



By Mwangi Githahu



*Capetown, South Africa* - Of all the controversies swirling round the figure of President Jacob Gedleyihlekisa Zuma aka Msholozzi - his clan praise name - probably the best known and most discussed around South Africa is the issue of his super controversial Nkandla homestead.

More than the 783 corruption charges reinstated in April this year after the High Court in Pretoria found that the decision to drop the corruption charges back in 2009 was “irrational” and that they were as serious as the allegations of “state capture”- which is a type of systemic political corruption in which private interests significantly influence a state’s decision-making processes to their own advantage - the issue of Nkandla is the one that has contributed the most to what one media commentator referred to as President Zuma’s *sannishorribilis*.

If you have only just returned from deep space, or have never heard of South Africa, Nkandla is the president’s private home in KwaZulu-Natal Province. It is controversial because public funds to the tune of over R246 million (about \$17 million) were used to give the homestead an alleged security upgrade.

Among the “improvements” made to the South African president’s private home using taxpayer’s money were a helipad, underground bunkers, a chicken run and a swimming pool actually described as a ‘firepool’ - since, it was claimed, the pool was built as a

source of water for firefighting

Among the “improvements” made to the home by the Ministry of Public Works using taxpayer’s money were: Security fencing around the whole compound, accommodation for the president’s security, a helipad, underground bunkers, a chicken run and most questionable of all, a swimming pool actually described as a ‘firepool’- since, it was claimed, the pool was built as a source of water for firefighting.

Meanwhile, according to South Africa’s Sunday Times newspaper, a dossier compiled by a former Public Works Department deputy director general (equivalent of an undersecretary), contained invoices showing that state money had been used to pay for things such as thatching, meranti (a rare wood) and aluminium doors and window frames, tiles, paint, plastering, air-conditioning and other unexplained extras.

South African law provides for a Ministerial Handbook that incorporates the Executive Code of Ethics and regulates probity in public life. According to this set of rules, the Public Works Ministry can spend up to R100,000 (about \$7,000) on security upgrades to the private homes of state officials and anything more than that should come out of the official’s pocket.

A March 2014 report issued by South Africa’s immediate former public protector (ombudsman) Thuli Madonsela, whose term ended in September this year, found that the president had benefited unduly from these home improvements and on March 31, 2016, the Constitutional Court delivered a unanimous ruling stating that the president and the ANC-dominated parliament had failed to uphold the country’s Constitution by failing to comply with Madonsela’s report on the matter.

Facing calls to resign from prominent public figures and veteran ANC activists from Mandela’s Robben Island days, such as Ahmed Kathrada, Zuma appeared on national TV on April 1, 2016 and made an apology for using public money to fund his private residence.

#### APOLOGY FAILS TO MAKE THE STORY GO AWAY

But the story of Nkandla, now described by one commentator as ‘a monument to corruption,’ began in 2009 when a newly elected President Zuma, who has been reported to have been fairly impecunious at the time, decided to build a permanent rural home for his family. However it would take years for the scandal to mature fully.

Previously, in December 1997, during the African National Congress’s national conference held at Mafikeng, Zuma had been elected as the ANC’s deputy president. In 1999, he was appointed the deputy president of South Africa, a position he held until he was relieved of his duties by state president Thabo Mbeki in June 2005 pending his rape trial and allegations of racketeering and corruption.

The Madonsela report showed that the R246 million was eight times the money spent securing two private homes for South Africa’s first democratic president Nelson Mandela, and more than 1,000 times that spent on the home of FW de Klerk, South Africa’s last apartheid-era president

At this point -in the run-up to the 2009 election -observers had written off Zuma’s political career. Meanwhile Zuma’s supporters claimed their man’s legal problems were the result of political

meddling by his rivals including president Mbeki. Proving he still had grassroots support, Zuma managed to garner enough votes in the ANC to propel him to be elected the party's president in December 2007 at the national conference in Polokwane, Limpopo, polling 2,329 votes against Mbeki's 1,505. Zuma's supporters saw his charismatic popular touch as a refreshing contrast to Thabo Mbeki, who was seen as a rather aloof president.

He was acquitted of rape, but despite the fact that he had always denied charges of money-laundering and racketeering, stemming from a controversial \$5 billion arms deal signed in 1999, the corruption cases against him proved harder to slip out of.

Meanwhile, Mbeki continued to serve as the country's president, but in September 2008, in the same month that the ANC NEC resolved to recall Thabo Mbeki as head of state, the graft cases against Zuma were controversially dropped by the National Prosecuting Authority just weeks before the elections that saw him become president. In the interim, Kgalema Motlante, later Zuma's deputy for one term, served as the third president of the Republic of South Africa.

A month after Zuma ascended to the presidency of the country - reports by investigative journalists Mandy Rossouw and Chris Roper in the Mail & Guardian newspaper pinpoint the date to between May 18 and 29 - a security assessment was carried out at Nkandla and by the end of August 2009, construction had begun.

The story of how Rossouw (who died in 2013) and Roper (who went on to become editor of the M&G) accidentally stumbled on the Nkandla story is now the stuff of legend among South African journalists.

Rossouw was out interviewing residents of the town of Nkandla about what it was like to have the president as a neighbour. With Roper she drove in November 2009 to the president's residence to take some photos to illustrate the story and it was then that they noticed some construction and heavy earth-moving machinery. According to Roper in a piece he wrote after Rossouw's death, 'Mandy's interest was piqued, and she inveigled our way into the site office, a small, meltingly hot prefab building with three car wrecks abandoned outside. There was our first evidence of the extent of what Nkandla was destined to become, both as a large complex and as a massive story: Architectural drawings taped to a wall, showing extensive development plans.'

Rossouw's story reported that the expansion to the existing compound would cost the taxpayer R65 million (about \$4.5 million). At the time, upgrades to the compound included a private military hospital and parking lot, a visitors centre, the helipad installation and, according to the M&G's investigative report, a two-storey house and guest house.

Before they published the story, the journalists contacted the government for comment and the first reaction was evasiveness. Writes Roper: 'Our conversation with them reads like a dress rehearsal for the following four years of obfuscation and spin.'

Initially, the government said that it had no record of such a development and no hand in any of Zuma's personal property endeavours. However, in a statement released just before the story was published, they changed their tune slightly, saying: 'The Zuma family planned before the elections to extend the Nkandla residence, and this is being done at own cost. No government funding will be utilised for the construction work.'

History and the Public Protector's investigation - which began after a series of complaints from the public and opposition parties about the misuse of state funds on the project were lodged with Madonsela's office between December 2011 and December 2012 - have shown the government's

statements to have been economical with the truth.

In a more than 400-page report on Nkandla titled 'Secure in Comfort,' the Public Protector found the cost of the Nkandla upgrades were now estimated at R246 million (about \$23 million) but that the original estimate for the work in 2009 had been about R27 million.

While there was never any proof that the president had made any decisions about spending himself, it would appear that those who were making the decisions were acting under the impression that they were doing his bidding.

Madonsela's report said that while it could be 'legitimately construed' that President Zuma had misled parliament over the renovations and that this was a 'bona fide mistake,' on the whole the project was unlawful and constituted improper conduct and maladministration.

#### DE KLERK, THE MODEST PRESIDENT?

The report showed that the R246 million was eight times the money spent securing two private homes for South Africa's first democratic president Nelson Mandela, and more than 1,000 times that spent on the home of FW de Klerk, South Africa's last apartheid-era president.

In the report's executive summary, Madonsela wrote: "The president tacitly accepted the implementation of all measures at his residence and has unduly benefited from the enormous capital investment in the non-security installations at his private residence."

Madonsela thus found that the president had acted in violation of the Ministerial Handbook, which would only have granted him R100,000 worth of security upgrades, and ordered the president to reimburse part of the expense

Before the report made its way into the public domain, the issue of Nkandla was probed, investigated and questioned in Parliament even to the point of an attempt to launch a vote of no-confidence against the president.

All the while, President Zuma and his supporters, who had decided to fight the report, repeatedly told parliament he used his own family funds to build his homestead. The public was told that the president had not ordered the improvements, had not been involved in the details, and had not unduly benefited from the work.

In the meantime, the Police Minister came out with his own report into what the press was now referring to as "Nkandlagate," exonerating the president and seeming to absolve him of any liability - even setting aside Madonsela's suggestion to pay back the money.

The president, his lawyers and the security cluster in the Cabinet, which is comprised of the Minister of Police, the Minister of Defence and Military Veterans, the Minister of Justice and Correctional Services, the Minister of Home Affairs and the Minister of State Security, raised questions about the Public Protector's conclusions and eventually took her to court in 2013 for not giving them enough time to study the report before it was released to the public.

For a while, it looked as though the Constitutional Court, where the matter eventually ended up, would rule in favour of the president. This view was driven by some observers who feared that Chief Justice Mogoeng Mogoeng- who was appointed by the president in 2011 and initially thought to be close to him - would rule in his favour. However, any doubts were removed when the Constitutional Court of South Africa ruled that the president's failure to repay the money violated the Constitution.

In his ruling, the Chief Justice described the Public Protector as the biblical David who had gone against the mighty Goliath and emerged victorious.

The powerful Gupta family - an Indian-South African business family whose most notable members are the brothers Ajay, Atul and Rajesh "Tony" Gupta as well as Atul Gupta's nephew Varun Gupta - have become notorious for their allegedly close relationship with the president

Mogoeng said the Public Protector's report and remedial actions had only been directed at Zuma and he had been expected to address the issues without any interference by the ANC-dominated National Assembly. He found that the president and the National Assembly had violated the Constitution by setting aside the Public Protector's suggestions for remedial action. The judgment said that the president would have to personally pay the amount determined by the National Treasury.

After the Constitutional Court judgment, President Zuma went on national television and apologised to South Africans in an effort to draw a line under the long-running scandal. He said he would abide by a court ruling that he must repay government money spent on upgrading his rural home.

In June, the Treasury determined that the president should pay R7.8 million (about \$550,000) for the non-security upgrades, after the Constitutional Court in March ordered Zuma to pay back some of the R248 million of state money spent upgrading his private home.

In September, in line with the court order issued in March, the president took a loan from a bank and paid off the R7.8 million for the non-security upgrades to his private Nkandla home. The amount he paid was calculated in line with 2009 prices, which is when the project started.

THEN ALONG CAME AJAY, ATUL, RAJ AND THE BOYS

If the president thought that the Nkandla matter would end and he would get some respite now that he had paid back the money, he was mistaken.

Controversies continue to dog his presidency from all sides; Thursday November 10, 2016, he survived yet another opposition-sponsored vote of no-confidence in Parliament.

Meanwhile, the news cycle is currently based on Thuli Madonsela's final report as the Public Protector dealt with the burning issue of "state capture" - a type of systemic political corruption in which private interests significantly influence a state's decision-making processes to their own advantage through unobvious channels, that may not be illegal.

In her sights with this report were the powerful Gupta family - an Indian-South African business family whose most notable members are the brothers Ajay, Atul and Rajesh "Tony" Gupta as well as Atul Gupta's nephew Varun Gupta - who have become notorious for their allegedly close relationship with the president.

While every attack on the president is viewed by some as another nail in his coffin, his detractors would do well to remember that the president's Zulu name is Gedleyihlekisa, which has been translated as 'The one who smiles while grinding his enemies.' President Zuma is not down and seems far from out.

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