by, well, everybody, that his rights were ignored, and that Zondo is biased against him. No evidence is presented, though.

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It has to be asked, how does she believe her intervention will play with voters?

While the opposition parties do not necessarily present any threat, the recent corruption scandals around the ANC (the Special Investigating Unit found that many politically connected individuals tried to make money during the pandemic) suggest that this issue is important for voters.

And yet, instead of trying to allay fears of corruption, or finding ways to show that the ANC will renew itself, Duarte is attacking a commission that most South Africans support. Zondo himself appears to have credibility with the majority, partly because of the dignified manner in which he has handled himself and the witnesses.

Duarte is attacking a commission for asking questions, right at the moment when many people are existentially invested in getting the answers.

However, the low point of Duarte’s argument may well be that it is a defence of the behaviour of h MPs during the Zuma era.

To be clear: she is defending people who put the ANC before the country.

In this she is not alone. Zuma himself said he placed the ANC above the country. As it turned out, he may even have placed a single family above the ANC.

Duarte appears to be saying that the party is *always* right, and that MPs have no choice but to go along with its decisions. She says this is because of “democratic centralism”, and that “one would gladly welcome an example where a caucus, at any level, decided against exposing corruption or agreeing to be corrupt. But none of these examples exist because no party has a party line that would want to indulge deliberately in corruption.”

But by the time the no-confidence votes in Zuma were held, it was obvious that a vote to retain him as president was exactly that, to “indulge deliberately in corruption”.

There was more than enough evidence in the public domain to demonstrate this. And yet, the overwhelming majority of the ANC MPs voted to retain him.

To take Duarte's argument to its logical extreme would be to suggest that if Luthuli House decided the sky was green, ANC MPs must vote to pass a motion that the sky is green.

On the face of it, this argument cannot be sustained.

However, on this point, she is not wrong.

Then Secretary-General Gwede Mantashe was reported as telling ANC MPs not to vote to remove Zuma in 2017 because if they did the party would collapse. It was claimed he had said those who wanted to remove Zuma should do so at the Nasrec conference scheduled for later that year.

He was probably correct, such was the atmosphere at the time that it was very likely that ANC MPs would not have been able to agree on a new president, and the party would have split, or simply collapsed into different factions.

This gets to the heart of the problem of how a political party in a proportional representation system such as ours is able to maintain political coherence. If it cannot order its MPs to vote in a particular way, what is it? A group of MPs who share a common logo and nothing else?

Other parties have had the same problem.

In December 2019, the DA fired two councillors from the City of Johannesburg after they voted for the ANC's Geoff Makhubo as mayor.

Many of those who voted for the DA would have accepted that decision, as the two councillors voted against the party line and the party's candidate.

It would be difficult for those DA voters to now disagree with Duarte's point.

But the fact remains, if it was so obvious that Zuma was corrupt, that there was corruption and incompetence everywhere, how do we judge the behaviour of ANC MPs now?

Perhaps another question will shed some light.

In 2018, ANC MPs in the National Assembly celebrated loudly and publicly when Cyril Ramaphosa was elected president. Those same MPs in that same Parliament had strongly supported Zuma, voted to keep him in office, and cheered him for the previous almost nine years.

How do we judge their behaviour then? Do thinking adults simply shout and cheer for the person who won the last ANC conference, no matter who that person is and what they stand for?

At least one ANC MP has publicly examined his own conscience on this issue of party loyalty and the morally correct stance. Yunus Carrim published his own account (<https://www.dailymaverick.co.za/article/2020-09-09-disbanding-the-scorpions-was-not-a-matter-of-loyalty-over-conscience-part-one/>) of his role in the decision to disband the Scorpions through a Parliamentary process. He suggests that it was not a simple matter of conscience against party.



Disbanding the Scorpions was not a matter of loyalty over conscience (Part One)

ANC and SACP veteran and former Communications Minister Yunus Carrim unpacks the background to the disbanding of the Scorpions and the role he played as chairperson of Parliament's Justice Committee in the disbandment. This is Part One of a two-part series.

Not everyone will agree with him.

A question Duarte does not answer is, how far does this go? If a party leader committed murder on the floor of Parliament (and while that did not happen, Zuma certainly fomented violence (<https://www.dailymaverick.co.za/opinionista/2015-02-13-sona2015-when-the-rulers-decided-on-the-night-that-might-is-right/>)) and their party had a majority of MPs, could those MPs be told to vote to overturn the Criminal Procedure Act?

Certainly not. So then, where is the line?

It should also be remembered that not all ANC MPs have done what they were told.

Ben Turok and Gloria Borman refused to vote in favour of the Protection of State Information Bill (<https://www.dailymaverick.co.za/article/2012-05-04-anc-vs-turok-borman-damned-if-you-do-damned-if-you-dont/>), defying the party whip. For them it was a vote about morality. Neither were thrown out of the party.

Duarte makes at least one dramatic claim about the Zondo Commission. She says that, “The destruction of reputations is now commonplace. The disappearance of inconvenient witnesses whose truth got too close to reality; these, as the drama series writers would claim, are ‘the days of our lives’, and yet simple known knowledge is the real victim now.”

She appears to be saying that some witnesses have disappeared. Really?

She offers no examples and no evidence to back up her assertions and there are many questions unasked:

- **Which witnesses have disappeared?**
- **Where have they gone?**
- **What evidence were they going to give?**
- **How would this evidence have changed the findings of the commission?**

Another fascinating point is Duarte’s claim that she will testify. But Ramaphosa has also said publicly that he will testify on behalf of the ANC.

Are they both going to testify? Will they answer the same questions but differently? Will she testify but not on behalf of the ANC, when she is its deputy secretary-general? Or will she testify on behalf of another faction in the ANC, while retaining her seat on the same National Executive Committee as Ramaphosa?

In the end, we’re left with two simple points.

Throughout the Zondo Commission the testimony has been about the conduct of the ANC in government – from the actions of Zuma himself, through to the wide-ranging testimony about Bosasa, to the behaviour of ANC MPs. It has been about the ANC and no other party.

It is no surprise that some of the leaders of the party now feel angry and anxious. Especially as, in the case of Duarte, they defended Zuma and were in office during the time he was its leader.

But **none** of that is the fault of Zondo, or of the witnesses, or the evidence leaders.

It is the fault of those who abandoned their consciences. Those who benefited from corruption, those who stole money, those who appointed Gupta yes-men into positions, those who stood by and did nothing, and yes, those who had important positions in Parliament, who could have shone a light on it, and did nothing.

And especially those who promise that they would do the same again.

It should not be forgotten that many MPs are people with other roles in the party, they enabled Zuma and benefited from having him as leader. They voted for him at party conferences, campaigned for him and cheered his arrival in Parliament as publicly as they could.

Then there is the other question: is Parliamentary oversight going to improve to prevent this from happening again?

Duarte plays a key role in the ANC as the deputy secretary-general, and she would have been involved in all of its major decisions.

She would have been a part of the decisions that saw Mosebenzi Zwane (<https://www.dailymaverick.co.za/article/2020-10-12-zwane-denies-allegations-of-bullying-and-ruling-with-an-iron-fist/>) becoming the chair of Parliament's Portfolio Committee on Transport, Faith Muthambi (<https://www.dailymaverick.co.za/article/2018-07-13-the-case-against-faith-muthambi-zumas-faithful-soldier-and-guided-missile/>) becoming the chair of Parliament's Portfolio Committee on Cooperative Governance, and Bongani Bongo (<https://www.dailymaverick.co.za/article/2020-10-28-bongani-bongo-charged-a-second-time-around/>) becoming the chair of Parliament's Portfolio Committee on Home Affairs.

Presumably Duarte was never worried about whether they would attempt to commit the heinous crime of placing the country ahead of the party. **DM**

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