

Coup D'état on South African Government: Is State Capture a Threat to Democracy?

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Abstract: The purpose of this paper is to analyse instances of state capture and how it impacts on good governance and the society at large. In contemporary world so many things happen politically and suddenly to surprise the citizens. It is apparent that South Africa underneath the supervision of the current government is internally and externally tumbling apart. Investors are disinvesting, commodity prices are deteriorating, and the rand has slumped. Over the past years, the South African media houses as routinely published a series of alleged corrupt activities by senior state officials. Corruption has become increasingly institutionalised activity in State Owned Entities, thus, leading to the phenomenon of state capture. State capture is commonly understood as a state wherein individual(s) or groups that possess power to influence the public and private sector decisions to work to their personal advantage in the government. The emergence of debate, discussion and engagements pertaining to state capture and patronage networks in recent months has led to legislators, policymakers, academics and interested parties to scrutinise the potential effects that state capture could have on the South African government, its economy and the society at large. The paper concludes that only if a full commission of enquiry on those who alleged to be involved in the capturing of the state can be conducted and be prosecuted, then state capture will not happen in the future.

Keywords: Corruption, Economy, South Africa, State Capture

1. Introduction

The process of state transformation in South Africa is characterised by the vacillations of politics that where dominated by white politicians (National Party), from (1910-1994), to a contemporary, democratic, and legitimate state (Labuschagne, 2017). Therefore, from 1994 the government was decentralised from a state which only benefited the interest of the white minority to a more all-inclusive, democratic, and constitutional state which strongly supports the agenda of transformation and development (Labuschagne, 2017). It is until recently that the decay of government institutions in South Africa have been blamed for corruption. Therefore, this paper recognises that the problem goes well beyond corruption. This is because corruption is widespread across all levels of institutional capacity and weakens development in all parts of the country. While state capture is a huge, systematic threat and akin to a coup threatening South Africa's democracy and must therefore be understood as a political project that is given a cover of legitimacy by the vision of radical economic transformation.

The old customs of understanding the magnitude and landscape of corruption in South Africa has remained deeply prejudiced by global literature,

which realizes African corruption as a region extensive phenomenon built on weak associations and a new version to olden patrimonial control associations (Mthanti & Ojah, 2016). Therefore, Transparency International's Global Corruption Barometer survey in 2015 discovered that South Africa has the biggest percentage of people who assumed that corrupt activities were escalating and that the government was not fighting it efficiently (Transparency International, 2015; Marchant, 2016). The main corruption issue in South Africa has been about the quick accumulation of money by governmentally associated leaders and elites (Martin & Solomon, 2016), thus, leading to state capture to become very widespread in the political and economic arena in the country. It is with no doubt that political restructuring in South Africa has brought new entrants into local government (Chipkin, 2016). For the first time in South Africa a 'state capture' story, as opposed to corruption has materialized and grow momentarily in recent years. Marchant (2016:35) "On 31 March 2016, the Chief Justice of the South African Constitutional Court uttered a critical verdict to South Africa's President Jacob Zuma, wherein the Chief Justice of the Republic found that he had failed to uphold, defend and respect the constitution as the supreme law of the land". Therefore, the findings were motivated by the refusal of the

President to act in accordance with the judgements of the former Public Protector and South Africa's corruption watchdog". Advocate Thuli Madonsela, who came to the discovery (two years earlier) that the former president of the Republic, Jacob Zuma had excessively profited approximately €15 million of state money which was paid to expand his private home (Marchant, 2016). Experience has shown throughout the world that without the rule of law efforts to combat corruption are largely futile (Chipkin, 2016). Thus, corruption will keep on exacerbating in countries where institutions such as legislature and the judicial system are weak, where the rule of law is undermined and obedience to formal rules are not effectively and robustly observed (Omogor, 2013).

Many experts that observe the political and economic condition in South Africa, state that there is nothing new about state capture as a burning issue in the Republic, rather, it has constantly been the ANC's openly declared and deeply unconstitutional strategy to capture the state to promote the party's own political agenda and ideological interests (Chipkin, 2016; Claymore, 2016; Marchant, 2016). What triggers the concern of the wider society is primarily the magnitude to which the origins and institutions of South Africa have been seized by Jacob Zuma and those that surrounded him during his leadership, where they promoted their own personal agenda and not that of the African National Congress nor the nation at large (Swilling, 2017). Therefore, it may be said that in order to consolidate democracy in South Africa rules of the game should be established. South Africa is one of the countries which have a highly praised constitution in the world, and is one of the biggest African countries with highly industrialized and advanced financial prudence that have played an important role within the constituency and Southern Africa Sub-region since 1994 (Bratton & Gyimah-Boadi, 2016). This became possible because South Africa progressively advanced its human rights and democratization agenda. Therefore, it is important to understand that state capture does not only threaten South Africa's democracy but also the democracy of neighbouring countries as well. The possible damaging impression of an unsuccessful independent (democratic) government in South Africa would have regional and sub-regional repercussions (Matlosa, 2017). It then becomes important that 'state capture' in South Africa should be tackled from institutional level and technical viewpoint to reinforce the state

against private interests seizing key institutions of governance.

2. Theoretical Framework of State Capture

State capture can be understood as actions taken by persons or a group who are serving in both the public and private segments, they often influence the creation of rules, procedures, verdicts and other policies formed by the government to their own personal gain (Martin & Solomon, 2016; Sutch, 2016). When discussing the phenomenon of state capture, it is important to take into cognisance that the state and the economy should not be perceived as two distinct units but as glued together. It is often understood that state capture comes in many forms. The main spectrum is that state capture can transpire in terms of a person or family that influence decisions over both the state and the economy for their own personal advantage (Beresford, 2015; Sutch, 2016). Other forms of state capture comprise of the growth of oligarchies with a quasi-feudal structure of dependents or a multifaceted collection of linkages with more equal and mutual relationships. This often occurs in a situation where the laws and institutions transform to become organisations that promote corrupt dealings, transitions, and contracts so that what amounts as legitimacy is itself a function of corruption (Van Vuuren, 2014; Sutch, 2016).

A government's system of rule is a mechanism through which ordered rule is maintained, with the state acting as the medium and providing the machinery that makes and enforces collective decisions in society (Heywood, 2004:421). The regulatory role of government as the principal agent in a developmental state is of critical importance. One of its primary functions in a developmental context is to address social inequalities, and ensure the fair and equitable distribution of resources to all members of society. However, the crucial role of government as provider and custodian of the country's resources could be seriously compromised in the event of state capture, where moral responsibility is eroded through an illicit relationship controlled by external agents. State capture amounts to, in a descending order (patrimonialism to clientelism), one of the final phases of a weak state wilting and finally collapsing into a dysfunctional state. Elected officials in a weak state with high levels of corruption are still in control of the allocation of resources and still have a monopoly on power.

Constitutionally-based corrective counter-mechanisms (such as the office of the Public Protector and the Auditor General) are still reasonably successful at counterbalancing instances of corruption. However, the cross-over point, where a weak state descends into a dysfunctional state, is when exclusive control over, and a monopoly on decisions about, the allocation of resources changes hands. The phenomenon of state capture occurs when the plundering of resources in a corrupt relationship of patronage between political functionaries and beneficiaries in a weak state is controlled by an external relationship that is detrimental to the state. In such an instance, control over the allocation and channelling of resources passes from a political functionary to a principal agent who 'controls' the former. The monopoly of the allocation of resources, in Harald Laswell's (1934:11) celebrated definition of 'who gets what, when and how', has thus shifted from an elected political functionary to an unelected oligarchy located outside formal government structures. (The concept 'allocation of resources' is used in a broad context and includes the appointment of ministers, the allocation of state contracts and other extreme forms of corruption). A World Bank report (2000) refers to the presence of state capture as an extreme form of political corruption, in which private external interest influences a state's political functionaries (government) for their own (economic) advantages. The monopolistic or oligopolistic (non-competitive) influence of an oligarchy could have a bearing on all three organs of the state, namely the legislature, the executive and the judiciary. However, illicit influence is primarily exerted over the executive as the central power in government.

Within the domain of politics, the concept of influence is another misnomer and a euphemism, because within the continuum of power (ranging from influence to coercion) control over political functionaries is much more assertive than merely a variation in terms of influence (Heywood 2004:115). The difference between exerting influence on a decision maker when resources are allocated and capturing the state's functions is one of degree. Where corruption is involved, the outcome and success of corrupting the process is not assured, because of its covert nature. In the case of state capture, however, the outcome is more guaranteed as a result of the stronger grip that external agents have on a government's primary political functionaries.

The concept of state capture has gained broad consideration mainly in most post-communist countries of Europe as well as Latin America; it has also made its way into South Africa's political fraternity in the current years. It can be agreed upon that state 'captors' in South Africa basically unduly influenced how the rules are made which result in compensations for their own benefit in the legal and regulatory segments of the state (Southall, 2012; Swilling, 2017). Therefore, for the first time in democratic South Africa's history a state capture scandal different from corruption has evolved and gained momentum in recent years, following the release of the former South African Public Protector Report entitled State of Capture in 2016. An escalating number of political scandals and thousands of leaked emails between the Gupta family and prominent political representatives have raised intense interest in analysing the consequences for the South African state (Swilling, 2017).

3. An Emerging Deficit of Political Leadership

The process of state construction in South Africa is marked by drastic fluctuations power and transformation from white political domination (1910-1994) to a modern, democratic, and constitutional state. More specifically, the state transformed from a centralised, all-powerful leviathan state structured to protect the socioeconomic rights of a white minority to an all-inclusive, democratic, constitutional state in 1994 with a strong developmental and transformative agenda (Carbone, 2016). The legacy of apartheid, including high levels of economic disparity, made it imperative that the socioeconomic ills and income inequalities that existed under the previous regime be addressed. South Africa's post-apartheid era was gifted with a party-political figure the whole world could entirely look up to. Therefore, from a fascinating, captivating and emblematic point of view any successor of Nelson Mandela was guaranteed to fail to fill his shoes (Ceruti, 2008; Carbone, 2016). It is nearly twenty years within Nelson Mandela voluntarily decided to depart from the presidency. It can be observed in recent times that the nation's top political management is undergoing a course of de-legitimation and deterioration which goes far beyond the things that might have been expected or hoped. The decline in political leadership is debatably a crucial issue which contributes to the republic's weakening performance in relation to economic development, social progress and social cohesion.

However, the debacle of Marikana Massacre is a recent symbol of the catastrophe of the deficit political leadership on all sides in the country (Ulfelder, 2012). People in South Africa's townships, villages and squatter camps are unhappy that the promised democracy has not brought the fruits, thus they see a minority elite benefiting. Various leaders have abandoned the townships for the "*Armani lifestyle*" previously exclusive to leafy white suburbs. They have long lost touch with the disgruntlement brewing in society (Gunner, 2008).

The appearance of President Jacob Zuma fell as the nation appeared to symbolize a universal political and economic hesitation, wherein a massive disappointment had originated at the 2013 Mandela commemorative service where Zuma was booed and openly embarrassed before 90 world leaders which was seen as a reminder of how Mr Zuma's South Africa is still detached from the rainbow state ideal of common progression, reduced insufficiency and social cohesion (Carbone, 2016). Furthermore, numerous of other events made the President undesirable exposure in the global media. For example, in 2015 the surge of intolerant xenophobic attacks through the nation as well as the disturbing images of the police forces entering the assembly to get rid of opposition members of parliament who subsequently triggered a scuffle after they insisted that the president Jacob Zuma answer queries on the "Nkandla" debacle (Carbone, 2016). The decline of the contemporary political and economic situation in South Africa today has several facets and numerous negative effects. The African National Congress (ANC) was extremely effective and successful in the way it directed the course for changing Thabo Mbeki's presidency with that of Jacob Zuma. Fewer so in the selection of a figure, Jacob Zuma, verified to have severe economic, political and even moral insufficiencies, the current former president has not helped his nation's problems.

4. Private Sector Involvement in State Capture

After the shocking and sudden announcement by the former president of the Republic of South Africa Jacob Zuma of sacking the then Finance Minister Nhlanhla Nene and immediately replaced him with David Des van Rooyen in 2015, there was leakage and loss of foreign direct investment that led to a strong decline in the country's currency which consequently cost the Public Investment Corporation

(PIC) (an institution which is accountable and answerable for millions of Rands of South Africans' pensions which amounts to over R100 billion) (Marchant, 2016; Peyper, 2016). This crippled the country's markets, the real price was endured by the republics deprived, unfortunate and the unprivileged; additionally the downstream was enforced to handle and cope with the increasing prices of oil and foodstuffs. The reply by international markets was harsh and was not merely due to distrust of the newly selected minister during the time, but it was mostly because of the observation and awareness that the choice was deliberately planned to get rid of the difficulties and hindrances at the National Treasury which stood in the path of the former president's prearranged means of accumulation of wealth for both him and his close associates (Marchant, 2016; Munzhedzi, 2016).

The Former South African Public Protector's State Capture Report, 6 of 2016/7 (hereafter Public Protector's report), released on 14 October 2016, provides ample evidence of state capture in the form of overt influence having been exerted by external agents on the primary political functionaries in this country (State of Capture Report, 2016). The report unearthed the presence of a strong, influential oligarchy that exists outside the formal structures of government, but parallel to primary functionaries in government (Labuschagne, 2017). This illicit and clandestine relationship between public functionaries and oligarchical external agents appears to have been a drain on the state's monetary resources. The covert relationship further led to the redirection of resources, which could have been utilised for socioeconomic development, from the poor and destitute into the pockets of the affluent (Labuschagne, 2017). The control exerted by this influential oligarchy, and its unhealthy and illicit relationship with government are a mark of strong oligopolistic tendencies in the domestic economy.

The Public Protector's report exposed the external, overt influence that the powerful and influential Gupta family wields over functionaries in the highest office in the land (Labuschagne, 2017). According to the report, the Gupta family have developed into a powerful oligarchy which oligopolistically manipulates politicians, has control over the appointment of ministers, shapes government institutions and controls parastatals (such as Eskom, the electricity supply commission) to advance and protect their own empire at the expense of social welfare and

social interests in this country (State of Capture Report, 2016). The draining of the state's resources by a powerful oligarchy has raised real concerns that the misappropriation of national resources and funds will impact on the fiscal ability of the state to address socioeconomic needs and imbalances in society.

The contemporary discussion of corruption and cronyism in South Africa is considered unfinished without bearing in mind the involvement of private sector economic crime, and mainly the subject issue of illicit financial flows (Carranza, 2008; Beresford, 2015). Business in South Africa condemns corrupt activities in the public sector wherein misconduct in the private sector has been equally visible. Dominant companies in numerous industries have been found in many instances to be excessively abusing their financial power and conspiring to fix prices, the typical example is the construction industry which was found that they have engaged in unlawful doings or activities in multi-billion Rand public sector contracts (Pauw, 2013; Van Vuuren, 2014; Marchant, 2016). However, the most recent culprit in South Africa are steel giant Arcelor-Mittal which has been fined R1.5 billion by the Competition Commission for artificially inflating steel prices (Makhaya, 2016; Marchant, 2016).

Apart from illicit financial and economic crimes, there is a major worry that the private sector has become gradually quiet on problems of corruption in the country. The private sector through its supremacy and guidance where made a key participant in the democratic discussions towards the end of apartheid. In the current years business has seemed to be voiceless on issues concerning corruption defined here as to "keeping a low profile" while they moved huge amounts of capital offshore (Ceruti, 2008; Gunner, 2008). However, more positive signs (removal of Des van Rooyen and other ministers linked to the Guptas) have emerged over the last year, wherein the business community became willing to take a more vigorous role in stressing the matters fronting the country. The open condemnation on the former president's actions regarding his initial dismissal of former Finance Minister Nene and pressure by numerous business relations generate hope that South African business is concerned and devoted in the republic's future and not merely their instant opportunities to make revenues (Marchant, 2016). In so far as South Africa is concerned with corruption because it enhances the riches of a minority

at the cost of the majority, the collusion of the private sector, price-fixing and the illicit outflow of such vast sums of money cannot be ignored.

5. Participation of SOEs in State Capture

The appearance of the government rest upon the conduct of public representatives and the insights of its people concerning the suitable principles of services presented by the functionaries, however, also ensure that these are manifested based on Batho Pele principles *per se* (Republic of South Africa, 1996; Republic of South Africa, 1998; Sindane, 2009). It then becomes important that each public official, when accepting government work must take into consideration the point that there is an extraordinary responsibility which requires the functionary to be open, reasonable and unbiased when engaging with the public. Walters (2009:303-312) noted that "ethics are concerned with what is essentially human in our nature, in thinking and acting in an ethical manner, the individual makes himself a witness to what positively distinguishes humans: the quest for dignity". Therefore, moral standards are primarily not about the self in isolation but have a communal quality. Often there is an implication that government functionaries might frequently be confronted with moral choices that require them to make verdicts that have no pure cut firmness and which are probably likely to be extremely difficult and problematic, that is, they are probable to find themselves faced with moral, principled and ethical dilemmas (Cranston, 2003). Simply put then, an ethical dilemma arises from a situation that necessitates a choice among competing sets of principles, values, beliefs, perspectives.

A government functionary or public official should be truthful to the Republic and integrities of the Constitution of the Republic and abides in this manner in the implementation of his or her day-to-day activities; puts the public or communal importance first when executing duties; devotedly implements the procedures and guidelines of the government in the performance of her or his official obligations as enclosed in the constitution and other regulations; and co-operates with public institutions recognised under the legislature and the Constitution of the Republic in supporting public interest (Vyas-Doorgapersad, 2007; Sindane, 2009). Thus, the following state preserved or owned enterprises (SOEs) were implicated in accusations and

claims of offensiveness and unethical conducts, namely, Eskom SOC Limited, Transnet SOC Limited (Transnet), Denel SOC Limited (Denel), South African Airways (SAA) and South African Broadcasting Corporation (SABC).

Eskom has allegedly granted a contract and reached an agreement that is worth more than R564 million to a coal mining business that is maintained and possessed by the Gupta family and Jacob Zuma's son, Duduzane. Denel and Transnet, on the other hand, have been implicated in the state capture saga when amaBhungane story headlined "Transnet tender boss's R50-billion double game" came to wider public attention in July 2014. The story drew and defined how a close associate or friend of the Gupta family, "Iqbal Sharma" had gained an interest in the corporation, while it was in an extreme situation to profit from subcontracts in Transnet's R50-billion tender for locomotives. During the same period, "Iqbal Sharma" was overseeing the Transnet committee that supervised, managed and directed the tender procedure or course. During the same period, at the Guptas' interest in VR Laser was not originally revealed (Beresford, 2015; Comrie, 2016; The Public Protector, 2016). However, headlines surfaced where Westdown Investments, which is also a Gupta contract mining company, which is well recognized as JIC Mining Services seized a 25% portion in VR Laser Services and "Salim Essa" another Gupta business associate procured 75%. Duduzane Zuma the former president's son also seized a portion through Westdown (Comrie, 2016). Thus, "Iqbal Sharma" prize was by possession of VR Laser's premises.

South African Airways (SAA) have been implicated in state capture where it was believed that it consumed or paid approximately R9.4m on buying around six million duplicates of the New Age newspaper, which is maintained and possessed by the Gupta family. The enterprise procured 5 927 000 copies of The New Age which were given to passengers that were on board on the SAA flights. It started buying the New Age newspapers, although its movement statistics are not reviewed by the Audit Bureau of Circulations (Gernetzky, 2016; The Public Protector, 2016). The South African Broadcasting Corporation (SABC) has been implicated of state capture because it previously gave complete authority to government departments to communicate with the nation at no cost, including occasions where Ministers (government functionaries) wanted air duration in

command to make declarations, statements and promotion movements. In addition the SABC has entered into an enterprise agreement with the New Age newspaper and government divisions wherein Ministers are mandated to compensate either the SABC, New Age newspaper and/or the appropriate partnership to broadcast or appear on SABC for purposes of communication with the nation (The Public Protector, 2016).

6. Jurisdiction and Power of Government Officials

Democracy is perceived as a way of controlling and maintaining a country. The most common definition amongst citizens is that democracy is the 'rule by the people', wherein citizens of a state are given a chance to elect their public representatives that will represent them in the national government (Young, 2007; Jolobe & Graham, 2017). The citizens do this at regular intervals, where free and fair elections are conducted and the elected public representatives run the state on their behalf, using their tax money to ensure that facilities and services are delivered and maintained. However, the democratic practice of citizens doesn't end here. Democracy should also ensure that the representatives that have been elected by the public are answerable and transparent in different ways to the people who elected them into power (Kimenyi, 2014; Dube, 2017). Thus, they are obliged to act and provide on the assurances that they made throughout elections and they should guarantee the involvement of local societies in forming future policies, plans and priorities within the communities.

Public officials are obliged to be transparent and accountable for the actions and decisions they make. When the public partake in the voting process they give the elected government a direct command to authorize and implement laws on their behalf (Jolobe & Graham, 2017). However, in the creation of laws and policies the government is obliged to follow the constitution of the Republic. The constitution clearly sets out the codes of conducts on how the public service must function and work. According to the Constitution of the Republic of South Africa (1996), Section 195 which clearly states that, "a high standard of professional ethics must be promoted and maintained. Efficient, economic and effective use of resources must be promoted. Public administration must be development-oriented. Services must be provided impartially, fairly,

equitably and without bias and people's needs must be responded to, and the public must be encouraged to participate in policy-making".

7. Conclusion

Given the above discussion and findings it is obvious that state capture has to an excessive amount gained access into the central structures of the state. It has become perfect that Jacob Zuma has extended his authority and control by using friends (Loyalists) to govern all the state organizations to primarily put his personal comforts and interests before that of the public or nation. The rationale is that when the network (loyalists) kept Jacob Zuma in power, he secured their safety and compensated them in office. Ultimately, all government institutions have turned to become tools in the influences of the presiding network including the judiciary, prosecuting experts, the police and the army. Instead of defending and protecting citizens against the exploitation and manipulation of power, institutions became an addition to Jacob Zuma's corrupt rule; this is the actual reason why South Africa's constitutional democracy has failed enormously. A need therefore arises to put strategies in place to reverse, if not, fix the problem of state capture in the country. Jacob Zuma has successfully established corruption within the core structures of the state. What is more is his greedy enthusiasm or desire for power and control which has crippled both the economic and political pedals of the country or state, his close association with the Gupta family and his strategic interchanges of patronage in seizing the state. Thus, government and society cannot encourage and impose principled and ethical behaviour merely through the use of principled codes of conduct or through the proclamation of a plethora of legislations.

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