

# We need a different approach to justice - Thuli Madonsela

Thuli Madonsela, Law Trust Chair in Social Justice and law professor at the University of Stellenbosch says South Africa needs a different approach to justice that is not so reliant on the legal system to balance the scales.



Thuli Madonsela

Speaking during PSG's Think Big webinar series, she said Nelson Mandela led the way for a different approach to justice, which resulted in the Truth and Reconciliation Commission. "People might not like this, but I believe that going forward, we need to think about different ways of justice.

"Young people today give me hope because I am seeing change. In my dealings with young people at Stellenbosch University, I'm finding that Generation Z and millennials are truly committed to building a functioning society. It might not always be visible, but I think a quiet revolution of uprightness is brewing and the days are numbered for those that think that they can rely on young people to support them when they are corrupt."

South African society today has many ills that may seem insurmountable, but Madonsela maintained she is always hopeful. "If you lose hope, you lose everything," she said.

"Law is an important instrument of social change, but it has its own shortcomings. Yes, you need a good justice system that deals with criminals appropriately, but you also have to invest heavily in prevention strategies.

"As part of investing in prevention, we need to teach humans to be humans. I don't think we are doing enough to teach children to be humans in our society today."

Research has found that when you teach children very seriously about human rights, they start to value themselves as human beings. They start to treat themselves better and perform better at school. They also start treating each other better.

"We need to invest in society, in teaching people how to be abantu, and it's called ubuntu. We have to teach our children how to be functional members of our society."

No individual can fix our broken society, but instead of becoming despondent, now is a time to teach and demonstrate the values that we would like to see upheld in our country.

## **How the state capture commission could have been done differently**

While many South Africans are disillusioned with how long the state commission inquiry is taking, and believe that the National Prosecuting Authority (NPA) should have acted faster, Madonsela said: "We need to remember that during state capture, institutions were hollowed out and the NPA has had to rebuild itself. Criminals operate in syndicates and removing all tentacles is a process that takes time.

"Imagine if the state capture commission had been structured in such a way that there was a self-disclosure process and an investigation process, and the self-disclosure process guaranteed that you wouldn't end up in jail, though there would be some kind of payback to society. I think this would get more people telling us what happened, and I think we would be moving faster."

Madonsela said it is too late to change the terms of reference for the Zondo Commission now, but that we can learn from this commission to improve our effectiveness in future. "The idea of a commission of inquiry was that it was supposed to be cheaper and faster, but it has proven to be the opposite. We need to look honestly at this and establish what went well and what didn't.

"What the commission has done a great job at is excavating a level of detail that we would never have uncovered in an ordinary investigation.

"Another great advantage of the commission is that it has brought justice back to the people. Not as many people are watching it these days, but if you consider the commission as opposed to the courts, you'll see that far more people are watching the commission. That's a real victory for South Africa, because for democracy to hold, people must stay engaged," she said.

Madonsela was adamant that people will go to jail for state capture. "Will it be all of them? I'm not sure."

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