



RESPONSE

February 13th, 2015

The State of the Nation Address

Perhaps it is more fitting, after last night's spectacle, to reflect on the State and the Nation, rather than the State of the Nation.

Nothing that President Zuma said in his speech was remotely as important as the unconstitutional and anti-democratic interventions that preceded it. The Nation has a most fundamental right to know what is going on in its Parliament, and what its representatives are doing and saying there. The use of jamming technology to control how we might see and hear the proceedings was a direct assault on that right.

The presiding officers appeared not to know about it, and at first fobbed off the opposition's protests with an undertaking that the Secretary of Parliament would 'look into it'. If neither the Speaker nor the Secretary knew about the device (and there seems no doubt that something of the kind was operating) then it could only have been an arm of the State (the executive, in the form of either the security or intelligence services) that was responsible. That utterly violates the separation of powers and makes Parliament – representing the Nation – subject to the executive. (It is also illegal to jam cellphone signals without a court order permitting it.)

The same is true of the use of unspecified and non-uniformed security officials to remove MPs physically. Given their number, and what they reportedly told some of the MPs they evicted, these were not Parliaments' own security staff, but South African Police. The fact that they were called in by the Speaker does not alter the fact that these individuals are part of the executive branch, accountable not to Parliament but to government. They were not there to save the institution from violence or threat of danger, but to enforce a disciplinary order of the Speaker. In a constitutional democracy that is the job of Parliament's own security staff. If MPs decline to obey the Speaker's legitimate instructions there are mechanisms to deal with them that preserve the autonomy and rights of the institution.

The fact that the television feed from inside the chamber did not allow the public to see how their representatives were being manhandled is further evidence of the subversion of the rights and interests of the Nation. We should be able to view the proceedings of Parliament as if we were there ourselves. There had been another indication, earlier in the day, of a Statist approach, when some EFF and DA members were arrested and water-cannoned on the streets of Cape Town. It appears that the police wished to prevent them from demonstrating on the route to Parliament, although some hours after their arrest they still had not been charged with an offence.

To top it all, after the speech, one of the SABC news anchors expressed the view that she was "sorry for those in absentia [the EFF and DA MPs] because they missed hearing about the strides the ANC

has been making.” Realising, as she said it, that she had abandoned objectivity, she corrected herself to “the ANC government”, as if that saved her remarks.

And so, from the employment of jamming devices, the deployment of police in the chamber, the apartheid-era use of a water-cannon on peaceful protesters, to the simpering endorsement by the public broadcaster of the governing party, what we experienced last night was the subjection of the rights of the Nation to the might of the State.

Of course, the actions of the EFF must also be questioned. The party may well have felt a genuine grievance around Mr Zuma’s failure to answer fully to Parliament on the Nkandla issue, but except in the most extreme circumstances, it is unacceptable for MPs to defy the instructions of the Speaker; when that happens Parliament simply cannot function. The Speaker patiently entertained three purported ‘points of privilege’, all of which repeated the same argument, and explained that there would be an opportunity for questions to be put to the President in early March. The EFF, having protested, should have taken their seats; or, like the DA, they could have walked out, signalling their dissatisfaction in an orderly and respectful, but powerful, way. The fact that the ultimate response to their defiance was a cure worse than the disease does not at all exonerate them from a significant degree of responsibility for the constitutional chaos that ensued.

And for another thing, a party can hardly claim the moral high ground on matters of freedom of speech and proper procedure when, only a few hours earlier, some of its members were physically assaulting one of their own colleagues whom they considered a ‘dissident’, and trying to prevent him from addressing the media.

With this as his background, President Zuma finally delivered his speech, which followed his usual pattern. There was a listing of achievements, such as the creation of 850 000 public ‘work opportunities’, the electrification of 188 schools, and the supply of water to 342. SA’s role in peacebuilding in Africa was highlighted, as was the need for building a greater sense of African identity among South Africans. An interesting nine-point economic plan was set out, including what could turn out to be some imaginative ideas: focusing on the ocean-based economy (up to now a serious weak-point), developing rural, township and co-operative enterprises, and beneficiation in minerals and agriculture. Other points were perhaps less exciting, having featured in every macro-economic programme since 1994: encouraging foreign direct investment, reforming state-owned companies, and improving IT infrastructure.

It was encouraging to see a willingness to review current visa and migration policies, with a tacit admission that these have hurt tourism and are not serving our economic needs. A commitment to source 30% of ‘appropriate state procurement’ from small and medium enterprises was welcome, as was the enactment of legislation that prohibits public servants from doing business with the state.

The President acknowledged the gravity of the crisis affecting Eskom and our energy needs in general. Even if he had little comfort to offer in the short-term (and even if he failed, as head of government, to accept responsibility for the lack of planning and foresight that has caused the crisis) he did have some encouraging things to say about further investment in renewable energy, the sourcing of hydro-electric power from the Grand Inga dam in the DRC, and further integration of the SADC electricity infrastructure. More controversially, he made it plain that a second nuclear power station will be built. Apart from environmental concerns, the scope for corruption in a contract that will run to over R1 trillion is immense and that, together with simple affordability issues, will require close scrutiny from civil society.

New policies on land were announced, including a ban on foreign ownership, the reasons for which are at best obscure; an ‘ownership ceiling’ of 12 000 hectares for any one landowner; and the

appointment of a Valuer-General who will determine the value of land designated for restitution, thus avoiding the need to rely on the willing-buyer, willing-seller model.

To sum up, there was perhaps slightly more ‘meat’ in this SONA than in the last three or four that Mr Zuma has delivered. It should have been presented to a full, orderly and attentive Parliament. Instead it was delivered to a half-empty, and seriously violated, chamber; a sad moment for our democracy.

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