

An Analysis of the Development of State Capture and Its Indicator in South Africa, 2016–2018

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Abstract

As an international and domestic threat to countries, the phenomenon of “state capture” has suddenly gained the attention of scholars and South Africans who have an interest in political issues. Given the fundamentality of its continuity in the context of South Africa, this article solely analyses this phenomenon within the period of 2016–2018. The central aim is to understand the development of this phenomenon and its indicator in the stated period. The adoption of the periodisation approach in this article does not necessarily sideline the fact that the phenomenon of state capture is characterised by the presidency of Jacob Zuma but only gained momentum during the period post-2016. Methodologically, this article relied on a desktop research approach in the form of document review and made use of thematic content analysis to attend to the central objective of the article. Equally important was the adoption of Afrocentricity as the alternative theoretical lens to interpret the nature of this subject. The preliminary findings of this article illustrate that state capture manifests in a form of lobby and influence in government policies and operation, thus leading to poor governance policies and aggravated socio-economic developmental problems. The article recommends a strong call for transparency and effective corruption and state capture watch mechanisms.

Keywords: corruption; development; state capture; socio-economic problems; South Africa

Introduction

State capture has emerged or developed as an international threat in several countries in the past years. This article only places focus on the context of South Africa as a victim of state capture. The phenomenon of state capture was first recognised at the beginning of the new millennium (Czada 2011). As a socio-economic threat to developing countries and an irregularity in governance, it became prominent in the South African political discourse in March 2016 (Dassah 2018, 1; Mamokhere 2018). According to Fakude (2016), state capture is nothing new in the South African political economy and the entire modern economic structure of South Africa is premised upon the so-called “influence of business over politics” (Dassah 2018, 2). In state capture situations, the nature of the collaboration between business entities and the state is illicit, which means that laws and regulations made or actions taken are products of corrupt acts or transactions. As a consequence, “legality becomes a function of unlawfulness” (Dassah 2018, 2; Mamokhere 2018).

On the 16th of March 2016, on South Africa’s national television broadcasting service, Mcebisi Jonas (former Deputy Minister of Finance) confirmed that the Gupta brothers (Atul and Ajay), who were not only friends of Jacob Zuma (former South African President) but also business partners of his son Duduzane Zuma, had allegedly offered him the position of Minister of Finance. This occurred right before Nhlanhla Nene (former Finance Minister) was dismissed in December 2015 and replaced by Des van Rooyen (Grootes and Davis 2016). As such, in 2015, mounting pressure compelled Zuma to replace Des van Rooyen (former Finance Minister) with Pravin Gordhan (former Finance Minister) as the country’s Finance Minister (Hogg 2015). Nene’s dismissal fuelled speculation that Zuma’s privilege of appointing and removing ministers was heavily influenced by the Gupta brothers (Munusamy 2018). In 2016, the former Public Protector, Thuli Madonsela, received an appeal to investigate various complaints, including a possible violation of the Executive Members’ Ethics Act (1998) by Zuma regarding the appointment of cabinet ministers and directors and awarding of state contracts, particularly in relation to the country’s power utility Eskom, to businesses associated with the Gupta brothers (Mbatha and Wild 2016). In a major rotation, Gordhan and Jonas were removed as Minister of Finance and Deputy Minister of Finance respectively in a major cabinet reshuffle on 30 April 2017 and replaced by Malusi Gigaba as Finance Minister and Sifiso Buthelezi as Deputy Finance Minister (Eyewitness News 2017). It is equally important to highlight that the time context of the removal of Pravin raised intensive scholarly and public debates on the subject of state capture. Others revealed their own understanding of state capture by arguing that the state consisted of three organs: the executive, of which Zuma was part, the judiciary and the legislature. The views expressed were circulated among politicians and the general public, with other “politicians stating that because the state consists of three organs, state capture cannot occur unless all three are captured” (Dassah 2018, 1; see also Madonsela 2016; Mamokhere 2018). Drawing on the above analysis, this article explores the phenomenon of state capture and its development or manifestation in the

South African context from 2016 to 2018. Even though South Africa has gone through numerous changes in the context of this phenomenon (with the State Capture Commission of Inquiry underway at the time of writing this article), it was deemed significant to revisit the period of 2016 to 2018, which underlines the significant historicity of the interdisciplinary discourse approach to the subject of this phenomenon in South Africa. By so doing, this article will also make viable recommendations to curb state capture in the future.

An Exploration of the Conceptual Foundation of State Capture

The concept of state capture is a complicated abstraction and remains something that is evolving in the political discourse of South Africa. As such, it has been confused and misinterpreted by different scholars and politicians who to some extent referred to it as the corrupt relations that exist between business moguls and the government (Ndletyana 2013; Netshitendzhe 2016). While the studies of Ndletyana (2013) and Netshitendzhe (2016) recognise that this has become a prominent feature of Europe, North America and Africa, it is also important to highlight that state capture has also been felt in other contexts (Netshitendzhe 2016). In the medieval era, this concept was referred to as “corporatism” (Czada 2011). Its development through history has brought significant changes to its transformation over time to the extent that nowadays, under liberal democracies, businesses are no longer representing the state, unlike during the times of corporatism (Bruce 2016). Therefore, these businesses utilise their influence to foster state policies that are favourable to their businesses. This is done through the use of economic influence in the public sector arena in order to draw narrow and selfish goals that are heavily influenced by the desire to safeguard their financial gains (Jackson and Sørensen 2013). In South Africa, state capture became a result of the corrupt and selfish association of Zuma with the Gupta brothers who were influencing cabinet reshuffles and appointments.

Theoretical Contribution: Afrocentricity as an Alternative Lens

This article relied heavily on the elements of Afrocentricity, which is better explained by Asante (1990; 2003). This theory is often proclaimed to be dominantly African. The adoption of its elements and precepts in the current study was informed by its analytic categories of grounding, orientation and perspective (Modupe 2003). It is informative to note that this theory is different from the mainstream political theories of idealism, Marxism and realism, which are argued to be predominantly Western by nature (Chilisa 2012). In spite of the differences attested above, this theory also embraces the progressive views of all conventional political theories in the subject under study (Asante 2003). The theory of Afrocentricity does not take into consideration the dual standing on knowledge presentation (as presented to be non-empirical or empirical; good or evil; objective or subjective, etc.) (Maserumule 2011, 2015). As a result of this argument, the author of this article deemed it necessary to present research data that depicts a combination of empirical and non-empirical standards of doing research in order to yield holistic findings regarding the main question and objective (Shai 2017,

67). The intended project may seem an impossible task to achieve as the researcher has limited himself to both methods given that they are interdependent and complementary of each other. This movement embraces the process of decoloniality in South Africa's present context where there is a move from "perceptual space" to a co-partnership intellectual immersion between the researched and the researcher. The fundamental idea behind this is to show the discourse of this subject as entered by African scholars who also operationalised this article according to the guidelines and chief protocols of Afrocentricity as informed by African culture, history, experiences and overall consciousness (Shai 2017). The foregoing has had an immeasurable qualitative impact on the desktop findings of this article (Asante 2003). The concluding remarks therefore indicate that since Africans have been marginalised in the subject under discussion, the author is de-marginalising genuine African voices in order to explain the phenomenon of state capture.

This theory has been relevant and helpful in this article based on its elements and ground as indicated above. The theory intends to decolonise the operation of African governments by promoting good governance and states that are free of corruption.

Research Materials and Methods

This article relied on a qualitative research approach that took the form of a review of documents. This article drew data from published peer-reviewed and non-peer-reviewed articles, reports, magazines, books, as well as academic and popular literature related to state capture. The data collected was analysed using thematic content analysis, which is explained by Anderson (2007). The credibility, confirmability and dependability of the data were ensured by data triangulation and member checks.

Outlines of State Capture in the South African Context: General Perspectives

According to Sitorus (2011, 46), state capture is "an aspect of systemic political corruption implicated in causing poor governance in transitional democracies, with the potential of aggravating developmental problems." Sebake (2017, 400) asserts that state capture is understood as "ownership of elite corruption that influences wealth, both politically and administratively." As such, state capture can also be seen as any groups or social branches, external to the state, that seize decisive influence over state institutions and policies for their own interest as opposed to the public good (Mamokhere 2018; Pešić 2007). The phenomenon of state capture in the South African context manifests in the form of private lobbying and economic influence (Jackson and Sørensen 2013). This phenomenon occurred when the country's economy became trapped in a cycle of uncertainties attributed to the period under review when both policy and institutional reforms necessary to enable and improve governance were "systematically undermined by collusion" of state officials and business people who extracted substantial private gains from the state economic apparatus (Myburgh 2017, 161; see also Malefane 2016; Shivambu 2016).

State capture as a phenomenon gained momentum in the South African media and was used to characterise the complex and un-transparent relationships between Zuma's family, his support groups within the African National Congress (ANC) and the well-known Gupta brothers, their associates and businesses (Godinho and Hermanus 2018, 13). Thus, "the line of evidence presented in the State of Capture gave new meaning and weight to the concept" (Godinho and Hermanus 2018, 13). Equally important to note is that the phenomenon of state capture was dubbed 2017's word of the year in the country and a number of significant investigations were launched with the intention of investigating this phenomenon in all areas of the government (AFP 2017). Amongst the investigations were a "Judicial Commission of Inquiry into allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State; [and] a Commission of Inquiry into the South African Revenue Services (SARS)" (Godinho and Hermanus 2018, 13). Others include the four individual investigations into the state capture allegations that were conducted by Parliamentary portfolio committees of "Public Enterprises, Home Affairs, Mineral Resources, and Transport" (Godinho and Hermanus 2018, 13).

An Analysis of the State Capture Report: An Afrocentric Repositioning

In 2016, Madonsela delivered a report on state capture in spite of attempts by Zuma to stop the publication of the report through his lawyers. This took place right before Madonsela's term in office was set to lapse. Thus, despite all attempts to undermine it, Madonsela managed to publish this report and made it public (Staff Writer 2016). In the content of this report was a

line of questioning and evidence relating to allegations relating to the Zuma and Gupta families', as well as their associates', involvement in; the appointment and removal of state ministers and board members at State-Owned Enterprises (SOEs). (Godinho and Hermanus 2018, 13)

Additionally, this State Capture report served as a response to the accusations laid against the Gupta brothers and Zuma which centred on the issues of their collaboration. It depicted a clear picture of state capture as influenced by the Gupta brothers who possessed economic influence over the cabinet appointments and reshuffles of ministers, as well as the director generals of SOEs. This collaboration was also accused of strengthening their leverage over the so-called "preferential treatment in state contracts, access to state provided business finance and in the award of business licenses" (Madonsela 2016, 5).

Distinction Between State Capture and Corruption

The primary distinction between corruption and state capture is that most types of corruption aim to undermine the implementation of laws, rules and regulations through acts of bribery (Dassah 2018; Mamokhere 2018), while state capture involves corrupt attempts to influence the way laws, rules and regulations are formed, making it

synonymous with legalised corruption. This is to precisely argue that corruption and state capture are interlinked (Sitorus 2011, 47). According to Dassah (2018), state capture can to some extent be characterised by influences and lobbying in policy-making processes, while corruption can be characterised by misuse of power (Mamokhere 2018).

According to Sitorus (2011, 47), the following two types of state capture can be drawn and broadly analysed in order to understand the phenomenon. The first relates to “distinguishing among types of institutions that can be captured, which include legislative, executive, judicial, regulatory agencies and public works departments or ministries” (Sitorus 2011, 47). Richter (2017, 8) argues that even though all types of state institutions are vulnerable to be captured by private actors, “the most important ones are where political decisions are made such as the legislature and the executive” (Richter 2017, 8). This type consists purely of the “captors seeking to capture the state, which includes large private firms, political leaders, high-ranking officials or interest groups” (Dassah 2018, 4; see also Fazekas and Tóth 2014).

Effects of State Capture on South Africa’s Socio-Economic Development

State capture in its comprehensive form is an “aspect of systemic political corruption implicated with causing poor governance in transitional democracy, with the potential of aggravating developmental problems” (Sitorus 2011, 46; see also Dassah 2018). Gordhan (cited in Ngcobo 2017) argues that state capture in South Africa resulted in a negative economic impact. This means less governmental revenue was generated and there was less money in the fiscus. Additionally, as a result of negative growth and corruption brought about by state capture, there was a freezing of investment in the country. Equally important are the sentiments expressed by Gordon who lamented that this “then means there’s less money for education and the building of hospitals” (cited in Ngcobo 2017). The combination of these effects constituted a huge decline in the socio-economic provisions as one of the fundamental objectives of the ANC as the ruling government.

Hosken (2017) indicates that state capture in South Africa has led to declining public services. This has compromised employment opportunities for youth and caused the country to lose potential investors. State capture also undermined investor confidence, which contributed to the freezing of investment (Hosken 2017). Investors want to see a state that has the capacity and integrity to achieve all the governmental programmes of delivering services to the poor. Moreover, “they wanted to see South Africa’s economy not only grow and be well-led, but also become socially and economically stable” (Hosken 2017). Sebake (2017) argues that state capture was led by a lack of honesty and accountability on Zuma’s part. The impact of this phenomenon forced the majority of South African society to regularly struggle to survive under the social ills of poverty in the midst of the power-hungry games played by Zuma and the Gupta brothers. The

unpremeditated and/or accidental impacts of state capture were that it could back-pedal the achievements of South Africa's maturing democracy. This can be accompanied by reduced "efforts to restore the dignity of the African people through improved service delivery and poverty alleviation" (Sebake 2017, 399).

South Africa's Developmental Challenges

Based on the above discussion, it is not farfetched to conclude that South Africa's socio-economic challenges in the last five years can be attributed to some of the after-effects of state capture. The country is undergoing high levels of unemployment and poverty as well as inequalities (*TimesLIVE* 2016). The corrupt activities discussed in the article also constituted a huge domestic resource leakage in the form of restricted foreign investments (Bisseker 2018). As such, it is also important to highlight that state capture has weakened the capacity of the ANC-led government under Zuma in dealing with immediate developmental challenges as the country's credit rating was also downgraded, which impacted the economy terribly (Dludla 2017).

Recommendations

Leaning heavily on the findings of this article, the author believes it is important to propose a way forward in the form of solutions to curb the problems brought on by state capture as discussed above. The sentiment embodies the view that state capture should not be allowed to prevail in a maturing democracy such as South Africa. The article argued that state capture has caused huge economic and political challenges to South Africans at large. The activities that happen when state capture prevails manifest in drying the coffers of the state, which are meant to attend to the daily social services provisions in the country. Hence, not only does state capture divert the attention to drying the state coffers but it also ensures that the priorities of the government are not taken seriously as there are people who are interfering in it. The article thus recommends viable mechanisms that can be used in preventing so-called state capture in South Africa.

A Strong Call for Transparency

By the time of the release of the State Capture report, the phenomenon of state capture had managed to amass prominence in the media of South Africa. It depicted the complexity of dishonest and corrupt collaborations that existed between Zuma, his ANC cronies, his family and the Gupta brothers, together with their associates and business entities (Godinho and Hermanus 2018). With regard to the above discussion about the dishonest government deals with private actors, it would be advisable to follow the proposed strategy by current Minister of Public Enterprises Gordhan, who argues that "one of the best ways to fight or challenge state capture is to speak it out and expose it" (cited in Ngcobo 2017). Furthermore, a transparent government would attract investor confidence. Consequently, transparency must be encouraged in all areas of the ANC-

led government and other institutions as a legal obligation in terms of Chapter 10 of the Constitution of Republic of South Africa (Gordhan cited in Ngcobo 2017).

In order to prevent and curb the disease of state capture and other dishonest practices in the government, President Cyril Ramaphosa contends that “we as public shall confront corruption and state capture in all the forms and manifestations that these scourges assume” (cited in *TimesLIVE* 2018). The foregoing “includes the immediate establishment of a commission of inquiry into State Capture. The investigation and prosecution of those responsible will be given top priority” (*TimesLIVE* 2018). According to Letsoalo (2018), Ramaphosa’s stance is strong on “mechanisms for the appointment of individuals to senior government positions, state-owned entities and law enforcement agencies which will be strengthened to improve transparency, prevent undue influence and ensure adequate vetting of candidates.” *TimesLIVE* (2018) also cites Ramaphosa as voicing a need to “work to restore the credibility of public institutions, including SOEs and law enforcement agencies, by addressing excessive turnover in senior positions, undue political interference, poor coordination and corruption” (Hoffman 2018; *TimesLIVE* 2018).

Corruption and State Watch Organisations

There is a need to establish effective corruption and state capture watchdogs through non-profit organisations and civil society organisations with the intention of gathering and analysing information on any activities relating to public corruption. Corruption monitoring organisations need to erect a strong alliance with government institutions in the quest for assisting the South African people to take a strong stand against corruption and/or any activity relating to the capture of the state. These organisations will play a significant role in spotting corrupt senior politicians and examining their activities through investigation in order to ensure that they are brought to the book of law and are charged. A strong pressure also needs to be applied in order to ensure that corrupt officials are exposed, held accountable and prosecuted in the quest for ensuring that no one runs for public office with the intention of furthering corruption. The underlying principle here is “eradicating state capture or corruption by focusing on worthy cases and litigating against the state to force the State to comply with its responsibility to put criminals behind bars” (Kempen 2016, 12).

The fundamentality of the above-proposed mechanisms in the eradication of corruption and state capturing activities should be ensured through effective coordination in prosecuting and exposing corrupt activities. Corrupt activities in this instance include collusion with the private sector and criminal activities, which ought to be opposed with equal thoroughness and resolution. Efficient law enforcement bureaus should be fostered in order to curb corrupt activities and crimes in general and to re-establish the legitimacy and integrity of state affairs (Hoffman 2018). As such, the ANC-led government should ensure that the South African Police Service (SAPS), the State Security Agency (SSA), as well as the National Prosecuting Authority (NPA) are fortified and strengthened in order to act without fear, prejudice or favour and to act

professionally at all times. The fundamental idea here is to always put them in the forefront of a struggle launched against corruption and state capture in South Africa. Communities are also urged to act with determination when dealing with acts or threats of criminality (Hoffman 2018).

Conclusion

The fundamental aim of this article was to analyse the phenomenon of state capture as informed by its development in South Africa, looking specifically at the years from 2016 to 2018. This article sought to discover if indeed some of the acts that were committed by Zuma symbolised the actions of someone who could have been captured or not. The document review and thematic content analysis methods as applied in this research reveal that indeed South Africa was controlled and influenced under the regime of the former President Zuma by the Gupta brothers, as is supported by the November 2016 State Capture report, which was premised upon a thorough investigation. The sentiments expressed embodies the view that South Africa's State Capture report should never be undermined as it also led to the establishment of the Commission of Inquiry into State Capture that is currently (2019) underway. This article also shows that the activities related to state capture that were prominent in the years preceding 2016 led to fundamental socio-economic challenges in the form of unemployment, poverty, and dishonest and unaccountable politicians who run for office in order to enrich themselves. To do away with state capture as a promoter of corruption, this article proposed certain resolutions which, if applied or executed, could see anything related to state capture curbed for good. Equally important are the submissions of the author of this article who argues that transparency and a mechanism to monitor corrupt activities as well as state capture activities are needed to see South Africa's maturing democracy grow strong and stronger.

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