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Have the controversies in the judiciary affected how people feel?

In the last year, the judiciary in South Africa has not only been in the centre of a number of decisions that have provoked much public comment but various judges, the Constitutional Court and the JSC have also been in the news on issues that directly and indirectly affect the whole judicial system.

At present, there are various issues outstanding on the disputes between Judge Hlope, the Constitutional Court and the JSC, there are the new appointments to the JSC and the controversy surrounding President Zuma's nomination for Chief Justice. In addition, the Judge Motata case has yet to reach resolution.

Have all these issues affected people's perceptions of the judiciary?

TNS Research Surveys, South Africa's leading marketing and social insights company, today released the results of a survey to ascertain what South Africans feel about the judiciary. The study was conducted amongst a sample of 2 000 SA adults from the seven major metropolitan areas of South Africa, interviewing them face-to-face in their homes, with a margin of error of under 2.5%. Interviewing was conducted in the last two weeks of June, 2009.

The study posed two questions to people: whether they feel that judges are independent of political interference, and how confident they feel about the Constitutional Court.

Less than half feel that judges are independent of political interference

People were first asked to agree or disagree with the following statement:

- "Judges in South Africa are independent of political interference."
 - Agree - 44% (Blacks - 49%, whites - 34%, coloureds - 43%, Indians/Asians - 23%)
 - Disagree - 28% (Blacks - 23%, whites - 39%, coloureds - 29%, Indians/Asians - 36%)
 - Don't know - 29% (Blacks - 28%, whites - 26%, coloureds - 28%, Indians/Asians - 42%)

These results show that less than half of people feel that judges are independent of political interference - and that, whilst there are differences between race groups, this broad finding is true across the board. Another feature of the responses is that the proportion of people who gave a "don't know" answer is unusually high at 29%.

In a similar survey, also of 2 000 metro dwellers, conducted in 2005 that asked if people felt that the courts were independent of Government - a somewhat different wording - 49% agreed, 31% disagreed and 19% gave a "don't know" response. Although slightly different wording, it is likely that people have become less positive and somewhat more uncertain about this issue.

The overall finding is that there is a distressingly high proportion of people - 56%- who are not confident in the independence of our judges.

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Older people (60 years and older - 31%) and the top income groups (32%) are the most cynical about this lack of independence. Amongst the black language groups, those whose home language is Sotho and Tswana are the most positive (55%) with 45% of the other groups agreeing. Interestingly, Hindus are the most cynical with only 17% agreeing with this statement.

The ConCourt is viewed a little more positively

People were also asked to agree or disagree with the following statement:

- “I have confidence in the Constitutional Court”
 - Agree - 55% (Blacks - 64%, whites - 37%, coloureds - 50%, Indians/Asians - 37%)
 - Disagree - 25% (Blacks - 18%, whites - 42%, coloureds - 32%, Indians/Asians - 32%)
 - Don’t know - 19% (Blacks - 18%, whites - 21%, coloureds - 18%, Indians/Asians - 31%)

Although better, it is disquieting that 45% of metro adults are either negative or not sure about the Constitutional Court. Again, younger people (18 to 24 year-olds - 60%) are more confident than older people (60 years and over - 43%), whilst the most affluent are also less confident (38%), as are Hindus (30%).

Regional differences

Regional differences in such matters are also common in South Africa:

		%	
		Judges are independent of political interference	I have confidence in the ConCourt
Gauteng	Greater Johannesburg	48	61
	Johannesburg excl Soweto	49*	63
	Soweto	48	68*
	East Rand	50	72*
	West Rand	55*	64
	South Rand/Vaal Triangle	46	59
Pretoria	37	38	
Durban		43	53
Durban		34	48
Cape Town		43	45
Eastern Cape		42	55
	Port Elizabeth	40	53
	East London	45	60
Bloemfontein		25	59

Ellipse denotes a significantly low response rate

* denotes a significantly high response rate

The low responses in Durban are of note whilst Gauteng, as a whole, is generally more positive.

Our take out

Overall, about a half of metro adults are either negative or ambivalent about the judiciary whilst a half are positive. The Constitutional Court is viewed in a slightly more positive light than the rest of the judiciary where political interference is suspected by many. It seems that perceptions have worsened somewhat over the past four years.

In 2005, TNS also looked at how people feel that race and gender affects decisions made by judges. Then, about half felt that these do have an influence on how a judge decides a case. In addition, almost two-thirds of people felt that, across judges decisions could be quite variable.

There is a disquieting level of ambivalence, at best, towards the judiciary itself, and this seems to be slowly deteriorating. It is likely that the current set of outstanding issues is not helping these perceptions.

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Technical note

All the studies were conducted amongst 2 000 adults (1260 blacks, 385 whites, 240 coloureds and 115 Indians/Asians) in the seven major metropolitan areas: it has a margin of error of under 2.5% for the results found for the total sample. The studies were conducted by TNS Research Surveys (Pty) Ltd as part of their ongoing research into current social and political issues and were funded by TNS Research Surveys. For more details, please contact Neil Higgs on 011-778-7500 or 082-376-6312.

www.tnsresearchsurveys.co.za

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