

SACC Report to the Church Public on the Unburdening Panel Process

Regina Mundi Church, Soweto. May 18, 2017

Why we are here: In 1996, President Nelson Mandela addressed a gathering of African Ombuds Officers – the Public Protectors of Africa, then hosted by South Africa, and he said:

“Our experience had made us acutely aware of the possible dangers of a government that is neither transparent nor accountable. To this end our Constitution contains several mechanisms to ensure that government will not be part of the problem; but part of the solution. Public awareness and participation in maintaining efficiency in government within the context of human rights are vital to making a reality of democracy...” (Nelson Mandela, 1996.)

We have come to the conclusion that the danger that Mandela warned of, and that we now have “a government that is neither transparent nor accountable”. If government has become a huge part of the problem in our country, do we have, as Mandela suggested, a Constitution with “several mechanisms to ensure that government will not be part of the problem; but part of the solution”? Constitutional experts can throw light on that. What we are able to do is take on the latter part of Madiba’s statement, the call for “Public awareness and participation in maintaining efficiency in government within the context of human rights”. Undergirding our considerations is the preamble of our constitution that calls on us to:

- “Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights”; and Prophet Amos cries out: “Let justice roll down like waters, and righteousness like an ever-flowing stream”. (Amos 5:24)
- Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law; and Proverbs says: “When the righteous are in authority, the people rejoice; but when the wicked rule, the people groan”.
- Improve the quality of life of all citizens and free the potential of each person...

And the preamble ends by saying “May God protect our people”. This is indeed the constitutional imperative for the church to rise to protect the people of South Africa in the name of God, for “we are ambassadors for Christ, God making his appeal through us” (2 Cor. 5:20a). The Book of Proverbs admonishes: “Like a roaring lion or a charging bear is a wicked ruler over a helpless people”. (Prov. 28:15)

We come here seeking to ensure that our communities are aware of the challenges we face, in order to reflect from an informed position when we meet at the SACC National Conference in June. What is patently clear is that South Africa is in desperate need of divine intervention! We need prayer and action – to kneel and pray dutifully, and “gird up

our loins” to work and reverse the national hurtle to mis-governance and chaos.

We are grateful that Christians of all traditions, and indeed all people of faith from all religious backgrounds are praying hard for this nation. There is a powerful prayer network of Christians with a daily program linking prayerful people across the land in a steady campaign to soak the country in prayer. It began at Easter and will conclude the present phase at Pentecost. The National Church Leaders Forum of the South African Council of Churches requests that Christians should add to the present campaign an intensity around the two upcoming holy days – Ascension on May 25, and Pentecost the last day of the present campaign. We appeal that people should plan to gather to pray in their local churches on Thursday May 25, between noon and 2pm (12h00 – 14h00), and ring bells where they have them. Ascension Day is also Africa Day, and we should add the Africa dimension to our prayers for our continent. In addition, we appeal for national interdenominational prayer gatherings from 14h00 on the afternoon of Pentecost Sunday, so that we mark the end of the present phase of our national prayer campaign with a collective cry for the Holy Spirit to descend to convict us and heal our land.

We further appeal that the national prayer networks should only pause for a moment and not tarry long, but request the organizers to set the next quarterly prayer target from end of June to the end of September, with the last prayer phase for 2017 going into December to possibly close with a major prayer Rally of Healing and Reconciliation on December 16, ahead of Christmas.

In the context of this reality the leaders of our churches have been meeting each year during March/April to reflect on the State of the Nation. In 2015 we committed “to soak the country in prayer”; we committed to use the Solemnity of Good Friday for people in our congregations to mount their pains on the cross of the crucified Christ:

- The pains of rampant drug abuse, gangster terror, wanton rape and domestic violence;
- The pains of abandoned families, children without care, and the maltreatment of the helpless such as the 100+ Esidimeni victims;
- The pains of fearsome crime that renders society unsafe at home and in public places;
- The pains of rampant corruption in business deals, especially with the government; State Capture and the growing impunity of those in power, compounding the challenge of poverty and deprivation.

We committed to pray and work for the promise of the post apartheid South Africa in sync with the values of the Kingdom of God (Psalm 12:5; Isaiah 11: 1-9; Amos 5:24; Luke 4:18-19; John 10:10), the promise of a just, reconciled, sustainable and equitable society; free of racial, tribal, ethnic, xenophobic and gender prejudices; free of corruption and deprivation; and with enough food and shelter for every citizen; and for each child born to grow to its God given potential. That is the South Africa We Pray For!

In December 2015 we came to this historic Regina Mundi Church to declare our commitment to strive for this. We committed to work and pray; focusing on:

Healing and Reconciliation

Fabric of family life

Poverty and Inequality

Economic Transformation, and

Anchoring Democracy, which includes the concerns of corruption and maladministration, and the loss of public trust in public institutions.

Today we are therefore seized with Anchoring Democracy, as we have come to recognize that South Africa may just be a few inches from the throes of a Mafia State, from which there may be no return – a recipe for a Failed State. Anchoring Democracy is our campaign pillar that has huge crosscutting impacts on everything else in the land. It is here that our prophetic ministry coincides with our civic responsibility at its thickest and most profound.

The SACC Unburdening Panel Process: In April 2016, the SACC created the Unburdening Panel as a safe space and a “facility” offered by the churches to any person in the Republic of South Africa who may wish to relieve herself or himself of the burden caused by an experience of someone – an individual, a representative of a business interest, of a political party or of a person of influence – your superior or someone you couldn’t say “No” to, suggesting that you do something inappropriate in return for a promotion, an attractive position or money or shares in a company, or any other favour or incentive whatsoever. This was essentially a pastoral process for the people, and not an investigation.

As the word says, it is a provision for people to “unburden” themselves and tell what they wish to tell freely. The unburdening notion is based on the bible text that says: “Bear one another's burdens, and so fulfil the law of Christ.” (Gal. 6:2). The Panel is chaired by the SACC President, Bishop Siwa. Other members of the Panel are Madam Justice Yvonne Mokgoro, retired Justice of the Constitutional Court; Dr Brigalia Bam, a previous General Secretary of the South African Council of Churches and former Chair of the Independent Electoral Commission (IEC); and Bishop Mosa Sono, Presiding Bishop of Grace Bible Church in the Evangelical Alliance of South Africa. Working with a team of voluntary lawyers and researchers, for the public good, the General Secretary of the SACC, Bishop Malusi Mpumlwana has been coordinating the Secretariat of the Panel.

The panel was intended to work in the following manner:

1. The people indicate through the office of the General Secretary their desire to tell their stories. And they are referred to the lawyers to listen to them and, based on the nature of their matter be categorized.
2. The General Secretary, on account of his role as SACC spokesperson, would not be involved in any listening of matters, but would direct people to the lawyers for professional legal deposition.
3. The lawyers would group the cases into their categories and some presented for oral discussion with the panel.

Depending on the wishes of the person concerned, their information would:

- Be utilized by the churches for advocacy in the Anchoring Democracy pillar of *The South Africa We Pray4* campaign.
- Be made public, for South Africans to know what is going on.
- As is appropriate, be given to a constitutional body like the Human Rights Commission or the Public Protector, and any organization identified by the person concerned.

The Unburdening Panel process was indeed triggered by the Jonas and Vytjie Mentor revelations in 2016. When the governing party proved unable to deal meaningfully with these revelations, and instead seemed to live with the view that there would be no room for following up on these as “all hell would break loose” because the leadership all had their “smallanyana skeletons”, the SACC opted to create the listening facility. It was to hear from people who had either been pressured to participate in corrupt wrong doing or had witnessed such. Some came forward only to share their experiences with no desire to be publicly revealed, but to clear their chests only. Others were ready to go public, and these we encouraged to go to the Public Protector and they did. Their stories are now before the nation in the State of Capture report that has yet to be acted upon by the government.

Although the Jonas and Mentor Gupta revelations, and the ANC non-response triggered the creation of this process, we declared at the time that:

“The Unburdening Panel will receive information of any corruption experiences that only cover the period of South Africa's democratic era. It is also understood that there are many cases of corrupt practices that impact on people, that are a roll-over from improper opportunities of apartheid days. As these impact in the democratic period, they will be entertained.”

We have yet to receive any person who has information of the pre-1994 era, or even the shenanigans of the transition period. We have been intrigued by the recently published book “Apartheid Guns and Money”, by Hennie Van Vuuren, that makes very interesting reading.

The workings of the panel process changed in two unexpected respects:

Firstly, most people who came to us were broken people who just wanted to unburden, as they would say, “so that I can sleep”! They insisted on talking only to the General Secretary as a priest, the thought of going to the lawyers frightened them. This was a significant change in the process, occasioned by the genuine fears expressed by the people. They were terrified of anybody finding out that they had talked to us, for, as they said, “if my story is told, “THEY” will know that it came from me, and my life and that of my family would be in danger. If in the age of constitutional democracy, we have citizens who are so terrified of their own government and its agents and operatives, as to fear for their lives, then we have a serious problem.

There were cases of people at municipal and provincial level, who were pressured to divert funds inappropriately to certain activities that had nothing to do with the work and

purpose of the budget. There were people who were prevailed upon to rig tender process in favour of certain companies and individuals, or bend and tailor regulations for a specific desired outcome. This is sometimes referred to *shaking down* the people, accessing money and opportunities through deceitful and illegal ways of pressuring vulnerable people or companies.

While most of the people opted for the security of what we called the “Anonymity Option”, where the deponents are not divulged, some of people chose to go public with the information they were giving the SACC Unburdening Panel Process. A number of those gave much of the same information to the Public Protector, feeding the State Capture report.

The second and most radical change in the process was in the very nature of the process. It began mainly as a receptacle of stories being shared in unburdening; but soon it became apparent that there were discernible patterns of the systemic undermining of governance that go beyond “petty” corruption, so as to seriously threaten constitutional democracy. Therefore, while corruption, which is part of the brief in Anchoring Democracy, the SACC processes on democracy are concerned also with the broader issues of South Africa’s constitutional democracy.

When it became clear that the trouble was beyond “petty corruption”, we shifted from a “listening” for unburdening, to the mode of the SACC approach of SEE-JUDGE-ACT. “SEE” is rigorous research to understand as fully as possible the state of the question on the matter at hand; the “JUDGE” is applying the lenses of the Gospel to say what is the value judgment call on this matter now that we know what we know. And the “ACT” is when a resolution is taken to act as informed by the application of the Gospel values. In the SEE part we have previously worked with research entities like the Human Sciences Research Council, the Institute for Justice and Reconciliation, and also the Nelson Mandela Foundation. This time we linked up with diverse research volunteers that work from different locations and coordinate their work and findings. This, together what we already know from the initial Unburdening Process, becomes the SEE part of our work, which must be followed by a theological JUDGE process, leading to Conference where the ACT will be resolved. What has emerged in the SEE process is disconcerting.

It now seems that the problem is far greater than corruption, but organized chaos. We have now come to learn that what appears to be chaos and instability in government may well be a systemic design of the madness that ill our governmental environment – a chaotic design. A careful analysis makes the case for the following observable trends of inappropriate control of State systems through a power-elite that is pivoted around the President of the Republic that is systematically siphoning the assets of the State. They do this by:

1. Securing control over state wealth, through the capture of state-owned companies by chronically weakening their governance and operational structures.
2. Securing control over the public service by weeding our skilled professionals.
3. Securing access to rent-seeking opportunities by shaking down regulations to their advantage, and to the disadvantage of South Africans.

4. Securing control over the country's fiscal sovereignty.
5. Securing control over strategic procurement opportunities by intentionally weakening key technical institutions and formal executive processes.
6. Securing a loyal intelligence and security apparatus.
7. Securing parallel governance and decision-making structures that undermine the executive.

We now illustrate these 7 Measures of control by the Power Elite.

This is part of a large research project that is going public, and within which we identify the elements on which we shall pronounce on the basis of our gospel values. In the 1980's we had to examine theologically, the presumed legitimacy of the apartheid government, from which we went on to examine the theology of the Just War in the context of the justness of the war of liberation waged by the liberation movement against an illegitimate government. It was a difficult debate. Now the questions before us are what theological instruments should we use to determine how and at what point the church should withdraw its recognition of the moral legitimacy of a democratically elected government. It seems sufficiently clear to us that the government of the day has lost the moral radar that should inform the public service of *batho pele*, in a "people first" governmental culture. Its operations seem to be driven by an outside interest, strategically located at the top of the Executive, in order to periodically raid the various attractive units of the State, of which a legitimate government should be steward.

What we see persuades us that the present government has lost moral legitimacy. The question that this has raised is in the constitutional dimension. Does the conduct of the government render it to have violated its constitutional mandate? That is a matter for the lawyers to explore further. The lawyers will examine whether the government is not in breach of Section 41 of the Constitution in Chapter 3 on the "Principles of Co-operative government and Intergovernmental Relations". Three subsections of Section 41 (1) says that all organs of State "must":

- (b) Secure the well-being of the people of the Republic;
- (c) Provide effective, **transparent, accountable and coherent** government for the Republic as a whole;
- (d) Be loyal to the Constitution, the Republic and its people.

Chapter 10 is quite instructive of the values, principles and ethical standards of the public administration in our constitutional dispensation. Likewise there may be legal and constitutional questions about the manner that Parliament has conducted itself. All these revolve around the continued constitutional legitimacy of government, beyond the moral legitimacy that we are seriously questioning at this time.

We urge the African National Congress as the governing party to examine itself and mend the ways of government before we reach the point of no return – for this has implications for the ANC in government, for its leadership and members. We appeal to the civil servants in government, to note and remember that whereas governments come

and go with elections, they as civil servants are part of the permanent State system of the citizenry, and the instrumentation of the public good envisioned in our constitutional dispensation.

Ours at this point is to facilitate the availability of what we have seen, for as Stanley Henkeman of IJR said, “You cannot ‘unsee’ what you have seen”. We invite all to see what we have seen, in the knowledge that it can never again be unseen.

Prophet Amos is today addressing our nation:

How you hate honest judges!
How you despise people who tell the truth!
You trample the poor, stealing their grain through taxes and unfair rent.
Therefore, though you build beautiful stone houses, you will never live in them.
Though you plant lush vineyards, you will never drink wine from them.
For I know the vast number of your sins and the depth of your rebellions.
You oppress good people by taking bribes and deprive the poor of justice in the courts. So those who are smart keep their mouths shut, for it is an evil time.
(Amos 5:10-13)

We pray and hope that no one must shut their mouths. The SACC’s Unburdening Panel remains open for business. Tell about all the corruption and the stealing of public resources; yes, from the days of the 1994 transition. Let us know what is there so we can together create the environment to heal the nation.