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## Jessie Duarte confirms ruling party's idea of governance is incompatible with the Constitution

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**What turned the country into a rent-seeking concoction was not the Constitution, but the intensity of State Capture that occurred under Zuma's watch. Someone should let the ANC deputy secretary-general know.**



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There has been a deluge of criticism directed against [the opinion piece](https://www.dailymaverick.co.za/opinionista/2021-02-09-testimony-at-zondo-commission-is-an-onslaught-against-the-people-themselves/) (<https://www.dailymaverick.co.za/opinionista/2021-02-09-testimony-at-zondo-commission-is-an-onslaught-against-the-people-themselves/>), published in *Daily Maverick* by the ANC Deputy Secretary-General, Jessie Duarte. It is most unfair to Duarte. We should all be indebted to the deputy SG of the ruling party for confirming that which her boss, the Secretary-General, Ace Magashule had said earlier, when he defended Jacob Zuma's attitude to the Zondo Commission.

One must accept that both the SG and the DSG have responded to the Zondo Commission with exquisite levels of slogans and an equally impressive lack of logic. But shining through Duarte's contribution lies the exact reason why the ruling party and the Constitution will invariably be at war with each other.

In a revealing passage, Duarte writes:

“It is not the democratic system that is the problem – rather it is the fact that the ANC lives, the ANC leads and that our people, despite the ramblings of the few who testified at the commission, continue to put their hopes and trust in the ANC.”

For Duarte the ANC *equals* the people – the ANC is the people, the ANC reflects the *volksgeist* and hence any and everything the ANC does is equivalent to the decision of the people.

Leave aside the fact that ANC's electoral support is well below 50%, if its vote in the national election is calculated as a percentage of eligible voters in the country. That matters little in the Stalinist paradigm that influenced ANC policy in the years in exile. And if that seems a harsh criticism, consider the following passage from Duarte's column:

“More worrying is that democratic centralism is now the subject of a commission led by a judge who, with respect, practices [sic] 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; where we all sound the same and do nothing real to transform our society.”

Let us be clear: when Duarte employs the term *democratic centralism*, she is far more concerned about *centralism* than *democracy*. She means that, when faced with a conflict between a constitutional obligation sourced in the fundamental law of the country and obeisance to party bosses, the latter will always win out. That is exactly, a few exceptions aside, what happened in Parliament when most ANC MPs followed central instructions throughout the Zuma years and thus helped facilitate a frenzied level of corruption that diverted massive amounts of money from ensuring meaningful transformation of the lives of millions of South Africans – who, more than a quarter of a century into democracy, continue to live at the extreme margins – into the pockets of the Guptas and their fellow travellers.

And in what world would Duarte have us live when she claims that meetings with the Guptas could have been mere tea-drinking events? There is not a word from the deputy SG about the vast sums of the people's money (yes, Ms Duarte, the people, such a forgotten concept) that landed up in offshore bank accounts owned by the Guptas, if credible evidence is any guide.

(These would be the same Guptas that were sanctioned by the US under the Magnitsky Act, an honour reserved mostly for Russian oligarchs.)

Then there is the ritual invocation of neo-liberalism. What turned the country into a rent-seeking concoction was not the Constitution, but the intensity of State Capture that occurred under Zuma's watch. It is about as breathtaking a claim to conflate the values of accountability and transparency that have been vindicated by Deputy Chief Justice Raymond Zondo's meticulous handling of the commission with the neo-liberal war cry, as it is to invoke Nelson Mandela in aid of an attack on a judicial commission appointed by Zuma himself.

Duarte has repeated the approach that Ace Magashule has consistently adopted to the commission. That means that the two most senior public officials of the ruling party (other than the president) have sought to undermine the most important mechanism available at present which may place the people, as Duarte is wont to say, in meaningful knowledge as to precisely how much corruption, rent-seeking and destruction of key institutions of state took place, purportedly in the name of the people.

But her column is even more significant, as it reveals the tenacious commitment to centralism born in a discredited ideology more than 100 years ago, a conflation of the ruling party with the people and a total disdain for the constitutional values of transparency and accountability of public representatives to the public they serve.

Thank you, Ms Duarte, for confirming that the ruling party's idea of governance is incompatible with a social democratic constitution. If your ideas are not unequivocally rebuked by the ANC, we can then all draw the obvious inference about the future of constitutional democracy in this country. **DM**

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In real life, Professor Balthazar is one South Africa's foremost legal minds. He chooses to remain anonymous, so it doesn't interfere with his daily duties.