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### **Zondo commission – Mbete: first talk of inquiry happened in Parly**

Former National Assembly speaker Baleka Mbete says the first deliberations over the establishment of a commission to look into allegations of corruption in state institutions happened in Parliament. This was when presiding officers in the National Assembly were considering approaches to deal with the allegations that were emerging in 2016.

Mbete appeared before the commission of inquiry into allegations of state capture on Tuesday evening to answer to questions over her role as speaker from 2014 to 2019. With the benefit of hindsight, she said, the country is more informed now than members of Parliament (MPs) were in that period, on the extent of the rot that consumed state institutions.

Just as the current speaker Thandi Modise said in her testimony last month, Mbete told the commission that it would not have been practical for Parliament to establish an ad hoc committee to deal with state capture allegations coming from media reports and from opposition parties. The commission heard from DA MPs that the suggestion for an ad hoc committee came after an earlier suggestion for the portfolio committee of public enterprises to investigate was shot down.

The practicality of such an investigation being confined to one committee also came into question, said Mbete. "Chairperson, you will also agree that the issues that arose, around which there were many reports and complaints in the fifth term, were scattered across portfolios." She made the point that the ad hoc committee route is not a remedy for all instances of matters of wrongdoing arising in the executive space.

Mbete pointed out that besides the shortage of resources and time, the challenges for MPs to cover their ordinary duties also come into play. MPs are very busy, contrary to general belief, and are consumed by many other issues outside of investigative work. "In March 2016 MPs were very busy. What exactly each of them was doing, I won't be able to say sitting here. But it cannot be argued that they were sitting around, they had all the time and the consciousness and awareness and the understanding of everything about what was going on and they didn't do anything about it."

The fact that portfolio committees effectively have only 10 and a half weeks in a year to dedicate to investigations involving their portfolios, should be a matter of concern, said evidence leader Advocate Alec Freund.

"We hope so. That's why it's here, before the whole of South Africa, so that we know what's going on in our institutions and we can therefore understand when cases are being made about what must change," Mbete said, adding that Parliament's resources are controlled by the executive, when the one has to hold the other to account.

The political environment that MPs operate in also has to be taken into consideration, as it provides context. MPs are placed in Parliament by their parties, and although their duty is to the public that they represent, their own party affiliations come into play, said Mbete, adding that some make

considerations on how decisions in Parliament impact their political careers. This would not be so, however, if the balance of power between the three arms of the state – the legislature, the judiciary and the executive – were to be addressed decisively.

There have been progressive changes over time, but it cannot be ignored that the power dynamics are such that the executive wields more power in some instances than the legislature that should hold it accountable – despite a clear constitutional principle entered into in 1994 that distinguishes between the powers. “The political culture has since evolved, which has given the executive what in my view are unequal powers that militate against the principle of separation in relation to the other arms, as far as procurement of finances from the national fiscus for work of each arm is concerned.

“My view is that the committee section in particular needs a great boost in terms of resources for them to extend the portfolio committee members’ capacity to do a lot more by way of oversight. They could be better enabled to do oversight on more entities in their respective portfolios than they’ve been able to do so far.”

An example of this failure in a resourceful Parliament, said Freund, was the case of the joint standing committee of intelligence (JSCI) not accounting to the National Assembly on its work, as required by law, for a number of years during Mbete’s term. She acknowledged that, but said the problem was deeper than that.

“Chairperson, I will not claim to have a lot of recollections about the JSCI. I know that in the fifth term there had started to be questions about the reports that were due from the JSCI but were not coming,” Mbete said.

“Because it’s an area that is generally remote, in its nature, and which has arrangements that are such that we’ve never had to probe into that particular corner of things. I was aware at that time, very vaguely, that there seemed to be disquiet about something that had changed about the reports that were supposed to be coming into Parliament.”

As speaker of Parliament, Freund pressed, did Mbete not accept that she bore personal responsibility for its failures to hold the JSCI accountable, and for not appointing an inspector-general of intelligence?

“I’m prepared to take responsibility if that’s what I need to do, chairperson, because I was speaker. But that I could have done anything about it, is not a matter on which, sitting here, I’m willing to say I was consciously responsible.”

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