



STATE CAPTURE

What Must Workers Do About It?

Public Servants Association

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Introduction

Since Advocate Thuli Madonsela's much publicised report, *State of Capture*, the notion "state capture" has gained a wider currency in society. It is used as a short-hand for a particular form of corruption that takes on a character akin to a mafia structure. The most glaring feature of this form of corruption is the intimate relationship between President Jacob Zuma and the Gupta family.

President Zuma's relationship with the Gupta family is mediated through the business interests of his son, Duduzane Zuma, who has shareholding in various Gupta businesses. No one quite understands the depth of this personal relationship between the president and the Gupta family, and what gave rise to it. What is apparent, however, is that this is founded upon corrupt intents and has already had a damaging effect on governance, on the economy, and on the public's attitude towards political leadership.

In short, it has imperilled our politics and sapped the economic vitality of the country. It is therefore important to take a closer look at this phenomenon, with a view to offering some perspective on what PSA members can and should do about state capture. We need to establish whether this is a real phenomenon or is something that is part of on-going political and class contestations in society, and that what we refer to as state capture may just turn out to be something that is about much more than what we realise.

What is state capture?

A simple definition of state capture is the infiltration of the state, and its control through channels that have an appearance of legitimacy, by individuals that are not formally linked to the state with a view to repurposing its functions to further corruption. As the concept suggests, there are three dimensions to state capture. The first is a set of actors whose intent is to prise open the state to gain access to opportunities that it offers for private profiteering.

The second is that there are actors within the state that are complicit, and who facilitate access to lucrative opportunities. The third is the repurposing of the state from within. This is a planned activity whose ultimate objective is to plunder the state by using formal institutional channels. The informal networks that exist outside of the state have a clear purpose, and their work is sanctioned from the top echelons of the state, with links to the president. They then graft their plan onto the formal, institutional structures of the state in order to lend their corrupt activities an appearance of legitimacy. So, the informal parallel state co-exists symbiotically with the formal state, effectively to create a shadowy state.

It is important to stress that state capture is not just any other form of corruption; it goes much deeper to repurpose the state as a machinery designed to serve the interests of a small clique that is linked to the president.

As the “Betrayal of the Promise Report”, put together by an eclectic mix of academics that were studying the phenomenon of state capture, put it:

Corruption normally refers to a condition where public officials pursue private ends using public means. While corruption is widespread at all levels and is undermining development, state capture is a far greater, systemic threat. It is akin to a silent coup and must, therefore, be understood as a political project that is given a cover of legitimacy by the vision of radical economic transformation.ⁱ

In the Public Protector’s Report *State of Capture*, published in 2016, there is a great deal of detail on how various individuals have made declarations of how members of the Gupta family sought to bribe them either with money or promise of Cabinet position in exchange for influencing government policy.ⁱⁱ

The bulk of Madonsela’s report focuses on Eskom, especially the relationship between the then CEO Brian Molefe and then Eskom Board Chairman Ben Ngubane on the one hand, and members of the Gupta family, on the other hand. What triggered the Public Protector’s investigation was when a Gupta-linked company, Tegeta Exploration and Resources, received preferential treatment when Eskom extended largesse of R659m in “pre-payments”, essentially a grant from Eskom after a consortium of four banks refused to give the company a loan to cover its short-fall for the purchase of Optimum Coal Holdings from Glencore. Even in this private transaction, the Minister of Minerals Resources is alleged to have been present in smoothing the transaction.

Effectively, this made Eskom the financier of last resort. The main coal supply contract, according to Madonsela’s report, was riddled with tender irregularities and therefore in breach of the Public Finance Management Act. On the other hand, Eskom’s coal supplier, Tegeta, had violated the Income Tax Act in using the mine rehabilitation funds inappropriately.

There is also a slew of findings in the Madonsela’s report about conflicts of interests that some of the Eskom Board members failed to disclose at crucial moments of decision over Tegeta’s transaction. Essentially, this was a rotten deal by an Eskom Board that saw itself as above the law and requirements of accountability. No serious action has yet been taken to sanction any of the parties involved.

The case of Eskom reflects a tendency that has become widespread in South Africa, especially since the rise of Zuma to power, where proximity to political power is leveraged for narrow commercial gain. Other state-owned enterprises such as Transnet, Denel, and South African Airways also have the imprints of the Gupta family, as noted in Madonsela’s report. The report is emphatic in its claim that there appears to be conflicts of interest between Zuma’s official duties and private interests, where Zuma uses his official position to “extend preferential treatment to Gupta-linked businesses in the form of state contracts, business financing and trading licenses.”ⁱⁱⁱ

As it is clear, the endgame of state capture is to benefit the president and his cronies. This is so well orchestrated that it would be difficult to link the president directly to this activity, as no one will see a signature by the president or a written instruction. The association is largely by inference and anecdote. President Zuma has never denied his close relationship with the Gupta family. This has become public knowledge. His children have worked for Gupta companies. It would seem that his main proxy is his son, Duduzane Zuma. He acts in the stead of his father, almost as his clone in this business relationship that supported through state-owned enterprises such as Eskom and benefits from the patronage of Cabinet ministers.

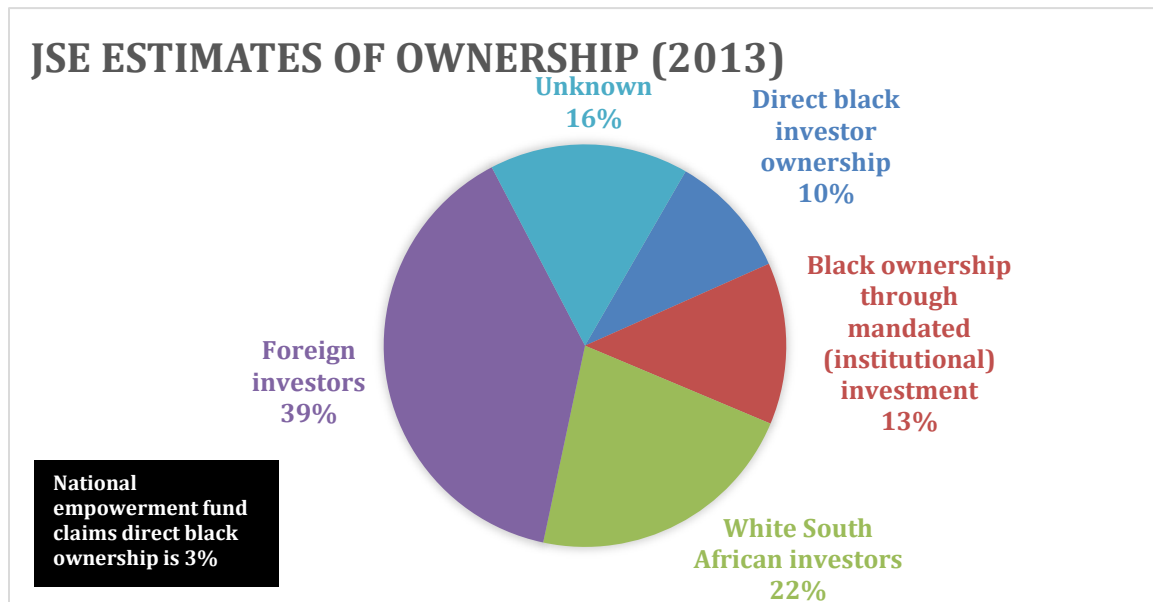
What is distinct about the pattern of state capture in South Africa lies in the fact that a modern, bureaucratic state within a constitutional democratic arrangement has been recaptured and repurposed to benefit a small clique. There has been a perversion and weakening of formal institutions to create room for this activity to flourish. The objectives are similar as those found elsewhere.

Some have argued that this behaviour is mischaracterised in being referred to as state capture for corruption. Some genuinely believe that state capture should be understood in the Leninist-Marxist sense as a contestation between fractions of capital, and as a tension between the new comprador bourgeoisie that have historically been on the margins of the economy, and old fractions of capital that is refusing to let go of its control of the commanding heights of the economy. According to this dogmatic thinking, state capture is part of a grand narrative of history where White Monopoly Capital hitherto entrenched its control over the economy through its influence upon the state, legislation, and other institutions.

The Guptas and other elites that are capturing the state are, accordingly, seen as a group that is engaged in a form of class struggle to correct the injustices of the past and to equalise the playing field by elbowing out white monopoly capital from influencing the state. Corruption is thus viewed as a problem-solving device to achieve redress and equity by dislodging from economic control elements of white capital that have historically captured the state and perpetuated inequalities for over a century. In this sense, the mining interests, finance capital, and agricultural groups are framed as the main enemy of the revolution; and that the role of the Guptas is marginal and therefore should not be probed.

This rhetoric is designed to obfuscate. It is based on either poor or expedient reading of Leninist-Marxist texts. Those who defend the Guptas frame White Monopoly Capital as the core problem that South Africans should seek to dismantle. Presumably this should be replaced by a different type of parasitic capital that is black in complexion, without any regard to the value system that should underpin an ideal social and economic model. Taken on its own, the characterisation of white monopoly capital by those who have appointed themselves as its opponents does not accurately capture what is really at play in the economy today.

There are certain undeniable realities about South Africa’s economy. This includes the pattern of ownership that is skewed against black South Africans. The graph below illustrates this reality.



Source: JSE Alternative Prosperity; and National Empowerment Fund Performance Report 3rd Quarter 2015/2016

There are also structural rigidities that stifle dynamism and render the economy uncompetitive. These rigidities include high levels of concentration in the economy, especially by big players in the food sector, retail, telecoms and manufacturing. This is what is often referred to as uncompetitive behaviour. Market concentration is found across different levels of the economy, and sometimes takes nasty forms such as collusion to fix prices, with end users and tax payers (in case of large scale state procurement) having to pay exorbitant prices for goods and services. These cartels have fixed the price of state-financed construction projects linked to the 2010 World Cup. At other times, they have fixed the price of bread, with the poor feeling the brunt. The conduct of the private sector has also created a fertile ground for the kind of rhetoric that is arrayed against “white monopoly capital”.

State capture and white monopoly capital ruse

There is sometimes confusion created between this unethical practice of market concentration and cartel behaviour and monopoly capital. The latter type assumes a shape where a single company owns the market for a given type of product or service, and where a competitor cannot enter, as a result. Monopolies are difficult or near impossible to achieve in open market economies such as South Africa, except if a company is state-owned and has captured regulation to restrict terms of entry for others.

Arguably, the case of steel can be said to have monopoly characteristics, especially given the dominance of Arcelor-Mittal and the fact that some of the competitors such as Evra Steel have gone under. Yet still, this reflects a legacy created by the state through the state-owned Iscor.

Monopolies are typically created by the state sector through nationalisation or through restrictions imposed to protect an existing state-owned enterprise. For example, in fixed line telephony business, Telkom is a monopoly player. This company is predominantly owned by the state. In major utilities such as power generation, transmission, and distribution, another state-owned enterprise, Eskom, is a monopoly. In the bulk rail transportation sector, Transnet has monopoly.

The airliner, South African Airways, has also attempted to entrench a monopoly position through state subsidy and cross-subsidisation of its low-cost subsidiary. The most glaring form of monopoly capital in South Africa is in the state sector rather than in the private sector. This does not suggest that there is no market concentration by large players. Regulatory agents such as the Competition Commission play an important role in checking high levels of concentration. Yet still the tendency towards market concentration continues to persist across different value chains and across different levels of the economy, from construction to manufacturing to agriculture. This is not the same thing as having monopoly industries.

The nature of this practice (market concentration) knows no colour, although it is predominantly practiced by white businesses, given the predominantly white character of the economy. Changing the ownership profile in the economy will not change the substance of concentration. The main challenge with concentration is less about colour or whiteness, but the distortionary effects on prices and the negative welfare impact on consumers and new entrants in the economy – black or white, especially the former. There is, no doubt, a strong imperative to change the patterns of ownership in the economy to increase diversity, in particular, to have black players; but this should not be confused with the notion of the monopoly structure of the economy.

While the two challenges – monopolisation and concentration – are related in some important ways, they do not constitute the same dynamic. As we have noted, changing the ownership pattern in the economy may not lead to reducing concentration. However, efforts to reduce market concentration, including the regulation of mergers and acquisitions through competition laws, should also seek to achieve social objectives such as black economic empowerment. The notion of White Monopoly Capital, along with the programme aimed at addressing it - “radical economic transformation’ - has been used to deflect attention from state capture.

The extent to which there are familial ties between ‘white’ monopoly capital, high levels of concentration, and ownership profile in the economy is linked to the historical evolution of the South African economy.

The initial observations on the ways in which monopoly capital function was made by Vladimir Lenin in 1905 when he analysed the conglomeration process in international capital, including in the gold and diamond sector in Kimberley and the Witwatersrand. He noted that: “The enormous growth of industry and the remarkably rapid process of concentration of production in ever larger enterprises represent one of the most characteristic features of capitalism.”^{iv}

Elsewhere, Lenin remarked that concentration leads to monopoly. As he put it, concentration is a transitory phenomenon. On this point, history has proven him wrong as there is no logical progression from concentration to monopoly in private enterprises. This is especially so in the modern era, as there is growing use of anti-trust laws (mainly in the US and Europe) or competition policy in South Africa. Conditions for graduation from concentration to monopoly capital in the private sector are not favourable.

Generally, debates around monopoly capital, as conducted by Marxists at the beginning of the 20th Century, did not give much recognition to the skin colour of the owners of capital. The key consideration in these debates, especially in the inter-war years, was the meaning of state-monopoly capital (in the form state-owned enterprises) for improving the productive capabilities of an economy.

South Africa’s peculiar socio-political context, where race still has weight in public debates, social relations, the economy, and discourses on public policy, complicates our analysis of monopoly capital and the market conduct of dominant players. Historically, the growing internationalisation of capital following conglomeration in the mining sector since the latter half of the twentieth century up to the period immediately following the consummation of the Union of South Africa in 1910, saw ownership of capital becoming diversified not by race but by nationality. The emergence of the joint-stock companies and waves of floatation on the Johannesburg and London stock markets created a strongly multinational character to the South African mining sector, something that was further reinforced by the importation of foreign technologies, capital equipment, and skills.

Yet still, the entire sector was dominated by a handful of companies right up to the 1990s. The structure of the South African economy has changed since then: institutional investors, including pension funds, mutual funds, and sovereign wealth funds, own a piece of the economy. There is hardly any group of individuals one can go to and instruct them to stop acting like a monopoly or to simply transfer ownership at one fell swoop. Fund managers, acting on behalf of institutional investors, can move capital from Johannesburg Stock Exchange (JSE) to other capital markets in an instant. Capital changes hands daily, something that is often regarded as positive about the JSE – that it is deep and liquid. So, the idea of white monopoly capital is a figment.

It is important to note that the mining sector, which started off with traits of monopoly capital in the 19th Century, is no longer the backbone of the economy in the way it used to be in the past. It has waxed and waned, with its previously unchallenged role as a major contributor to the GDP and a significant employer declining. While these changing dynamics in the economy are in no way an insurance against market concentration, the economy cannot be characterised as simply in the grip of White Monopoly Capital. There is no glaring form of monopoly than what is reflected through state ownership and dominance in key sectors of the economy.

Does this mean that the idea of a White Monopoly Capital is false? Quite clearly, there is no basis for this characterisation that is helpful for either restructuring the economy to make it more competitive or creating opportunities for black entrants. This notion of white monopoly capital is used to mask a new parasitic capital whose intent is not transformative but rent-seeking in nature. It is this kind of capital that is represented by the Guptas.

The notion of radical economic transformation is also used to lend credence to a political project whose essential outlines are to weaken state institutions and loot South Africa. The cause of this elite that is driving state capture, and that propounds radical economic transformation, has nothing to do with class struggle or contestation over state power in the way that Leninist-Marxists saw the state as an instrument of class power and with a potential to drive social change. At the heart of social change, in the Leftist formulation, are workers and the marginalised, and it is them who ought to be the key drivers and beneficiaries of social change. The parasitic capital does not create value in the economy; its state capture project is not intended at resolving socio-economic tensions; and does not have as its intention to create jobs. Rather, its behaviour leads to the debasement of the economy and generates seeds of institutional decay.

How state capture affects governance

All the institutions that were put in place as part of the new democratic dispensation to enhance the rule of law after 1994 are now wobbly. These include the Asset Forfeiture Unit that was established in 1999 and located within the National Prosecution Authority; the Directorate of Special Operations (popularly known as ‘The Scorpions’); and the Special Investigations Unit. Legislative measures such as the Prevention and Combatting of Corrupt Activities Act in 2004 have lost their effectiveness since those in charge have no interest in prosecuting corruption.

Institutions such as the Directorate for Priority Crime Investigation (“The Hawks”), which were set up in 2008 to fight organised crime, commercial crime, and corruption, have lost their bearing, as they have been increasingly used to fight political battles. Various other law enforcement institutions, which in their early days operated without fear or favour, gave South Africa the image of a country that was serious about fighting crime and corruption.

Today, these institutions are a shadow of their former selves. If they were to be strong and independent again, they would jeopardise the state capture project. They have been weakened in order to protect the president and his cronies.

Political scientist Goran Hyden refers to the Zuma-type phenomenon as the economy of affection. It is characterised by personal investment in reciprocal, informal relations with other individuals as a means of maximising self-interest by circumventing formalised processes. Such practices, as Hyden suggests, could undermine governance, notably independent institutions, accountability and transparency. This is already at play under Zuma's leadership.^v Indeed, Zuma's rule has been synonymous with the perversion of governance and weakening of independent institutions.

We have already seen how governance is weakening. Confidence in law enforcement agencies has waned. There has been a proliferation of brazen criminal activities, which clearly are a sign of how rule of law has weakened and the police no longer feared. These brazen activities include the break-ins and theft of property at the Office of the Chief Justice, at the National Prosecution Authority offices, and in airport and highway heists. The near catastrophic incident where grant payments were almost missed as a result of the dodgy contract with the Cash Paymaster Services is another case in point of how the poor can be compromised in these elite projects. Government departments and state capabilities have lost their vitality since this era of state capture began.

The impact of state capture on the economy

The state capture project has already had a noticeable effect on the economy. The first signs that the Gupta family had its tentacles cast long and wide into the sanctum of political power was when then Minister Nhlanhla Nene was fired in December 2015, with markets reacting sharply. Without offering any explanation, Zuma removed his finance minister and replaced him with an unknown politician, Des van Rooyen, who is active in the MK Veterans Association, and who had no experience in government. As it would later turn out, the advisors that the new minister brought with him were known Gupta associates. It was clear the plan was to capture the National Treasury, weaken procurement rules, and run roughshod over state coffers.

Zuma could not withstand the intensity of market reaction that followed his decision. The damage had already been done. According to the economist Azar Jammine, the servicing costs of the country's debt were estimated to rise between R1.2bn to R2bn annually. Stock and bond prices tumbled, shaving off value for investors. The rand shot up to breach R15.00 to the dollar, reaching an all-time low position. When this sort of thing happens, it has disruptive effect on tradeable goods and services, and reduces the competitiveness of the export sector. During this chaotic period, the pension fund investor, the Public Investment Corporation (PIC), lost more than R100bn.

Zuma relented under pressure and appointed Pravin Gordhan, who was now returning to the finance ministry for the second time. He had clearly not taken the appropriate lessons since less than two years later he would again fire Pravin Gordhan without giving any cogent explanation, an event that was immediately followed by a sovereign credit downgrade, lending us on a junk status territory. A few months later, the economy entered into a technical recession. Compounded by mounting debt burden, South Africa's fiscal ability to deliver services to the poor will be severely constrained. The roots of these developments can be traced to institutional decay that has been set in motion through, amongst other factors, state capture. The loss of confidence in political leadership by the business community will make it harder for the country to attract investment, which is essential for economic growth and job creation.

What can unions do about state capture?

It is not easy to deal with corruption so complex as the state capture corruption. The lesson of state capture is that no organisation in society can afford to be disengaged from politics. Matters of governance, institutions and the economy can have a major effect on the livelihood of workers, and for this reason it is important that unions take up these matters as part of their deliberations. They should be part of the convening of union workshops and seminars. This should be with the view to conscientise workers of their greater social responsibility, and that they have a role to play in enhancing the effectiveness of public institutions.

Union members have to be aware that they are members of society first before they are unionists, and this demands a greater sense of responsibility upon them to speak up against all forms of corruption and be part of social movements in society. As employees in government institutions, they should be active in encouraging whistle-blowers and reporting incidents of corruption. Unions need to offer a safe platform for their members, alongside boosting their confidence, to report incidents of corruption and to resist attempts at corrupting them.

Unions need to formally take up the anti-corruption cause on a non-partisan basis, and mobilise their members to join hands with other civil society organisations in pushing hard against corruption. As this article shows, corruption has an effect on ordinary members of society, and will erode the value of public sector salaries. Most importantly, it could cause untold damage on governance and the economy in ways that erodes social stability, leaving the future generations with a terrible legacy.

End notes

ⁱ Public Affairs Research Institute, The Betrayal of the Promise: How South Africa is Being Stolen, <http://pari.org.za/wp-content/uploads/2017/05/Betrayal-of-the-Promise-25052017.pdf>

ⁱⁱ Public Protector South Africa. 2016. *State of Capture*. [Online] Available: <http://cdn.24.co.za/files/Cms/General/d/4666/3f63a8b78d2b495d88f10ed060997f76.pdf>.

ⁱⁱⁱ Office of the Public Protector, *State of Capture*, <http://www.news24.com/SouthAfrica/News/download-the-full-state-of-capture-pdf-20161102>

^{iv} Lenin Vladimir I, *Imperialism: The Highest Stage of Capitalism*, London: Penguin, 2010, p.13.

^v See Prince Mashele and Mzukisi Qobo, *The Fall of the ANC Continues: What Next?* Johannesburg: Pan Macmillan, 2017.