

# Zuma cannot find refuge behind the veil of ignorance

**W**HEN news broke that over R200 million was being spent on various upgrades to President Jacob Zuma's private residence in Nkandla, Public Works Minister Thulas Nxesi's first response was that he would "investigate" the journalists who were in possession of "top secret information".

Yet, while the minister was in "shoot the messenger" mode, the allegations of excess and possible corruption continued to mount. The public protector also subsequently announced her own investigation into the alleged misuse of public funds.

Nxesi, realising that the position of both bluster and opacity was not sustainable, launched his own investigation by appointing a ministerial task team which found, among other things, that:

- "There is no evidence that public money was spent to build the private residence of the president or that any house belonging to the president was built with public money.

- "The investigation has further revealed that 15 service providers, including consultants, were contracted by the Department of Public Works to render various services ranging from bullet-proof windows (to) security fence construction.

- "The supply chain management policy of the Department of Public Works was not fully complied with in procurement of goods and services in the project."

The task team also established that the president's private residence at Nkandla was designated a "key point" in terms of the National Key Points Act in 2010.

The act empowers the relevant minister to declare any "place or area" a national key point if it "is so important that its loss, damage, disruption or immobilisation may prejudice the Republic or whenever he considers it necessary or expedient for the safety of the Republic or in the public interest".

Of course upgrades on Nkandla had already begun in 2009, so this does seem to be an ex post facto invocation of the act. The comfortable reliance on the apartheid-era National Key Points Act to justify secrecy about all upgrades – including non-security-related ones – is both wrong and baffling.

Yet, the nub here is as follows:

Even if Nkandla is a legitimately declared "key point", it is privately owned and therefore the president would, in terms of the act, have to pay for the security costs himself unless a special fund was set up by the minister of defence to



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cover some of the expenses.

At a press conference the minister admitted that a special defence fund had not been set up. In essence that means the president should then foot this bill, surely?

Well, no. Despite the original reliance on the National Key Points Act as a justification for the security-related expenditure, we were subsequently told that a cabinet decision was taken to approve all the Nkandla upgrades.

The Ministerial Handbook states that members of the cabinet "are responsible for all costs related to the procurement, upkeep and maintenance of private residences used for official purposes", and an annexure to the handbook sets out rules for the funding of security measures at the private residences of public office bearers as follows:

"The Minister of Public Works may approve only a state contribution of a non-recoverable maximum amount of R100 000, or the total cost of security measures not exceeding R100 000."

Yet it would appear that this rule does not apply to the president, and that a secret cabinet decision was taken to allow the upgrade and effectively exempt the president from the requirements of the handbook as set out above.

So, does the president have a handbook that applies to him separately and if so, why, and what are its contents?

Does it therefore mean that any amount whatsoever can be spent on the president's home, or anything else for that matter, and be sanctioned in terms of this cabinet decision?

How then can we, as citizens, hold the president to account if we do not know which rules apply to him regarding expenditure?

At the very least, however, what Nxesi's

investigation indicates is that there were serious breaches of the supply chain management policy and corruption associated with the appointment of service providers.

An amount of R71m was spent directly on security features such as bulletproof windows, security fencing, evacuation mechanisms and firefighting equipment.

We are told that a further R135m was spent on "operational costs", including consultancy fees.

The ubiquitous consultant, often the cause of fruitless or wasteful and inflated expenditure and often politically connected, remains an obstacle to ensuring value for money in public expenditure.

But what are the precise details of these fees and who were these consultants?

Or will that remain a secret too, and why invoke secrecy on non-security-related matters?

The minister of public works would also have us believe that the president was kept at arm's length of this upgrade, that he barely had knowledge of it, and that this really was a case limited to corruption by service providers who will be dealt with appropriately.

Yet a letter in the possession of the Mail & Guardian suggests the president was kept informed and that upgrades were not only security-related but also covered the expansion of Nkandla.

In any event, surely it is the duty of the president to be conversant with the details of money spent on his private residence, specifically if that money is public money?

The public will not accept this explanation of events unless the full report is made public instead of relying on some arcane piece of apartheid legislation to hide the details from us.

The president himself also needs to explain to the public why it is that when millions of our citizens live lives of want and desperation, he believes it is justifiable to spend over R200m of public money on bunkers, bulletproof windows, expensive fire equipment, security and expensive consultants.

This is not a country under threat from an outside enemy, after all.

Cosatu has rightly described the expenditure as "grotesque".

How ironic, then, that one of its own within the cabinet has sought to justify the unjustifiable in so feeble a manner.

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