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Professorial Inauguration Lecture

Title: Public Institutions and Political Culture: Offshoots of History and Exigencies of the moment.

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Introduction

There's no gainsaying that our public institutions are in a dreadful state. This is more evident and felt strongly in our own neighbourhoods, at the local government level. Close to 30% of the municipalities face imminent collapse. Others can't even pay their own staff and have resorted to giving them groceries instead. Those who still have financial resources, pay a sizeable amount, more than R5 billion in total – towards consultants, to undertake functions for which have employed staff[1]. This gloomy condition of our communities shows itself in uncollected waste, roads dotted with holes, and spilling sewerage that have turned into streams.

This dire state of our public institutions cries for attention. How did we get here? Why was the decline not arrested earlier? These are questions I wish to address in this lecture, under the title: **Public Institutions and Political Culture: Offshoots of History and Exigencies of the moment**. The lecture is not an abstract reflection but explains practical problems that impact on the human condition. It is in keeping with the tradition of political science: to grapple with practical issues, that are evident in society.

My contention here, this afternoon, is that the precarity of our public institutions is a function of incongruence between their form, on the one hand, the challenges of the moment, on other hand. They have failed to adapt and, have consequently, become outdated. Some adopted interim measures to aid the transition, but those measures have since lapsed into permanency. We have not remolded our institutions, as we ought to have to meet the challenges of the time. And, this is a collective indictment, for institutions reflect who we are, an embodiment of our collective identity.

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[1] Auditor General, 2022. Consolidated Report on Local Government Outcomes, MFMA 2020-21.

Let start from the beginning.

The subject of what constitutes an 'ideal state' has long pre-occupied political science. This preoccupation was necessitated by the development of isolated, family-based human settlements into broader communities. Contrary to the earlier human settlements, which had been inhabited exclusively by families or clans, these societies were a lot bigger and made up of a diversity of individuals, unrelated by kin-ties. They were States. Custom was consequently rendered inadequate as a basis of determining authority and guiding public conduct and interaction. A new set of rules and authority was therefore necessary.

A variety of theoretical postulations have since been provided to guide what 'an ideal state' should look like[2]. For Plato, a Greek philosopher, merit was critical as the foundation of a state. People are imbued with different talents, Plato argued, and each should be accorded a role for which they're suited. The responsibility of government should be left to those who possess wisdom- i.e., philosopher-kings - for they know what is best for society. Though deserving of wielding the reins of power, philosopher-kings are not infallible. They're prone to greed and nepotism. And so, they should be inoculated from such vices by not getting married and should not own property.

A student of Plato, Aristotle agreed somewhat with his former teacher, but extended his teachings. Possession of wisdom remained the absolute necessity for those who are in power. And the accumulation of wisdom should be a constant exercise. For this to happen though Aristotle argued, differently from Plato, that philosopher-kings should be allowed to own property. This would free them from the demands of eking a living, thereby enabling them to dedicate their time to constant reading. Equally important for Aristotle was the formulation of a constitution that would ensure that those in power exercise it for the benefit of the public good.

John Locke seized on the importance of a constitution, or a social contract as he called it. Before constituting the state, citizens should first agree on the social contract – a set of norms and rules – by which they'll abide. And, this is not any other social contract, but what Locke

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[2] Redhead, B. 1984. (eds). Political Thought from Plato to Nato. BBC, London.

called an 'agency social contract'. It differs from the 'alienation social contract' where the citizenry defer to those in power. The 'agency social contract' ensures that the citizenry remains the ultimate authority for whose benefit from the functions of public institutions.

Foundational values and attendant responsibilities the state pledges to its citizenry are pursued through public institutions. Through this role, public institutions are both incubators and instruments of the state. They are guided by, and reproduce, foundational values. Compliance with foundational values, which were adopted by popular consensus, boosts their legitimacy. Though clear in purpose and functions, their level of efficacy and design are not a given. Historical background, class structure and the moment of their inception all matter in molding their institutional design. This accounts for their variance in each country, even though similar in intent and function.

Francis Fukuyama's epic text, The Origins of Political Order[3], is instructive in this regard. Consider, for instance, the application, or existence, of the principles of rule of law and political accountability. Fukuyama ascribes the contrasting treatment of the principle of rule of law in Western Europe, on the one hand, and Russia and China, on the other, to the relative strength of the church. The moral teaching, especially the value of the sameness of humanity, was central in intrenching the practice of equality that would become commonplace in democracies.

Unlike in Western Europe, churches lacked autonomy in Russia and China. Monarchs ruled unrestrained by moral considerations, making their reign arbitrary and unpredictable. Conversely, the Western church contested monarchial claims as the ultimate political authority. Papacy, for instance, considered itself the superior authority, to which monarchs should be answerable. Besides simply believing so on religious grounds, the Catholic church had wealth and military resources to back up its claims. So strong in its beliefs, the Catholic Church was even willing to go to war with the monarch and it did. And so for a time between the 6th and between 15th century, Europe especially was marked by the struggle for power, between the church and state, over who should become the supreme authority.

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[3] Fukuyama, F. 2021. The Origins of Political Order. Profile Books, London.

Even after the State had finally gained ascendancy over the Catholic church in the 12th century, religious influence on public affairs did not entirely vanish. Dispossessed of some its properties and denied of political sway, the church still insisted on running its own affairs, independent of political interference. To assert this right, it drew from legal precedence, the Justian Code, a compilation of Roman law produced in the 6th century. The Justian Code became the basis of the modern civil law. It formed part of the law curriculum, taught at universities. In this way, the Western church spread its influence throughout the state, not only through laying the basis of civil law, but through the cadre of lawyers that were trained in that jurisprudence.

What is most important for our purpose here is that this religious-based law laid the basis for the supremacy of the rule of law. Political authority had to act within and comply with the law. That's how political authorities legitimized their rule. And, this has its origin in the history of the tussle between the church and state, dating back to the 6th century.

If the history of ideas, over what constitute a legitimate political authority, shaped the modern law, class structure molded the character of states. It pre-determined their disposition to whether they became democratic, or authoritarian. The presence of wealthy classes, that were independent of the monarch, were able to force their representation in structures of authority. Monarchs were always keen to collect tax, either to fund wars or consolidate their bureaucracies to reach every part of their territories. The nobility and gentry could refuse to pay tax because they had sufficient wealth to mobilise resistance, including military, against the monarch. Because they had developed economic interests of their own, they insisted on representation to promulgate legislation that would advance those interests. 'No taxation without representation', was their rallying call.

Unable to compel them, but desperate for their taxes, monarchs were forced into a compromise: representation in exchange for payment of tax. And, so liberal democracy, based on limited franchise, was born spearheaded by men of property. As the class structure changed, due to forced migration of the peasantry into urban employment, new demands emerged from the working class for representation. They wanted a voice, through franchise, to ease their life of misery wrought upon them by capitalist exploitation. Fearful of the

instability, threatened by the hostile unwashed masses, the ruling elite decided to grant them representation. Within legislative bodies, workers' representatives would articulate their demands in a civilized manner, rather than threaten mayhem. Parliamentary representation did not mean the end of class conflict. What it meant instead, was that conflict would be institutionalized.

I have provided this brief history to illustrate the point that states, manifested through public institutions, are a product of history, class structure and social factors. All these are not static, but change over time, which inevitably impact on the efficacy of public institutions that were conceived at a particular moment in time. Later, I elaborate on the ensuing incongruence, which is a problem of our time.

For now, let me turn my attention towards home. Consistent with the global history of state-formation, the post-apartheid public institutions are an offshoot of our past. These institutions represent both a repudiation and validation of that past, simultaneously. The rejection stems from the simple fact that pre-'94 institutions would have been an anomaly, if not centres of resistance, in the democratic age.

Consider, for instance, the make-up and functioning of the public service under the Union and apartheid governments. The founding ideology of the Union, racial supremacy, guided both the composition and conduct of the public service. It was staffed exclusively by Europeans, as was the term at the time, who implemented racist policies and went on to police their observance. They arrested and prosecuted those who defied the racist policies, and went on to guard them in prison, to prevent their escape.[4]

For most, their implementation of these racist policies was not simply a fulfillment of their employment contract. They were believers. Even those who purported to be Liberals, or 'friends of the natives', could not countenance the idea of universal franchise. They supported territorial and institutional segregation. For the few natives, tolerated to reside in urban areas, the Union government introduced the sale of alcohol, through beer halls, to generate revenue

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[4] Davenport, T.R.H. and Saunders, C. 2000. South Africa: A Modern History. London, Palgrave Macmillan.

to meet their social needs. The State, from the 1920s, got into the business of selling alcohol and encouraged natives, through advertisements, to drink as much as they could, so that it could generate revenue. Competitors, such as the township-based shebeens, were declared illegal. Only the State could get natives intoxicated.

Upon assuming power in 1948, Afrikaner nationalists furthered the spread of racist ideology into public consciousness. They were much more organized and systematic in their approach. Their single-mindedness arose from organizational cohesion, expressed through the *Afrikaner Broederbond.*[5] Formed in 1918 by the Afrikaner elite – i.e., businessmen and professionals - the purpose of the *Broederbond* was to advance the interests of Afrikaners, Dutch descendants, whom they had mobilized into a coherent group by inventing a language, *Afrikaans*, revising history and manipulating religion. Afrikaners came to believe that they were the chosen *volk* to civilize the barbarian natives.

Racial prejudice ceased being the subject of oratory only. It was part of the curriculum, instilled as schools and universities. Non-racial universities faced the wrath of the state and ethnic-oriented universities emerged. A pan-African university, Fort Hare, could only accept Xhosa-speakers and other African language speakers had universities built for them, in their similarly ethnic bantustans. For the racist State to hold, Afrikaners realized, it had to cultivate consent by imparting a complementary ethos both in its beneficiaries and subjects. And, whites filled positions of authority in African universities. Their role was to ensure that black universities do not veer off the official curriculum.[6] Appointees were not just chosen randomly. They were drawn from the ranks of the *Broederbond*. They were appointed throughout State institutions, right from a district level body up to national institutions. These were devotees, who had vowed to uphold the interests of the *volk* and guard them against the *swart gevaar.*

These are the institutions the new government awoke to at the dawn of democracy in 1994 - steeped in the culture of racial bigotry and looked the part. Placed at the top of a society that

[5] Wilkinson, I and Strydom, H. 1978. The Super-Afrikaners: Inside the Afrikaner Broederbond. Cape Town, Jonathan Ball.
[6] Wilson, M. 1981. Z.K. Mathews: Freedom for my People. Cape Town, David Phillip.

had just taken a collective oath to march towards non-racialism and inequality, the dismemberment of these institutions was a given. It was inevitable, a necessity. And the newly freed, men and women, were not bewildered over what ethos would guide the new institutional architecture.

The new dawn had a rich past to draw from. Alongside resistance politics - marked by death, detention, and torture – a new democratic and non-racial culture had evolved. This was manifest in the wide networks of associational life that characterized public activity in the townships and on factory floors. Popular participation was the basis of decision-making. Leaders were elected and would only represent their members when authorized to do so.[7] This was the social capital that democratic South Africa inherited at birth.

Even before approval of the interim Constitution in December 1993, the insertion of South Africa's value system and collective identity became self-evident in the agreement over who qualified for franchise, and on the make-up of the electoral management body that would oversee the inaugural election.[8] Instead of limiting franchise to the local-born, eligibility took cognizance of the exile background of several political activists. They had conceived children whilst in exile, and this offspring considered South Africa home. It seemed cruel, therefore, that upon finally arriving home, they would be denied franchise. All children born to those who had been exiled, it was concluded, were allowed the right to vote.

Unlike in other pre-independence countries, negotiators insisted on steering their own inaugural election, instead of deferring that responsibility to a multilateral organ such as the UN. This is where the rival nationalisms – African and Afrikaner – came together in their national pride and sovereignty. They would not have an outside body determine their fate. The same nationalist sentiment determined the participation of foreigners in the 11- member election management body. Though allowed to be part of the electoral commission, the number of foreign participants was in the minority (4). And, they were included in their

[7] Seekings. J. 2006. The UDF: A History of the United Democratic Front in South Africa, 1983-1991. Cape Town, David Phillip.
[8] Ndletyana, M. 2015. (eds). Institutionalising Democracy: The Story of the Electoral Commission of South Africa, 1993 – 2014. Cape Town, HSRC Press.

individual capacity, based on expertise, not as their country's representatives. Their role was to provide advice and left it to the South African-born Commissioners to make the final decisions.

What would become of whites in a majority-ruled South Africa, however, is a question that continued to linger. Aware of the misery they visited upon their dark-skinned counterparts, white society feared vengeance. The *Swart gevaar* had been a constant presence in their collective psyche. African nationalist leaders were alert to this fear, and sensitive to its potential to derail the political transition. The resultant formula on the allocation of seats in parliament, the formation of the Government of National Unity (GNU) and job protection were introduced to ease the anxiety of the white community over what would befall them under black rule.

Proportional representation enabled the presence of a diverse range of parties, however small they were. Parliament reflected diversity and representation. No community, or ideological strand, could complain of being marginalized. Former rivals would take joint-decisions in government, reassuring the watching public that the laws they approved would be considerate of the diverse interests that make-up the Republic. These institutional arrangements conferred legitimacy upon the new state, removing any possibility of a gripe, especially amongst the sober minded in our midst, that could spark a rejection of the new dawn.

Some analyses have ascribed the appropriateness of these institutional arrangements to the benevolence of some of our leaders, especially Nelson Mandela. This is true, but to a point. Admittedly, they could have insisted on a different institutional arrangement, one that was unaccommodating of the anxiety of their white counterpart. Stubborn demands might as well have secured them their own, sectional wishes. Ultimately though, the balance of power, set the parameters of what was possible.

The very agreement to enter negotiations, instead of continuing with repression and armed resistance, was itself an admission that none was more powerful than the other. It was an impasse. The declining state of the South African economy, coupled with the increasing

inability of the insurgents to sustain their insurgency, added urgency to break the deadlock. Unable to do so, by forcing one to submit to the will of other, compromise became the only available route towards a breakthrough. The evenness of the balance of power, therefore, compelled the rivals towards a compromise. It was a practical solution to a real constraint.[9]

Notwithstanding the practical constraints, the normative orientation of the insurgents also predisposed them towards accommodative, trans-racial politics. Almost fifty years ago, they had committed to a non-racial citizenship, based on residence, not indigeneity. That commitment, contained in a historical document titled, The Freedom Charter, was contentious within the ranks. Some couldn't fathom the embrace of those who had treated them as sub-human, to the point of breaking ranks to affirm what they believed was the right reaction to their oppression – that South Africa belongs to its indigenous people.

The depth of conviction in the sameness of mankind, however, survived the split within the liberation movement. Theirs was not an expedient, or opportunistic, advocacy of equality, but was an integral part of their consciousness. Rather than emulate their erstwhile oppressors, they insisted on affirming who they are. Whites were 'not standard bearers', Steve Biko would later tell a judge almost 25 later. The anti-apartheid struggle, Biko enlightened the judge, was not a quest to seize what whites possessed and mimic their modes of life, but to create a society where one could be the best they could be.

This strength of conviction, in the universality of humanity, has its roots in the indigenous value system and the religious-based education taught to the early nationalists. Human beings are considered inherently decent. Deviant behaviour is explained away as a lapse occasioned by social circumstances. For this reason, punishment was meted out with the purpose of rehabilitating the offender. This is what today is popularly known as restorative justice. Religious-based education reinforced the belief in the sameness of humanity. Man is born in the image of God. That's what missionaries taught early nationalists at mission schools from the early 1800s. Unlike in Europe, where the church competed with secular authority for political power and was able to exert its moral influence in the law, in colonial South Africa

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[9] Pahad, A. 2014. The Insurgent Diplomat: Civil Talks or Civil War? Johannesburg, Penguin.

it was never like that. The colonial states, especially in Natal and the Cape, were firmly in charge.

Christianity registered significant achievements amongst early nationalists.[10] Schooling was synonymous with Christianisation. Mission stations served both as a church and school. One fed into the other. Literacy enabled converts to read the bible, which is an integral part of worship. Literate African Christians also went on to become evangelists. African evangelists were instrumental in spreading the gospel further. They not only gave Christianity a familiar face, but also preached in the native language, making it easier for their intended recruits to understand and covert.

The principle of equality, therefore, was an central part of the value system espoused by the African elite. Whilst not actively involved in spreading Christianity, the colonial state initially affirmed the belief in equality. The Constitutions of Natal and Cape colonies, adopted in the 1850s, granted franchise to Africans. One only needed to be literate and own property of a certain value. They called theirs a 'civilizing mission'. 'Equality for all civilized men', Cecil Rhodes would sloganeer later in the 1890s as part of his political campaign.

Their embrace of equality, however, was short-lived. The number of African voters increased to a point where white politicians, especially Liberals, feared that they would be swamped. The fear was that Africans would start voting for their own leaders, instead of the Liberals, as they had been doing. By the beginning of the 1890s, several measures had been introduced to limit African franchise. Property qualification was increased, disqualifying many Africans who had been eligible. Africans appropriately called the restrictive measures, *uthung' umlomo* [literally sowing up their mouths].

The missionaries, too, proved no different from the colonial politicians. Though preaching brotherhood, they would later deny their African brethren promotion to positions of authority in the church. The African clergy correctly saw their denial of equal treatment as a

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[10] Ndletyana, M. 2008. African Intellectuals in the 19th and early 20th Century South Africa. Cape Town, HSRC Press; Odendaal, A. The Founders: The Origins of the ANC and the Struggle for Democracy in South Africa. Johannesburg, Jacana.

betrayal of the Christian principle of brotherhood. They broke away to form their own churches in the 1890s, a significant example of which was the African Episcopal Methodist church (AME). Here they found support from their counterparts in the United States.

Their break-away marked onset of distrust for their white counterpart. Those who ventured into active politics would do the same. Setting-up the African Native National Congress in 1912, they denied non-Africans membership of the newly formed organization. They had learnt the lesson, as the popular saying went: *ungaz' umthemb' umlungu*, and relied on their own agency instead.

In setting-up their own exclusive organization, however, the African elite were not rejecting non-racialism. They were simply affirming their own humanity, that they were just as capable as their white counterpart and shrugging off white tutelage to achieve their own objectives. It was an exercise in self-assertion. They continued to believe dearly in equality and denounced their white counterpart for breach of the Christian message of equality. An equal society remained an integral part of their vision for a new society. That was boldly articulated, as noted above, in the Freedom Charter, and would be carried through into the social contract that would form the foundation of a new non-racial and democratic South Africa.

Magnanimity, inclusiveness, and equality – all qualities that underpinned and molded public culture and institutions in post-apartheid South Africa – were a product of our own, long history. They were a manifestation of our collective identity. Departing from a relatively strong institutional footing, the post-apartheid elite, however, soon began to show signs of a weakening resolve to pursue public policies that, though unpopular, were necessary for long-term sustainability of the transformative project. Alongside the creeping resort to expediency, was the lack of vigilance to adapt what were introduced as transitional measures to the new, changing context.

One such transitional measure, that lapsed into permanence by default, was the elevation of the role politicians in the recruitment of bureaucrats. Admittedly, political involvement was forced by the unpalatable, composition of the bureaucracy, an inheritance from the apartheid order. A considerable number of civil servants were apartheid loyalists, whose commitment

to pursuing new policies was questionable. So, they were retained, for the initial five-years, as the part of the settlement to ease possible counter-resistance to the transition.

Instead of the Public Service Commission, as was the case previously, politicians made appointments of executive managers throughout the various layers of the State. Most of the appointees were drawn from the ranks of progressive individuals that were part of the non-governmental sector and academia. The new party in power, the ANC, kept a close eye on the appointments, to a point of establishing a committee that would influence the new recruits. For a governing party elected based on its manifesto, the keen interest on the new bureaucrats was not unusual.

New within government, having just demonstrated their commitment to the public good through self-sacrifice, there was no reason to believe that the new political elite would abuse this power. There was laxity in creating institutional measures that would pre-empt abuse and guarantee the independence of civil servants. Perhaps worse than laxity was the failure to heed the signs of creeping self-aggrandizement, even in the early years. As legislation was being formulated to create a proper separation of roles, politicians exploited their involvement in the allocation of tenders to their own benefit. They set up companies and did business with the state, especially in municipalities.

When the new legislative framework was finally introduced by 2004, councillors had become too accustomed to abusing their powers for self-gain. It was too late for them to retreat, and so they continued. Seeing that managers were now responsible for deciding on tender allocation, they insisted on appointing managers they could manipulate to issue tenders to their proxies. Some managers willingly went along with this manipulation for their own financial benefit. Those who sought to resist, were forced to comply to ensure their re-appointment. Councillors, who hold the power to hire and fire, did not take kindly to those who resisted their improper approaches. They would even fight amongst themselves over who should be appointed. Some of these fights have led to vacancies and serial interim appointments, all to the detriment of service delivery. And, because they dispensed patronage, inefficient and malfeasant managers never faced consequences. The Auditor-

General's constant recommendations to investigate possible fraud and irregularity were hardly followed up.[11]

Scant attention to the efficient use of the public purse reflected the disposition of the political elite towards the State. To them, the State had ceased being an instrument for transformation. It had become a source of livelihood for themselves. This was not entirely surprising. They had no alternative source of employment. Involvement in the anti-apartheid struggle resulted in prison, exile and expulsion from school. They did not have qualifications for gainful employment elsewhere. And, the precarity of their only source of employment – i.e. public office – predisposed them towards building a nest for an uncertain future. And, so they rationalised their plunder of public resources.[12]

Their predatory activities, however, led to the neglect of the proper functioning of the State. Companies have had to uproot their operations in search of other towns, where municipal councils would hopefully heed their pleas for proper roads and timely approval of rezoning licences. Such relocations led to the decline of local revenue that is already slim. This, in turn, makes it even more difficult for municipalities to maintain their infrastructure.

The new government had decided, earlier on, that the grants it provided to municipalities should be used strictly to install new infrastructure. This decision made sense. There was hardly any infrastructure to maintain in the townships. Instead, new infrastructure was needed, a demand that was increased by the expansion of housing. Only the suburbs, which had long enjoyed abundant and superior infrastructure, needed maintenance.

Inattentiveness to building local revenue, however, has meant that the old infrastructure has been left to rot. Water leakages, amounting to 30% of available water in some areas, are now commonplace. Besides dereliction of duty, the gloomy state of the local revenue that characterises most municipalities, is also a culmination of expedient decisions taken earlier

[11] Ndletyana, M. 2020. Anatomy of the ANC in Power: Insights from Port Elizabeth, 1990 – 2019. Cape Town, HSRC Press.
[12] Pikoli, V and Wiener, M. 2013. My Second Initiation: The Memoir of Vusi Pikoli. Johannesburg, Picador Africa.

by local leaders in order to secure short-term electoral gains. Though deciding to enforce payment for services, especially by those who could afford, local leaders gave up the effort at the slightest eruption of resistance in the late 1990s. Residents got used to non-payment, leaving their municipalities with little, if anything, in terms of local revenue to maintain their infrastructure.

The current state of public institutions, therefore, reflects our politics, public activism and political culture. Their weaknesses are a collective indictment. They benefit some, whilst indifferent to the plight of most in society. The beneficiaries have little interest in their improvement. This explains their decline. Where change has occurred, it was the result of bold individual initiatives, not deliberate government effort. One such, rare change was triggered by the former Auditor-General, Kimi Makwetu.[13] His efforts to get politicians to curb wasteful expenditure and hold officials accountable, had gone unheeded for years. Rather than continuing to rely on the political elite to reform the system, in 2016 Makwetu turned to the Chief Justice of the Constitutional Court, Mogoeng Mogoeng.

After inviting the Chief Justice to address a gathering of an international association of Auditor-Generals from across the world, Makwetu proposed that Mogoeng issue a call that the AG's recommendations should be binding. The ConCourt had just issued a watershed verdict, making the recommendations of the Public Protector binding. Because the AG's office served a similar purpose as the Public Protector – that is to ensure efficient use of public resources and protect their wastage – Mogoeng was more than happy to issue the call and urged legislators to effect the legislative change.

And, the legislators complied. They were pressured by public outrage. The same ConCourt verdict had found that parliament was complicit in President Zuma's abuse of state resources to improve his rural homestead. Legislators were keen to redeem themselves. Makwetu realised the potential of the moment to offer change, and seized it. They may not be many Makwetu's out there. For transformative, sustainable changes to happen much wider societal agitation is needed. Political costs prompt politicians into action. The present rumblings are

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[13] Ndletyana, M. 17 November 2020. 'Kimi Makwetu; A Master Strategist', www.news24.com

encouraging. But, South Africa is crying for much more. Inefficiencies of public institutions reflect our own, collective weakness. Only an active and outraged citizenry can effect meaningful change. Vukani bantu!