

Submission to the State Capture Commission

Making Sense of State Capture in South Africa

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Chapter I: State Capture as a Political Phenomenon

1. Tyranny

State Capture in South Africa is the name for a form of tyranny. It is not simply a synonym for corruption, even gross corruption. We show in this report that it refers to a way of winning political office and maintaining political office through means that are unlawful, frequently criminal and often violent. It differs from traditional forms of tyranny in that it has not required the suppression of the formal, democratic character of the political system so far. It can reconcile itself to multiparty rule and competition because of the way that the South African political scene functions as a dominant-party system.

The ANC has not faced any major electoral challenge, especially not at the national level. Instead, the ANC has itself fragmented into competing factions. Tyranny in the South African context refers to the way factions within the ruling party using illegal, criminal and violent means to win and stay in power in the ruling party itself as a route to exercising state power.

In this analysis we do not attribute the rise of tyranny in the ruling party and hence in the political field as the result simply of subjective factors: personal interests and ideologies. We locate it rather in the character of South Africa's transition from Apartheid and the role that the African National Congress played and explicitly took on in trying to integrate the broken shards of South African society.

In particular, the ANC became the place where two historical projects were reconciled, or, where there was an attempt to reconcile them: the racial transformation of the class structure and the territorial consolidation of the state through the integration of the former homelands. We will see, however that such an ambitious task has proven impossible to fulfill within the frame of the ANC itself, shattering the organisation internally and introducing a period of intense, frequently violent contestation between the party's fragments.

What has come to be known in South Africa as state capture refers to the pursuit of power by some of these ANC fragments through illegal and unconstitutional means. This is the sense in which we refer to state capture as a political phenomenon – not to give it honour, as if all political tendencies or movements are honourable, or to suggest that those involved did not resort to corruption or criminality. Rather, we draw attention to its political character in the interests of accuracy and in order to shed light on the dilemmas that South Africa faces in the current situation. The struggle today is not simply between avowed constitutionalists and democrats and their opponents. The struggle today is for the very integrity of the state in South Africa.

Analysing South Africa today politically requires that we have a working concept of what we mean. What is a political analysis, as opposed to one that is social or economic? The conceptual task is made more difficult by a terminological difficulty. In English, we use the

term 'politics to cover distinct phenomena, those that belong to the *field of politics* and those that are *political*. The French distinguish between these different meanings by changing the gender of the noun and the accompanying article. *La politique* refers to what in English we discuss as politics. *Le politique* refers to *the political*, an awkward term in English. Nonetheless, the distinction is important. In South Africa today, analysis very rarely moves beyond politics (*la politique*) to understand the implication of what has happened to the political (*le politique*). State Capture in South Africa is a phenomenon, not so much of politics (*la politique*), however, but of the political (*le politique*). This is the argument here.

Pierre Rosanvallon defines the political as both a field (*champ*) and as work (*un travail*). As a *field* it corresponds to the place where the many threads that make up the lives of men and women are tied together, a place which frames the collection of their discussions and actions in such a way that they come to see themselves as belonging to a common society. Using the language of institutional economics, we can say that the political coincides with the rules of the game (North, p. 98). Politics refers to the game itself, where players interact in reference to the rules, mostly to follow them and sometimes to break them.

As *work* the political refers to the process of creating the field of politics in the first place. It is the process whereby a group of people, a mere population, comes more and more to look like a community, that is a group bound by explicit and implicit rules governing who may participate in political competition and what and how goods are shared. So, to speak of the political (*le politique*) and not of politics is to refer to the exercise of power and the law, of the State and the nation, of equality and justice, of identity and difference, of citizenship and civility (Rosanvallon, p.12-14).

Consider the following two examples. The Smuts-era period of 'segregation' and the Apartheid era lay on quite distinct ideas about the composition of South African society. Both rested on a virile racism, yet Smuts accepted that the territory of South African enclosed a common society with a common destiny, even if its respective peoples needed representation and expression in 'parallel' and segregated institutions. This was not the Apartheid vision that refused the possibility of a common society made up of different 'races' and of different 'nations'. The Nationalist Party thus worked actively to break the country into multiple states coinciding with their own societies.

From 1955 the Congress alliance, of which the African National Congress was the key party, maintained that 'South Africa belongs to all who live in it'. Here was a conception of the political that insisted on the equality of all South Africans (relative to the claims of Segregation) in a common South African society (relative to the claims of Apartheid). The Anti-Apartheid struggle was thus a struggle at the level of the political and at the level of politics. It sought the expansion of the definition of society to include Black South Africans and it sought the entry of new political players into the field of politics (the African National Congress, the Communist Party, the Pan Africanist Congress, the Azanian People's Organisation, as well as trade unions (Cosatu) and various community organisations (SANCO)).

We will see that the phenomenon of state capture reveals a basic truth about contemporary South Africa. Despite the supposed supremacy of the Constitution, the rules of the political game in South Africa are defined in the ANC and according to its increasingly toxic culture, incorporating authoritarian and democratic tendencies simultaneously.

2. The Modern State

In S.E. Finer's monumental history of government, the 'modern state' is the result of four related events: fiscal absolutism, which is the essential ingredient of public authority, a standing army, central control over the Church or religious authority and territorial consolidation (Finer, p.1282).

Against this measure South Africa made rapid progress on all fronts after 1994. The administrative partition of the country into separate countries (Transkei, Ciskei, Venda, and Bophuthatswana) and "self-governing" regions (Lebowa, Gazankulu, KwaNdebele, Qwaqwa, KaNgwane, and KwaZulu), as well as the multiplication of racially based administrations, meant that public finances were distributed across multiple, independent authorities and bodies. The establishment of the South African Revenue Services in 1997 and the National Treasury in 1999 consolidated fiscal control over the entire territory of the Republic for the first time. The formation of the South African *National* Defence Force saw the incorporation of the various liberation militias with former Bantustan armies and the Apartheid army itself in a new, professional, standing army. The informal authority of the Dutch Reformed Church in the political life of the Republic was ended once and for all. In 1994 South Africa achieved geographical reintegration on the boundaries of the Union territory of 1910. In this regard, Post-Apartheid South Africa can legitimately be described as a modern state, that is, consisting of formerly differentiated territories brought together and whose populations are consolidated under a common organ of rule (Finer, p.1267).

Territorial consolidation, however, is not achieved by writ or by declaration, nor even by constitutional law. It happens when a territorial power achieves supremacy over an area. This is a material process, typically achieved by violence. Francis Fukuyama discusses and compares the rise of the modern state in China and in Europe from feudalism as a movement from *distributed* political power to *centralised* authority. In both contexts, he argues, "state formation was driven primarily by the need to wage war, which led to the progressive consolidation of feudal lands into territorial states, the centralisation of political power, and the growth of modern impersonal administration (Fukuyama, p. 105). In Europe territorial and political integration was also achieved through marriage, in addition to war. This was a uniquely European innovation, according to Finer. "This creation of consolidated territorial states by testamentary succession stands in total contrast to the way they were created in Asia – and this includes Muscovy" (Finer, Op Cit., 1269). To this we must add a third method, one pioneered in the modern era by the Bolsheviks and practiced by Africans in the period after the formal end of colonialism: the political party. Not war, not marriage but the liberation party is the privileged route to territorial amalgamation.

The great majority of states that exist today have been created since the end of the Second World War, most after 1960, the result of the formal end of European, overseas Empires (Finer, p. 9). From this perspective, 1994, the declaration of the 'new' South Africa represents the book-end of an especially dynamic chapter of human history. There is something *sui generis* about the populations of these new states. As Imperial artefacts they comprised a great variety of peoples, with distinct languages and cultures, with diverse experiences of colonialism and often only passing or nominal shared encounters. That is to say that the territorial logic of colonialism, the move to define borders, was not driven by identity, by any motive to enclose people in a common area on the basis of common traits, nor was it animated by what Foucault once called biopolitics or an interest in defining, regulating, managing or controlling populations. In South Africa and colonial Africa more generally, there is scant evidence for such a will to knowledge (Breckenridge, p. 24).

Rather, colonial borders reflected the balance of power between Imperial powers, settlements with indigenous polities and limits beyond which colonial powers did not wish to extend their authority. This fact is usually taken to refer to the artificial character of post-colonial states (Herbst). But this is not what is unusual about them. What is, however, is the fact that colonialism preserved and encouraged the colony as a place where the threads of human lives could not come together, where the social could not emerge, if we mean by this last term a field where people come to believe themselves as belonging to a common society.

In Nigeria, the Sudan, Kenya, Uganda, Zimbabwe, Tanganyika, Ghana and elsewhere British authorities in the closing years of Empire introduced parliaments and there began a process of tutelage in the British Westminster model of democracy. The multi-party model in a society that was not really one quickly produced a new parochialism based on the awareness of ethnic groups or 'cultural' nations in a competitive setting. In this context, political elites withdrew into ethnic or geo-ethnic or regional bases to mobilise support for such competition (Elaigwu and Mazrui, p. 442).

Mamdani has referred to this fact of fragmentation as a fact of bifurcation, between, on the one hand, citizens, and on the other, subjects (Mamdani: 1996). Indirect rule was the model of domination over the peasantry, where peasant communities were subject to the authority of tribal leadership that governed them through customary law and organized them as tribes. In the urban areas, racist laws and regulations excluded Africans from a civic regime organized on the basis of citizenship. Hence, rural struggles happened under the banner of tribalism, while in the cities and towns, political life centered on access to citizenship.

Nation-building efforts after independence aimed precisely to thread together in a common political community these diverse strands. They sought, that is, to produce from a mere population a national community subject to common laws, norms and institutions. Nation-building frequently operated within the framework of war as the condition of the political community, both politically and also analytically. We see this clearly in Mamdani. The post-colonial state must overcome its bifurcation, that is, become a unitary nation by suppressing, eradicating chiefly despotism and the tribal formations that it elaborates. The state must be detribalised if it is to become a nation. "A consistent democratisation," Mamdani wrote,

“would have required dismantling and reorganising the local state, the array of Native Authorities organised around the principle of the fusion of power, fortified by an administratively driven customary justice and nourished through extra-economic coercion” (Mamdani, p.25).

When *Citizen and Subject* first arrived in South Africa its analysis seemed prescient. Civil-war had broken out in KwaZulu-Natal that, at first glance, posited a tribal-minded Inkatha seeking to shore up the authority of the Zulu King and the institution of tribal chieftainship against civic-minded UDF/ANC activists committed to egalitarian citizenship. What is often referred to as the ‘miracle’ of the South African transition is precisely that this unfolding tribal/civic war was contained. Indeed, it has not become the principle line of cleavage in South Africa today nor the main source of conflict even in KwaZulu-Natal. What is remarkable about contemporary South Africa is just how uncontroversial traditional authorities have become.

This is perhaps not as surprising as the large corpus of African political scholarship has tended to suggest. As Jocelyn Alexander puts it, “Chieftaincy seems an extraordinarily flexible institution, never wholly of the state or of the customary but nonetheless always bound by them” (cited in Jean and John Comaroff, p.3). In South Africa, even as the post-apartheid government has struggled to regulate and accommodate traditional leadership, post-apartheid governments have not had too much difficulty reconciling themselves to the institution (Jean and John Comaroff, p. 22). If this speaks to the character of ‘neo-traditional’ institutions, it also says something about the character of South African society (Geschiere, 2018). Apartheid produced a multiplicity of elites so that the fault lines in society were not necessarily between chiefly elites and civic ones.

Chapter II: Reassembling South Africa's shards

One of the features of states is that they exercise authority over a given territory. Territorial consolidation is not merely a question of land, however. It is primarily a question of subduing and integrating elites and populations into the polity. The incorporation of the Homelands into South Africa constitutes the single most important process overlooked in contemporary studies, both academic and policy. Yet it is in the integration of these territories that many of the dramas of current politics lie. It is where we must locate, for example, the beginnings of the phenomenon of 'state capture'.

By the end of the Apartheid period South Africa had been splintered into a number of territories. Four Bantustan administrations had been given nominal independence and four had operated as self-governing territories, alongside the country's four provinces. In addition to this, three racially segregated administrations were in place for whites, coloureds and Indians in terms of the Tricameral Parliament and four racially separate local government structures operated for Whites, Coloureds, Indians and Africans.

We have seen that the homelands, although lacking international recognition and largely rejected by the majority of people in South Africa were, nonetheless, not mere simulacra of states. They were substantial entities in their own right, with complex social structures and entanglements in the various liberation movements.

Whereas historical sociology emphasises war-making as the main condition of territorial consolidation, in South Africa the collapse of the Bantustans back into a unitary South Africa did not happen through war. Even then, the process was sometimes extremely violent. The civil-war in KwaZulu (and its associated wars in the Vaal Triangle and the East Rand) pitted local homeland elites against the forces of a unitary state. These elites were not reducible to (neo-) traditional leaders and the conflict is barely recognisable in the metaphor of a clenched fist of tradition trying to crush a democratically-minded civic nationalism. Writing about the violence on the East Rand between 1990 and 1994, Chipkin observed: "[w]e will not find the trigger for violence in the panoptic cultures of state surveillance and discipline exercised in the hostels (as Mamdani has argued). Almost the opposite was true. We will find it in [...] the "slackening of controls" over migrants and the "unravelling of hostel life" (Ibid, p.318). At stake was not so much a clenched fist of tribalism as the decline of traditional models of control and the emergence of new sources of authority and prestige. New elites, mainly those from political parties (the ANC and IFP) were coming to displace the power of old elites, representatives of traditional authority and trade-unionists in the main.

How have these shards, as Timothy Gibbs calls the diverse elements of the South African social, been put back together?

We mentioned earlier how in Europe, in addition to war, matrimony served to consolidate territories. This process has been important in South Africa too, though it is generally understudied. In Africa after independence territorial consolidation has largely fallen to political parties and to former national liberation movements in particular. In other words, the

movement becomes the place and the mechanism by which elites are mutually integrated and where they contest for power.

As Chipkin has noted elsewhere “at least up until the 1990s, the majority of political systems in post-colonial Africa converged around a common political form. Irrespective of the country, the electoral and political system inherited from the colonial period [...] was discarded almost everywhere within ten years of independence. Instead, *de facto* and usually *de jure* one-party systems were established and political power was concentrated in the figure of the President” (Chipkin: 2018 , p.116). The transition to one-party political systems was not only characteristic of socialist regimes. It occurred in a great diversity of countries, pursued by ideologically eclectic regimes. The case of Kenya is especially informative because the ‘party-state’ was introduced by Daniel Arap Moi as late as 1982, long after enthusiasm for ‘socialism’ had passed on the continent and in the period where Soviet and Eastern European regimes looked moribund (Ibid, p.116).

Most commonly, this ‘authoritarian’ predisposition is treated as a hangover from colonial models of government (Mbembe, pp. 25 - 58), or it is deemed the result of an tendency in African political culture towards patriarchy, for example (Jeff Guy, 2018). It is often more than those things, however. R.L Sklar suggested in 1963 already that in Nigeria the party system contributed to the “fusion of political elites” and the formation of a ruling class. Jean Francois Bayart nuances this argument. The reciprocal assimilation of elites generates fusion, but it also produces further division. Sometimes fusion and division mark the cycles of political life in the country in question. Where fusion is achieved, however, regimes tend towards stability. Where it is not civil war and political repression are much more likely (Bayart, p. 196). Either way, the centrality of liberation parties in Africa after independence is that they have served as privileged sites where political integration is attempted.

Accumulation

There has been very little work on the ruling class in South Africa, how it has emerged, who it comprises, what it does, whose interests it pursues. More importantly, the question of whether a ruling class even exists has hardly been posed. There is some work done on ‘elites’ but there is not much of it. Instead, the literature from ‘below’, which focused on social movements, on popular resistance, on working class consciousness and struggle is extensive. It is no exaggeration to say that it makes up the lion’s share of social science research in South Africa today. Roger Southall’s study of the black middle class is conspicuous for this choice of topic alone, a choice he even felt obliged to justify. The introduction to his book is titled ‘why study the middle class’ at all.

Southall is really interested in what he calls the ‘upper echelons of black society’, variously called a black bourgeoisie, a black petty bourgeoisie and a black middle class, not simply to understand the distribution of wealth in South Africa, but to understand the distribution of wealth in relation to *power and authority* (Southall, p.60) (emphasis added). In other words, his is a study of elites. He situates the emerging class/power structure, not so much in changes to the form of South African capitalism, but in the context of the political transition. The

negotiated settlement, after the elections of 1994, gave the ANC the keys to the political kingdom, though not to the economic, which remained overwhelmingly in white hands. The broad strategy of the movement was thus to ‘capture state power’ so as to extend its control over the economy.

“[T]he ANC has sought to bring public institutions deemed politically independent in terms of the constitution under the control of a hybrid party-state. Winning state power has made the ANC the major fount of opportunity, for both employment and access to resources, for a black majority which previously had been blocked from competing freely in the market. As a result, the party-state has become the fulcrum around which social upward social mobility, and chances for ‘private accumulation’, revolve [...]” (Ibid, p.61).

The very novelty of Southall’s approach, however, also produces a theoretical inconsistency. He prefers what he calls ‘productionist’ approaches to class, which he attributes to Marx and Weber, suggesting, presumably, that class location is determined by ones position in the relations of production. He fudges the definition, however, by defining class location in relation to occupation and to the possession or not of wealth. It is not difficult to see the reason for his sudden vagueness. Consider below the class and power structure that he outlines.

| Class | Typical Occupation | Power Location or limitation |
|----------------------------|---|--|
| Power Elite or bourgeoisie | Senior State Managers Corporate Owners and managers Residual Upper Class | High Position in Party and State Private Assets and corporate authority Assets and Investment |
| Upper Middle Class | Middle Level state managers Middle and lower corporate managers Independent professionals | Location within the party or state bureaucracy Location with corporate hierarchy Dependent upon access to state and market |
| Lower Middle Class | Lower-level state managers Semi-professionals White collar employees and supervisors | Low position in party or state bureaucracy Location in public or private bureaucratic hierarchy, membership of trade unions. |

| | | |
|------------------------------|--|---|
| | Small-scale business owners and operators | Subjection to routinised bureaucratic or corporate authority, membership of trade unions. Access to market opportunity |
| Core Working Class (CWC) | Formally employed skilled or semi-skilled workers | Membership of trade unions, industrial action, political protest, collective action |
| Marginal Working Class (MWC) | Farm and Domestic Workers, informally employed or unemployed | No membership of trade unions, political action, collective action |

Many of the ‘class’ categories that he proposes are clearly not categories related to production. They are categories whose bearers occupy places in a structure of *administration* and whose functions relate to the performance of government. Why call senior state managers a bourgeoisie, for example, when their relationship to production is far removed?

Karl von Holdt introduces the term ‘class elite’, an awkward expression that captures some if this ambivalence, to refer to black entrepreneurs and aspirant entrepreneurs unable to accumulate capital through the market and who enter the state to realise their class aspirations (von Holdt, p. 8). In *Shadow State*, Chipkin and Swilling *et al* argued that the very notion of radical economic transformation arose from frustration with BEE, which privileged the private sector. In the face of white resistance, SOE investment and preferential procurement was seen as another route to black capital formation (Chipkin and Swilling, pp. 31-32). On these terms it is various informal networks of black business and their political allies that ‘capture’ the state and use it for purposes of self-enrichment and accumulation (Ibid, p.9). We saw that Southall makes a similar argument, though he is more precise. There is an intermediary between the social networks and positions in the state. It is the ANC *qua* ‘party-state’. In other words, it is the ANC that does the capturing.

The deliberate politicisation of the public administration in the 1990s meant that access to senior positions in government was largely decided through ANC political structures, especially through provincial and regional committees (Bhorat et al: 2017, Chipkin and Swilling: 2018, Chipkin: 2021). Hence, black entrepreneurs would have to pass through party structures before they could access resources. This route would not have been possible if, for example, after Apartheid the South African public service had been properly rationalised, so that appointment into and promotion within government departments was conducted not just meritocratically but through agencies independent of the ANC and of the political scene. This is the role that national schools of government play in many countries and/or public service commissions and their equivalents in Commonwealth countries. In South Africa during the Apartheid period, although public servants were not formally allowed to be members of political parties, in practice senior appointments were made via the shadowy world of the Broederbond. Ironically, after 1994 the ANC did not stamp out such practices but deepened

and expanded them, de-professionalising the recruitment process across the government system and at all levels (Chipkin: 2021). The failure to distinguish between political and administrative roles is especially acute at local government where it is hard baked into the very definition of roles. Councillors who are elected representatives are also those charged with operations.

It is precisely the blurring of the lines between political and administrative roles that makes it possible for party officials to enter the senior echelons of the public service where it becomes possible for them to allocate and dispose of public capital, sometimes according to policy and according to the law, sometimes converting it into private capital, either for purposes of self-enrichment and/ or to subsidise party-political activity.

The centrality of the ANC as the conduit between economy and state and back again is key to understanding the current situation in South Africa. State capture is as much about accumulation and self-enrichment as it is about *maintaining the ANC in power*. This is why the Zuma and Gupta network were especially important to the state capture phenomenon. Their network provided a path for accumulation through State Owned Enterprises in the main but it also tried to maintain a delicate balance between keeping its faction dominant in the ANC and of keeping the ANC itself in power. The Zuma alliance started to unravel at precisely the moment it started becoming a liability to ANC electoral success. A decisive moment, that is, for the future of the Zuma alliance came in 2016 when the ANC suffered important electoral setbacks in the local government elections. The party's national share of the vote dropped triggering worries across the organisation that national political success was no longer secure. It is likely that this calculation that informed the decision of David Mabuza and the Mpumalanga ANC to back Ramaphosa for President of the ANC over Jacob Zuma.

Integration

It is not difficult to see the limitations and the appeal of the analysis above. It firmly locates state capture and the broader dynamics of the South African political economy in the struggles over accumulation. It suggests, moreover, that South Africa's new elite is comprised of aspirant black capitalists masquerading as public managers. It does not deal for a moment with the question of territorial consolidation and the integration of elites.

We saw above that Southall's schema of the South African class and power structure elided the difference between social positions derived from the relations of production and positions in the state hierarchy. We propose a distinction between types of social stratification depending on their origins: *classes* for social groups arising primarily from production, *ranks* for social groups arising from the *means of administration*. This schema allows us to consider both the vertical politics of contemporary South Africa and its horizontal dimensions.

Political-economy provides very compelling insights into the current state of South Africa, yet it potentially overstates, as we have seen, the unity of the South African political field. It is useful to define the class structure of South Africa as singular and unified across the territory because despite regional unevenness and differentiation it is difficult to make the case that the

homelands achieved anything like economic independence or even relative autonomy. There may have been Homeland elites but there were not *sui generis* homeland bourgeoisies. This is not the case, however, with the structure of government and, therefore, with the *system of ranks*. We can thus discuss the case of a single national economy (also with international entanglements) and a South African class structure in relation to at least 9 structures of rank, some more developed than others. The challenge of post-Apartheid politics, that is, centres on the transformation of the economy as much as it does on building a unitary state – even if the latter hardly receives attention.

The centrality of the ANC in this regard, does not arise because it is a path to accumulation for an aspirant Black bourgeoisie but because the ANC has become the privileged site for the mediation and integration of multiple elites, including aspirant Black capitalists and former state managers and officials from the Homelands. The results of this process are extremely uneven, leading in some cases to political fusion and the emergence of a ruling class and at the other extreme, perpetual instability, with variations of “fragile stability” in between (Beall, Gelb and Hassim: 2020).

Defining the Elite

How then should we conceive of elite politics in South Africa today? It should be clear that terms that already presuppose or imply a settled unity and power of an elite group are profoundly misleading, terms like, for example, ruling class or power elite. South African is in the midst of ongoing, frequently violent contests about the limits of the elite (its membership, who decides and on what criteria) and its respective power and authority.

We thus follow Robert Dahl in defining an elite as a *minority of individuals whose preferences prevail on key political issues* (Dahl, p. 464). He distinguishes between two variables in identifying elites: their potential for control and their potential for unity. A group may have great potential for control but frequently lacks the unity to impose its preferences. Dahl asks us to imagine military generals in the US, for example, who could most definitely establish a military dictatorship if they wanted to. but who have shown neither a preference for such an outcome nor evidence of acting to establish one.

This a methodological challenge for all types of elite theories. They must demonstrate that the group in question has both common preferences and an ability to act in concert. They risk becoming mere conspiracy theories when they cannot. Jon Stewart once quipped about Jewish conspiracy theories: “If the Jews control the media, why don’t we give ourselves better press?”

Unity of action does not simply follow common interests even when they exist. This was one of Lenin’s major theoretical insights, one that transformed politics in the twentieth century. The Communist Party was not a traditional party like those that had emerged in Britain in the eighteenth century and in the US in the nineteenth century, whose growth was linked with resistance to despotism and to the emergence of representative government (Keane, p. 296). Ernest Mandel describes Lenin’s “party concept” as such: “the need for the vanguard party

results from the de facto, day-to-day fragmentation of the working class as regards its living conditions, its conditions of work, its levels of militancy, its political past, the historical roots and the stages of its formation, and other such factors. The need corresponds to a necessary process of unification and homogenization of self-consciousness of the class.” (Mandel, p. 31). If we substitute working class for African people or for social elites then the massive appeal of the vanguard model becomes apparent. African nationalist parties, like national liberation movements, do not simply articulate interests, like Fanon believed. They play, rather, the role that Fanon incorrectly attributed to revolutionary violence. They are the place where elites form in the first place. The process is prone as often to failure as it is to success.

In the South African context we define political elites as those who are able to prevail within the ANC to access senior positions in the State. As we will see one of the defining features of contemporary South Africa is that no elite groups have gelled into a ruling elite or power elite.

Chapter III: The site of the political is the ANC

In October 1991, shortly after the unbanning of the ANC, a meeting was held in Durban to discuss the formation of a Patriotic Front (PF). The intention was to prepare for constitutional negotiations with the National Party by calling for an interim government to oversee the transition with control, at least, of the security forces and the electoral process.

The ANC wanted negotiations only to settle broad points of principle, leaving the constitutional details to an elected Constituent Assembly. The National Party, unsurprisingly, wanted as much detail agreed upfront where it still had authority and before elections diminished its importance. At this crucial stage, what mattered was the composition and the relative strength of the negotiating sides. The ANC and the NP agreed that all parties represented in Parliament should participate negotiations, including homeland governments. Extra-parliamentary structures invited to join the CODESA process included the ANC itself, as well as the PAC, AZAPO, the SACP. Testament to their importance, the ANC and the NP were eager to bring homeland leaders into their respective coalitions.

When representatives of KaNgwane, KwaNdebele, Lebowa and the Transkei were included amongst the 400 delegates AZAPO and the PAC expressed dismay that the PF was becoming a 'Pathetic Front' (cited in Phillips, p. 160). Nonetheless, the Patriotic Front held together because the ANC made a strong effort to keep Bantustan leaders in the fold. They were deemed important for maintaining the balance of forces in national negotiations in the ANC's favour. More importantly they were thought to be key to electoral success in former homeland areas.

Phillips notes that the first formal relationship between the ANC and the Lebowa government dates from September 1990, when the 'Lebowakgomo Minute' was signed, calling on the ANC's National Executive "to refrain from interfering in matters relating to traditional leadership" and to maintain a "cordial relationship" with the Lebowa cabinet (Ibid, 158).

The ANC's attitude to Bantustan leaders had begun to change formally after 1987 when Bantu Holomisa, a young Transkeien army officer, overthrew Stella Sigcau in a coup d'Etat and soon after allowed the ANC and MK to operate from the territory. Holomisa's example suggested that homeland leaders were potential allies under the right circumstances.

The change of attitude to homeland leaders also followed a gradual shift in regard to the institution of chieftainship too. Once considered as, at best, an atavistic survival from the past, if not an instrument of colonial rule, by the 1990s 'progressive' chiefs were being celebrated as anti-colonial heroes. The formation of the Congress of Traditional Leaders (Contralesa) in 1987 and its support for the ANC played an important role in this change of heart (Ibid, p.176). What may have started off as tactical support for Bantustan leaders, however, turned out to have long lasting effects. Phillips argues that in the new province of Limpopo, for example, chiefs from the former Lebowa Bantustan were able to accumulate even more power than they had had in the past.

The legacy of the homelands is most apparent, however, in the civil service. Altogether, 480 000 homeland officials entered the provincial administrations after 1994, contributing almost 70% of the public service there. The remaining 222 000 were drawn from the former provincial administrations of the Transvaal and the Orange Free State in the main (Lodge, 738).

Transformation of the public service in the 1990s privileged two main endeavours, the first to reduce the number of white officials in senior positions and the second, to Africanise the institution. At the same time, public service reform was influenced by the international fashion for making government administrations less bureaucratic and more managerial. The introduction of the Senior Management Service in 2000 was seen as silver bullet to this end. It sought to create an elite core of public managers in government departments that would be innovative and improve service delivery whilst also changing the demographic profile of government (Chipkin: 2011). In Limpopo, it was largely former Homeland officials, especially from Lebowa, that took up these positions. In the Eastern Cape, the majority of new Provincial government officials were drawn from former Transkei and Ciskei administrations. These two homelands had almost gone to war and the relations between their administrations were tense to start off with. Jeff Peires, the historian and ANC activist who served after 1994 as a provincial official noted during his time intense competition between former homeland civil servants. As Ciskei officials seemed to secure the lion's share of leadership positions, so Transkeian officials either refused to take instruction from their Ciskeian counterparts and/or actively sabotaged government programmes. Much of the instability and dysfunctionality of the provincial administration in the Eastern Cape has its origin in the unresolved conflicts arising from this process of territorial consolidation after 1994.

The ANC is the Political

The ANC became the site where these tensions manifested politically. One reason why this is so is suggested by Gibbs who showed the deep entanglement of ANC leaders with Bantustan leaders even when the organisation officially disowned them. The privileged place that the ANC occupied in the distribution of senior positions in the public service drew former homeland officials to the party in numbers. This was further encouraged by the mass recruitment drives that the organisation embarked on after 1990.

Under the auspices of the Department of National Organising the ANC set about recruiting a million members. By 2007 the organisation had a mass base, including 621 237 card-carrying members in 2 700 branches (Darracq, p. 593). Five years later, reports Anthony Butler, audited membership was apparently more than 1.2 million (Butler, p.13).

Who were these members and how did it affect where power lay in the ANC? Working this out is not a straightforward matter and it requires some understanding of the structure of the organisation.

In 1997 the organisation revised its constitution to consist of the following organs:

1. The National Conference which elects the National Executive Committee
2. The Provincial Conference which elects the Provincial Executive Committee
3. The Regional Conference which elects the Regional Executive Committee
4. The Branch Biennial General Meeting which elects the Branch Executive Committee.

In addition, the organisation comprises a Women's League, a Youth League and a Veteran's League. The NEC is the highest organ of the ANC and has wide authority over provincial, regional and branch structures. It can suspend and dissolve Provincial and Regional Executives. It oversees the work of the ANC Women's League, the Youth League and the Veteran's League. It is responsible for the party's administration, establishing departments and delegating powers and authority. It manages and controls all the ANC's property and assets. It appoints the National List Committee that decides who goes to parliament.

In terms of Rule 10 of the constitution, voting delegates to the national conference, which elects the NEC, must be overwhelmingly (90%) made up of people elected at Branch General Meetings. This is because the "ANC Branch is the basic unit of our organisation" (ANC: Organisational Renewal: 2012, p. 45). Moreover, 1) the number of delegates per branch must be in proportion to their paid-up membership and 2) the number of delegates allocated to each province is fixed in proportion to the paid-up membership of each Province (ANC Constitution, 10.1.1.1 and 10.1.1.2).

The ANC guards the method it uses to calculate the number of delegates like Coca Cola protects its secret recipe. What is the ratio, for example, that determines the number of (paid up) delegates a branch may send to conference relative to its size? If a branch has a hundred paid up members, how many get to go to conference? Rule 10.1.1.2 is equally obscure. What is the ratio that is used to determine how many provincial delegates have voting rights in the national conference? The Secretary General's office makes these decisions, making its office holder very powerful indeed. Currently, that person is Age Magashule.

There is, nonetheless, some comparative data available that is indicative of profound changes in where power lies in the ANC. It suggests a growing divide between a) the ANC's self-image and reality as well as b) a growing distance between where the organisation's electoral support is found and who rules in the party.

In 2015 Anthony Butler compiled the very useful table below:

| <i>Province</i> | <i>1997</i> | <i>2002</i> | <i>2005</i> | <i>2007</i> | <i>2010</i> | <i>2012 Jan</i> | <i>2012 June</i> |
|-----------------|----------------|----------------|----------------|----------------|----------------|------------------|------------------|
| E Cape | 44,684 | 89,167 | 70,651 | 153,164 | 161,161 | 225,597 | 187,585 |
| Free State | 40,184 | 33,115 | 38,331 | 61,310 | 41,627 | 76,334 | 121,074 |
| Gauteng | 42,824 | 52,764 | 58,223 | 59,909 | 70,305 | 121,223 | 134,909 |
| KZN | 64,998 | 53,531 | 75,035 | 102,742 | 192,618 | 244,900 | 331,820 |
| Limpopo | 68,560 | 44,107 | 56,474 | 67,632 | 101,971 | 114,385 | 161,868 |
| Mpumalanga | 38,044 | 48,588 | 48,239 | 54,913 | 46,405 | 98,892 | 132,729 |
| N Cape | 19,894 | 24,390 | 21,608 | 37,267 | 37,122 | 42,342 | 36,428 |
| North West | 35,800 | 41,388 | 39,006 | 47,353 | 57,911 | 60,319 | 75,145 |
| W Cape | 30,790 | 29,796 | 33,141 | 36,237 | 40,427 | 43,397 | 38,499 |
| Total | 385,778 | 416,846 | 440,708 | 621,237 | 749,112 | 1,027,389 | 1,220,057 |

Figure 1 ANC Membership from 1997, from Butler, p.16.

What it shows is the considerable growth of ANC membership per province between 1997 and 2012. The time intervals reflect either National Conferences and meetings of the National General Council. In the run up to the Polokwane conference in 2007 ANC membership jumped by almost 30%, with especially high growth in the Eastern Cape (53%) and the Free State (37%). We could not find more recent data on ANC membership but the difference between the number of delegates that attended the 2012 National Conference in Mangaung and those that attended the 2017 conference in Johannesburg is small, only 223. This suggests that global membership has remained fairly constant. There are dramatic changes, however, in the Provincial composition of such membership.

We have already mentioned the growth of membership in the Eastern Cape and in the Free State. In the case of the former, membership continued to rise until January 2012 when it hit a high of more than 225 000 people. After that the number fell steeply. By June, for example, it had fallen almost 17% to 187 585. From there it continued to decline. In 2012 the Eastern Cape sent 676 delegates to the ANC's national conference, second only to KwaZulu-Natal and more than a hundred delegates ahead of Limpopo in third place.

In 2017, the number had dropped to 648 delegates. The size of the Eastern Cape delegation, moreover, had fallen into third place behind Mpumalanga and Limpopo had almost caught up. Between the 53rd and 54th conferences of the ANC, that is between 2012 and 2017, growth in three provinces in particular was dramatic. In 2012 the North West sent 234 delegates to Bloemfontein. Five years later it send 538, an increase of 113%. Mpumalanga sent 467 delegates in 2012 and 736 in 2017, a nearly 60% rise and the number of Free State delegates rose 26% from 324 to 409.

In 2012, delegates from North West, Mpumalanga and the Free State made up less than 23%

| Year | Total Delegates | Eastern Cape | KwaZulu-Natal | Limpopo | Gauteng | North West | Mpumalanga | Western Cape | Free State | Northern Cape |
|----------|-----------------|--------------|---------------|---------|---------|------------|------------|--------------|------------|---------------|
| 2012 | 4500 | 676 | 974 | 574 | 500 | 234 | 467 | 178 | 324 | 176 |
| 2017 | 4723 | 648 | 870 | 643 | 508 | 538 | 736 | 182 | 409 | 197 |
| % Change | +4,7% | -4% | -11% | +12% | +2% | +113% | +58% | +2% | +26% | +12% |

of all delegates at the ANC's national conference. In 2017 this figure had grown to a whopping 35% of all delegates at Nasrec.

The ANC may have think of itself as a largely urban, working class movement. In 2005 the National General Council reported that the organisation's "constituency was disproportionately weighted in favour of the urban areas, it was overwhelmingly working class, and it was African in the main" (ANC: NGC2005, p.14). Yet Tom Lodge was correct when he noted that the party's "urban support was traditionally weak whilst its most committed followers were in the rural areas (Lodge, p.5). In reality, after 1994 the ANC became a movement largely composed of former homeland officials, nurses and teachers, increasingly where power lies in ANC-homeland networks in Mpumalanga, North West and the Free State.

The Rise of the Provincial and Local Elites

Is it possible to demonstrate the growing power of provincial and local elites empirically?

This is what we try to do in this section with regard to the national executive committee or cabinet. We have looked for trends in the composition of cabinets from 1994 to 2018 by compiling basic biographies of their respective ministers and deputy ministers.

Some important work has been done showing the turbulence that Jacob Zuma brought to the structure of government and its composition. Vinothan Naidoo, for example, has shown that after the relative stability of the Mbeki period, there was a sharp spike in the number of government entities. Cabinet saw 15 'big bang' organisational events, including the creation of new ministries, the splitting of some and the re-naming of others (Naidoo: 2017). Gareth Van Onselen noted that between 2009 and the end of 2018, there were 164 changes to the cabinet. On the 25th of May 2014 alone 25 ministers and 22 deputy ministers were shuffled. This was not exceptional, however. Twenty-six changes were made in 2010, twenty in March 2017 and thirty-one ministers were shuffled in February 2018. Sometimes a cabinet lasted only a few days. On average national executives lasted 35 weeks – not even three quarters of a year. In the political-administrative interface there was similar instability. 172 Director-Generals were

appointed across 38 departments. On average they served less than 2 years. They seldom remained with the same minister for more than a year. Van Onselen described this period as one of a “profound turmoil and dramatic and frequent change” (Van Onselen: 2018, p.1). With characteristic bluntness he writes, “this is not how you manage a national government, it is how to sew chaos, uncertainty and disorder”.

Yet it was not only chaos that these changes produced. Cabinet shuffles were the pretext for a transfer of power, from national figures to local and regional politicians, many of whom had started in the homelands, either as politicians or, more frequently, as teachers and nurses.

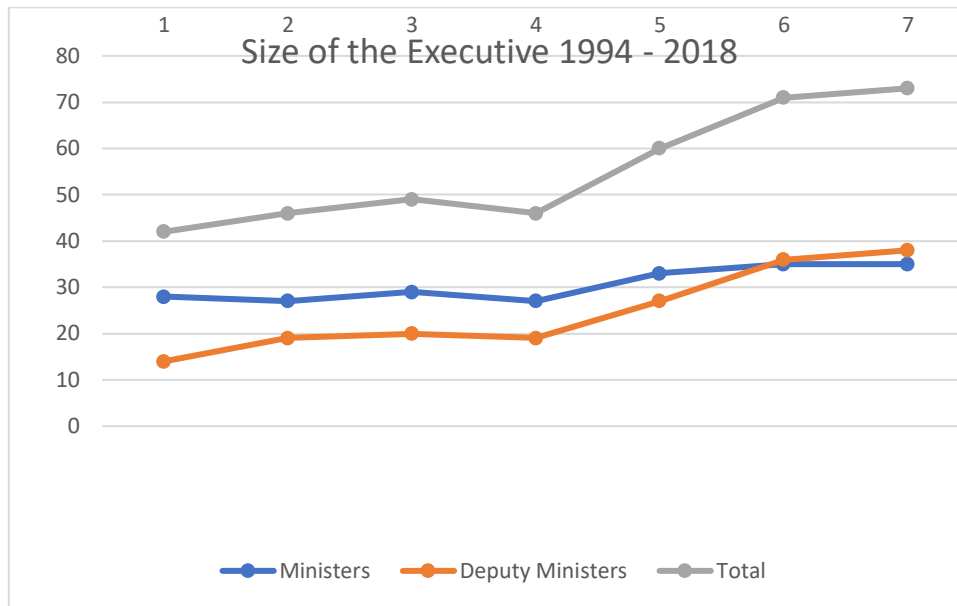
The Mandela and Mbeki governments were overwhelmingly composed of national political figures. That is, politicians who had either come from exile where they had served the ANC or who had occupied leadership positions within the broad anti-Apartheid alliance. In Mandela’s cabinet all ministers conformed to this definition, with the exception of four former Homeland leaders, Mangosuthu Buthelezi (KwaZulu), Ben Ngubane (KwaZulu), Stella Sigcau (Transkei), Bantu Holomisa (Transkei). In the first cabinet of Thabo Mbeki, we see the appearance for the first time of provincial politicians. Buthelezi and Sigcau are still there, and they are now joined by the former Premiers of the Free State, Ivy Matsepe-Casaburri and Terror Lekota as well as Ben Ngubane, who, in between, has served a stint as the Premier of KwaZulu-Natal.

Matsepe-Casaburri was in exile for 25 years, returning to South Africa only in 1990. Terror Lekota was one of the founders and leaders of the United Democratic Front. Both, therefore, are national figures. In 2004, Marthinus Van Schalkwyk becomes the minister for Environment and Tourism. The former head of the (New) National Party has come to the national executive after first serving as the Premier of the Western Cape. Also, in 2004, Makhenkesi Stofile, the former Premier of the Eastern Cape joins cabinet. Musa Zondi from the IFP, formerly an official in the KwaZulu government, becomes Deputy Minister of Public Works. Public Works has become a homeland affair – Sigcau is Minister and Zondi is her deputy.

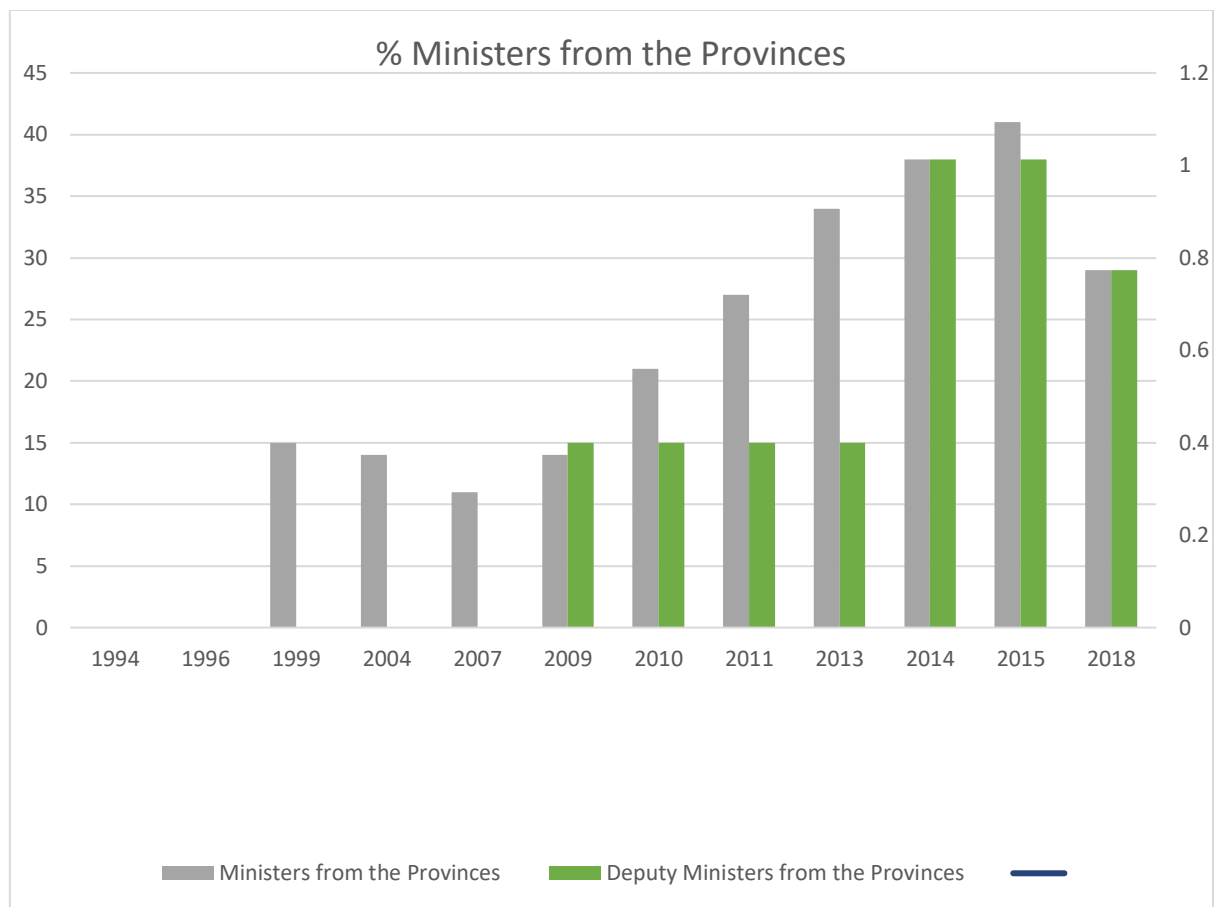
The provincial and regional presence in cabinet is still, nonetheless, small. Of the 49 ministers and deputy ministers only six had homeland and/or provincial government experience. This represented 12% of the cabinet. During the interim administration of Kgalema Motlanthe this percentage declined by half to just over 6%. Ivy Matsepe-Casaburri remained minister of Communications and Marthinus Van Schalkwyk stayed as Minister for Environment and Tourism. Stella Sigcau had since died of heart failure. Sicelo Shiceka became Minister of Provincial and Local Government. Before that he was MEC for Local Government in Gauteng.

President Jacob Zuma’s first cabinet in 2009 marks a dramatic change. Between 1994 and 2007 the size of cabinet was relatively stable, remaining in a range of between 26 to 29 ministers and between 12 to 19 deputy ministers. Then in 2009 the size of the executive jumps noticeably. President Zuma has 33 ministers and 27 deputy ministers (60 in total), compared with Motlanthe’s 27 ministers and 20 deputy ministers (47 in total). By the end of his term

Zuma’s term, the executive had grown to 71, comprising 35 ministers and 36 deputy ministers. Compared to the 1994 cabinet, the number of deputy ministers had doubled and then some.



These numerical and structural changes also facilitate an as yet unremarked on sociological shift. More and more ministers are local and regional politicians. For the first time, officials that served in local government positions are hoisted into the executive. In 2009, 16 members of the executive came from provincial or local government. This represented a whopping 26%, or more than a quarter of the cabinet. By 2014 the number of provincial and local government figures had risen to 26, or almost 40% of cabinet.



From 1999 there is evidence of the first national politicians deployed to provincial government arriving in cabinet (light blue line). This more or less coincides with the disappearance of Bantustan leaders in the national executive (navy blue line). There is a steady growth of national politicians returning to national politics through the 2000s, rising quickly from 2009. This trend peaks in 2014 and then falls off dramatically.

We can see the early trade-union base of the Zuma constituency reflected in the rise of local and regional unionists into the cabinet from 2011 (yellow line). What is most striking, however, is the rise of local and regional politicians into cabinet (orange line). It starts slowly after 2009 and then skyrockets from 2011, stabilising at a very high level in 2014.

In the graph above, showing what percentage of ministers come from what provinces, the dominance of local and regional politicians from the North-West and from Mpumalanga is also clear. The third leg of the 'premier league', the Free State scores poorly in cabinet positions, but not in the leadership of the ANC itself, where Ace Magashule, the Free State Premier is also the Secretary General.

These trends continued into the composition of Cyril Ramaphosa's cabinets. Despite initial discussions of rationalisation, the first post Zuma cabinet had 71 ministers and deputy ministers. Sixteen of them, that is, more than 20%, were trained as teachers and nurses. Nearly a third of them rose up from positions in the Homelands into the ANC and then into government.

Chapter IV: State Capture Starts in the Provinces

We will not gain anything by reducing recent South African history to struggles simply to change the racial composition of the upper ends of the class structure. This vertical politics is overdetermined by a horizontal one: the reciprocal integration of elites coming from the former Homelands. We have seen that the point of connection between these vertical and horizontal processes is the African National Congress itself. The ANC is the alchemy in the system, which transforms black entrepreneurs into capitalists and makes the body politic whole. We will see that it comes at a huge cost to democracy and government in South Africa, however.

How does the ANC play this dual role?

Palace Politics and Informality

We have argued so far that one of the principle challenges for South Africa as a unitary state has been the constitution of the *political* as a process of territorial integration. Concretely this means reconciling the political and administrative elites that emerged in the Homelands back into the body of the state. We have argued, in addition, that the process of elite integration is ongoing and that it happens primarily in and through ANC structures, especially at Provincial Government level. We propose that much of this work happens informally and according to the networks, ties, friendships and animosities that arose in the ANC in exile, in MK and in the camps, in and through the UDF and the trade unions and after 1994 in and through homeland networks¹.

In S.E. Finer's typology there are four main types of polity. He calls them the Palace, the Church, the Nobility and the Forum. They are distinguished by their ruling personnel (Finer, p.37). The last mentioned type (forum) is what would conventionally be discussed as a democratic regime. "To conform to the Forum type of polity, the government must be accountable to the people who have conferred on it the right to govern. In practice this means periodic renewal of its mandate by such processes as elections and the like" (Ibid, p.43). In contrast, the Palace regime is one normally characterised by the rule of a monarch, such that decision-making is autocratic and is legitimised either by the 'gift of grace' (charisma) or by tradition. Hence Forum regimes and Palace regimes are theoretically antithetical. Yet in the historical record they frequently combine in the practice of popular sovereignty.

This arises when the supreme ruler is authorised by popular election to act as they see fit (Ibid, p.57). This does not produce a blend of the two forms but merely an amalgamation between discrete and separate institutions. That is, once popular support is won or confirmed the ruler governs in palace fashion. This comes close to a description of a party-dominant political system, with the difference that particular individuals cannot be sure of their positions but the

¹ This insight comes from Karima Brown, who in the original conception of this report was going to contribute a major section in this regard. Karima died after contracting Covid on the 4th of March 2021.

party as a whole can. Totalitarian regimes are a sub-species of a forum/palace amalgam too, with the difference from mere tyrannies that they claim the right to exercise control over every aspect of society, including the interior thoughts of their subjects.

Finer describes the personnel of the palace as such: it includes the ruler and his family circle, his harem, his courtiers (esteemed advisors), the higher clergy (or his spiritual consorts), the higher military commanders and the ruler's personal staff. These relationships are pathological, Finer argues, because they tend to consist of intrigue and conspiracy to get privileged access to the ruler and gatekeeping, to keep others out (Ibid, p.42).

What Finer discusses as palace politics is described under the rubric of informality today. Until recently, the literature on informal institutions and informal governance has been limited. "The mainstream of scholarly research was almost exclusively aimed at the 10% of the visible tip of the iceberg of ongoing social processes that is borne by the 90% invisible ice under the sea's surface, even though the central role of the informal is widely and prominently recognized" (Brie & Stolting, 2012: 19). This is especially true when it comes to the study of the African National Congress.

Beneath the layer of statutes, regulations and bureaucratic hierarchies there is a complex web of interpersonal relationships amounting to a parallel structure within organisations (Baez-Camarago & Ledeneva, 2017). A growing body of a comparative research suggests that many of the 'rules of the game' that play a decisive role in the political life of organisations are actually informal, which means that they are created, communicated, and enforced outside of officially sanctioned channels (Helmke & Levitsky, 2004).

Acknowledging the functionality of informal practices goes a long way to accounting for their resilience. They are resilient because they perform critical functions for political elites, private interests and occasionally, ordinary citizens (Baez-Camarago & Ledeneva, 2017). The essence of informal institutions can be summarized in the following points:

1. Actors share a common set of expectations.
2. They rely on simple forms of reciprocity
3. Rules are unwritten but understood by each actor.
4. Exchanges are non-contractual and non-specified in terms of time.
5. They are implemented confidentially and with no particular attention to detailed objectives and methods and
6. They rely on self-enforcement in case of a breach of perceived agreement (Hyden, 2006).

If the ANC functions like a palace or an informal institution, who are its members and what 'rules' of conduct do they follow? Like Finer's description of the palace, the ANC court comprises party leaders, their families and their wider network of lovers and mistresses. It includes the leaders' staff, their bodyguards and drivers and the personnel in their private offices. It includes political allies and colleagues, many, as we have seen, former homeland leaders and officials. Friends are there as are spiritual advisors (mainly from Rhema and other Pentecostal churches). In attendance are policemen and members of the intelligence community, both

officially and unofficially. The ANC has a long entanglement with criminal gangs, trying as Clive Glaser has argued, to draw them into political work (Glaser: 2000). Gangsters and organised criminal syndicates are present at the ANC court too.

With so much internal intrigue it is hardly surprising that the ANC has become inward-looking, self-seeking and self-preserving (de Jager & Steenekamp, 2015). Tom Lodge identifies the main symptoms of what he calls neo-patrimonialism within the ANC, as including the growth of personality-based politics, legitimized increasingly by appeals to 'traditionalist' representations of culture, appeals to African racial solidarity and nostalgic recollections of patriarchal social order (Lodge, 2014: 2). This is not so much patrimonialism, however, as the expression of palace politics. At stake is what Beresford calls a volatile 'gatekeeper politics', where political leaders grant or deny access to resources or opportunities, contributing to a volatile and sometimes violent battle over who controls the gate. Gatekeeper politics is therefore not synonymous with corruption, though corruption is a pervasive symptom of it. (Beresford, 2015: 229). This not so much machine politics but soap opera.

Palace Politics in the Provinces

We argue that a model of politics intending the transformation of the class structure and the integration of elites was first developed in the Provinces and in Mpumalanga in particular. It is possible to reconstruct how it works because recently a large body of evidence has entered the public domain through the upcoming court case of Fred Daniels.

Rehanna Roussow describes Daniels in her book *Predator State*, as follows: “Fred Daniel, one citizen among many targeted by predator politicians, stood up against the scourge. The retaliation he faced after attempts by corrupt politicians to grab his reserve in Mpumalanga included vandalism, arson, smears and death threats” (Roussow, back cover). Like others in Mpumalanga Daniels came up against a provincial administration set on the commercialisation of wildlife and conservation assets, from game reserves to natural wonders to estates. The book frames Daniels experience in the terms developed by Chipkin and Swilling et al, in their book *Shadow State: the politics of state capture*. “No businessman,’ it notes, “wants conflict with his government, but academics show how South Africa’s civil service was systematically repurposed away from service delivery to benefit an elite through systematic, illegal and unethical activities and practices. A shadow state secretly and strategically co-ordinated such actions [...]” (Ibid, 227). In this reading, state capture is primarily about corruption.

Daniel’s case will soon be heard before the High Court in Johannesburg. It is not necessary to delve into its details. Rather, what matters is the political context into which Daniels unwittingly entered when he bought large tracks of land in Mpumalanga with the intention of rewilding them. What he came up against was not simply corruption, but a new model of patronage politics.

The term patronage is imprecise in this context, however, for it is intimately associated conceptually and historically with a type of democratic practice; what in the US was called

Jacksonian democracy. The ‘spoils system’, for example, referred to the allocation of civil service jobs to party officials and supporters to keep them loyal. It emerged in the context of fierce electoral competition where the risk of losing office was real and high. Hence, the beneficiaries of party largesse were potential party supporters and officials as voters and as vote catchers. It was made possible because there was no proper distinction in the US until the end of the nineteenth century between political and administrative office (Chipkin: 2021). In South Africa, the situation is very different. The ANC has until recently been largely unchallenged in political office resulting in what is called a ‘party dominant system’ in South Africa (Butler, p.1). The spoils of government do not make their way to potential supporters as voters, therefore. Indeed, this model of politics comes at the expense of service delivery to ordinary ANC voters. Instead, as we have seen, the ANC functions as the interchange between a vertical system that aims at ‘transforming’ the top echelons of the class structure and a horizontal system that seeks the reciprocal assimilation of elites. The beneficiaries, that is, are unstable and competing power networks within the ANC itself. In order to prosper such networks must win battles in the ANC over positions and over positions that decide positions. In order for them to survive, moreover, they must ensure that the ANC remains in power. This explains the ‘unstable equilibrium’ of South African politics: fierce, even violent battles within the ANC between networks (usually called factions in South Africa) and yet organisation-wide solidarity when the party itself is at risk. We should recall that in August 2017 it was Cyril Ramaphosa who persuaded a majority of ANC members of parliament *not* to support a vote of no confidence in then President Jacob Zuma.

ANC finances largely remain a mystery, though how it finances itself organisationally and how the various power networks that compete within it pay for their activities, campaigns and election efforts are key to understanding contemporary politics. The changing character of the ANC over the last 20 years or so has changed not only the quantum of money that the ANC needs to raise in order to operate but also how and by whom it is raised.

In the 1990s and early 2000s the organisation started experimenting with a range of revenue generating schemes to supplement the income it received from the National Assembly. This was clearly not enough, even when supplemented by corporate and other donations. The most high profile of these efforts concerned deals that were struck between Brett Kebble and the ANC Youth League to establish empowerment firms owned or linked to the League itself. The first deal in this regard was for the setting up of eight empowerment companies, including Lembede Investment Holdings, owned by the ANC Youth League, to buy Tradek, a stockbroking firm (Southall, 287). Tradek profits were supposed to finance league activities, though in a flaw inherent to the model, the benefits often went to individuals (Ibid, p.288). Luthuli House ultimately proved more successful than the Youth League in establishing party businesses. Batho Batho had originally been established by Nelson Mandela, Walter Sisulu and Tokyo Sexwale to, unofficially, raise money for the ANC. By the late 1990s, however, it began to see itself as an autonomous company and when Selby Msimang, the then Treasurer General, requested R100 million from the Trust, it asked him to apply for funding as would any other applicant. In Chancellor House they got it right, however, and in the run up to the Polokwane National Conference in 2007 the party was reportedly flush with cash (Ibid, p.290).

Polokwane also marked a point of decisive change in the organisation. As tensions between President Mbeki and his deputy Jacob Zuma deepened, the ANC began to fracture internally. It came to a head in 2007 when Jacob Zuma ousted Mbeki as President of the ANC. From then on fund-raising centred on financing the activities of networks within the ANC, rather than on the ANC itself. By 2017, the party was bankrupt and heavily in debt (Paton: 2017). The model of how this could be done was forged in Mpumalanga.

Mpumalanga is a new South African province that coincides with the Eastern Transvaal as it was demarcated in 1994. It sits between Eswatini in the South East and Gauteng on its Western border. The Lebombo mountains form the border with Mozambique. The province is divided between the Highveld plains and the Lowveld savanna by the Drakensberg mountains, which rises to an immense escarpment. It includes the former homelands of KwaNdebele and KaNgwane.

The new provincial government inherited a highly developed conservation infrastructure centred on game parks and natural reserves. Apart from the Kruger National Park, the province is home to the Songimvelo Game Reserve, the Blyde River Canyon and Loskop Dam. During the Apartheid period environmentalism was associated with racist exclusion and authoritarianism so it is hardly surprising that the new administration saw these assets differently to that of the former Transvaal Provincial Administration (Cock, p.5, see also Dlamini: 2020). In 1995 the new MEC for environmental affairs in the Mpumalanga cabinet, David Mkwanazi, announced that from now on provincial reserves would be run on the basis of “self-sufficiency”. For this purpose a new parks board was established and Alan Grey was appointed as its first Chief Executive Officer.

What self-sufficiency referred to became clearer in 1996 when the Mpumalanga Parks Board (MPB) announced its intention to “commercialise” the province’s parks and reserves. The following year, Alan Gray announced that the board had signed a deal with a Kenyan company with headquarters in Dubai, the Dolphin Group, which included new resorts in the Songimvelo game reserve and helicopter flights in the Blyde River canyon. It turned out that the deal had various secret clauses, including the right of the Dolphin Group to commercially exploit environmental and wildlife assets in the province for 50 years. In return the group would underwrite the MPB’s budget for ten years (*Business Day*: 20 November 1996, *Business Report*: 24 November 1996, *The Star*: 6 December 1996). The MPB also announced plans to commercialise the Blyde River Canyon, Loskop Dam, Mwetomusha, Songimvelo and Swadini.

At face value ‘commercialisation’ was an attractive prospect. It resonated with the international move towards New Public Management (NPM), which was taken up with gusto in South Africa. As we have seen, NPM emphasised *inter alia* out-sourcing government work to private businesses as a way of improving efficiency. In the South African context, out-sourcing held out the prospect too of encouraging the formation of new black-owned businesses to take advantage of the commercial opportunities that would inevitably arise.

Commercialisation promised a way of exploiting environmental assets that had overwhelmingly served white South Africans, indeed, had formed a key part of white South African identity, in the service of black economic empowerment. Moreover, it promised additional revenue to the Mpumalanga Parks Board to undertake conservation activities and also to open the province's parks and reserves to black visitors.

There was evidence from early on, however, that the Dolphin deal was not all that it seemed. There was an outcry in various circles about the contract's secret clauses. Then it emerged that the head of the Dolphin Group, Ketan Somaia, was implicated in Kenya's largest ever corruption scandal, known there as the Goldenberg scandal. There were questions too about Alan Grey, who had companies that stood to benefit from the new arrangements.

In 1998 the MEC for Environmental Affairs, David Mkhwanazi, threatened to cancel the Dolphin Deal. In March of that year he dissolved the MPB, before resigning himself. That same year Justin Arenstein, reported in the Sunday Times that Alan Grey, David Mkhwanazi as well as ANC Youth League leader James Nkabile had used the Province's reserves and parks as collateral to secure 'promissory notes' to the value of \$50 million (then valued at R340 million). The middleman was an Israeli conman with links to the National Intelligence Agency, Morgen Regenreich.

In the meantime the Special Investigation Unit, originally established by President Mbeki and headed up Judge Heath, had set-up in Mpumalanga to look into a number of suspicious deals, including the Dolphin deal as well as the allocation of a farm to the head of the National Parks Board, Enos Mabuza and another to Mangisi Zitha, South Africa's ambassador to Mozambique. Judge Heath implicated Mathews Phosa, the then Premier of the province in corruption. He denied the accusations vehemently. In 1999 he was dropped from the ANC's electoral slate and was thus unelected as Premier. James Nkambule had in the meantime lead a delegation of provincial leaders to Luthuli House in Johannesburg to complain to President Thabo Mbeki that Phosa was spreading lies about him (Lodge: 2003, p.48). Phosa was replaced by Ndaweni Mahalangu, an MP from the National Assembly, who soon after announced, without irony, that it was acceptable for politicians to lie "because the practice is a widespread and accepted political technique" (cited in Lodge: 2003, p. 48). It is not clear whether Phosa was ultimately overthrown in the ANC because he opposed the repurposing of provincial assets or whether he fell out with Thabo Mbeki for other reasons.

In September 1998 under growing pressure, Gray made some astonishing claims in a letter to the *Beeld* newspaper. He hinted at a 'shadowy network' of empowerment companies that stood to gain from the Dolphin Deal. In October he revealed that these companies had been established at the behest of the ANC's national organising secretary, Johannes ka Shabangu as instruments of the ANC to raise money to fight elections. Indeed, when they were launched in 1996 Jacob Zuma attended as National Chairman of the ANC. It is likely that the money collected through promissory notes was used as working capital for these front companies.

Alan Gray's criminal docket brought into the open the bank records of the Mpumalanga Parks Board. They showed that the MPB had paid substantial amounts over to the ANC, more than a

R100 000 to the Youth League, and had paid for delegates' accommodation and ANC T-shirts. In 2003 Gray and Nkambule wrote a confession, admitting to having been recruited by the ANC to establish a secret network of companies that would profit from the commercialisation of environmental assets to fund ANC elections. In 2006 Gray died unexpectedly from a heart attack, putting an end to Mpumalanga's biggest corruption trial. In 2010 Nkambule was also dead. He was only 37 and there was evidence that he had been poisoned.

The Repurposing of Land Reform

In 2001 a Land Claims Officer was belatedly appointed to Mpumalanga to kickstart the process of land reform. South Africa's constitution specifically provides that a community dispossessed of property after 19 June 1913 as a result of past discriminatory laws or practices is entitled either to the restitution of that property or to comparable redress. Apart from restitution, South Africa's approach to land reform includes two further dimensions, land redistribution and tenure reform.

In their recent study of who was benefitting from land redistribution, the Institute for Poverty, Land and Agrarian Studies (PLAAS) compared developments in the Eastern Cape, Free State, KwaZulu-Natal, North West and the Western Cape. It did not look at Mpumalanga. Nonetheless, the institute noted that land reform practices across the country have effectively redirected state resources originally intended for the poor to the better-off. They call this a process of 'elite capture' (Mtero, Gumede and Ramantsima, p.6). On their terms, however, elite capture is the result of a deliberate change in government policy from 2000 that privileged support to commercially-oriented black farmers instead of poor social groups (Ibid, p.18).

In Mpumalanga, however, 'elite capture' was not the result of a neoliberal turn in land reform policy. It was the bitter fruit of the politics of 'commercialisation' applied to a new and richer terrain than hotel developments, hunting and helicopter rides. Right from the beginning land reform officers were given wide discretionary powers to determine "which land should be acquired by the state, whether it should be transferred or leased, and if so to whom and on what terms" (Kepe and Hall cited in Mtero et al, Op Cit., p.9). They also had substantial budgets at their disposal.

In the Grand Valley Estates vs the Mpumalanga Tourism and Parks Agency, the case mentioned earlier concerning Fred Daniels, several claims will be tested, including that Daniels was deliberately harassed and his business destroyed in the interest of corruption. In addition pre-trial preparation has surfaced compelling evidence that provincial officials deliberately inflated the price of farms by up to 2000%, that there was widespread abuse of the Land Claims Commissioner's discretionary fund of R50 million rand and that the claims verification process was by-passed to allow for the creation of fake communities and the lodging of fake land claims. In Rehana Roussouw's account of these events, the person coordinating from behind the scenes was David Mabuza, first as an MEC and then as Premier of Mpumalanga. As in the way that the Mpumalanga Parks Board was repurposed, the commercialisation of the provincial land reform project seems largely to have benefitted the provincial ANC, while also enriching several individuals along the way.

The reciprocal integration of homeland and ANC elites

The reproduction of the ANC's electoral dominance in the province was not a blind pursuit of power for power's sake. The provincial ANC in Mpumalanga was home to complex networks of ANC and former homeland politicians and officials. Governing the province required their consent and cooperation, though it was also the source of division and contestation. Hence, maintaining the ANC in power required balancing these factitious tendencies. It was a task that fell to the party leadership.

We see this clearly if we return to the discussion above but now consider basic biographical details of the various actors involved.

David Mkhwanazi, the former MEC for Environmental Affairs implicated in using provincial parks as collateral for promissory notes was a former cabinet minister in KaNgwane. Alan Grey, who became CEO of the Mpumalanga Parks Board and who later confessed to widespread corruption to fund the ANC was a consultant that worked closely with the homeland administration. Ndaweni Mahlangu, the National Assembly member of parliament who replaced Mathews Phosa as Premier in 1999 was a former KwaNdebele politician (Lodge: 2003, Op Cit, p. 48). Enos Mabuza, who had been appointed after 1994 as the head of the National Parks Board was the Chief Minister of KaNgwane from 1984 until 1991. Mangisi Zitha, the South African ambassador to Mozambique was Mabuza's successor in KaNgwane until 1994. Steve Mabona, the MEC for Safety in Security in Phosa's cabinet was forced to resign after being implicated in corruption. He was restored to his position by Mahlangu after he became premier. Mabona had been a former elected official in KwaNdebele. Mahlangu also brought back David Mabuza into his cabinet, who had previously been fired for manipulating the matric pass rate in Mpumalanga.

Hence the politics of commercialisation served in effect to maintain a complex and unstable balance between former homeland elites and ANC leaders that centred on keeping the ANC in power. At stake, in effect, was the making of a provincial ruling class through the repurposing of state institutions. As National Chairman of the ANC at the time, this is the model of governance that Jacob Zuma was integral to developing with his political colleague and friend Johannes ka Shabangu, the ANC's national organising secretary. Later Shabangu would work with Shabir Shaik to support Zuma's rise in the party hierarchy.

Here the maintenance of political power produced a more or less stable elite, whose members circled each other as in a Mexican stand-off. They are in a permanent state of confrontation with no possible exit. Every party holds a gun to the other and any party tiggering aggression could meet their demise. The loaded weapon in this case is evidence of corruption, which everybody is implicated in.

This group may be powerful but they are neither a ruling class nor a grade elite. The Mexican standoff between them is responsible for the anomalies of the current situation. The elite is driven to secure ANC political dominance over and over again, yet the competitions between them also blocks the emergence of a ruling class invested in economic growth in the same way that it constrains the emergence of a grade elite committed to building government. So South

Africa declines in the face of a shrinking economy and deteriorates in the context of worsening government, all the while reproducing ANC political dominance.

Chapter V: State Capture

In Mpumalanga in the early 2000s the ANC stumbled on a model of governance that proved more or less successful in achieving a fluid equilibrium between ANC and homeland elites. Elite competition was contained as long as the ANC remained in power and was able to create economic opportunities for aspirant black capitalists while also integrating former homeland leaders and officials into the senior echelons of the post-Apartheid civil service. The model required a complex balancing act, providing routes for economic and administrative advance while generating sufficient resources for the party to remain in power. The forced commercialisation of public goods lay at its centre.

Jacob Zuma as National Chairman of the ANC and Johannes ka Shabangu , the party's national organising secretary were key to its development. Their involvement suggests, moreover, that during this time Provinces were important, if not preeminent, sites of ANC fundraising.

Two things changed after 2008. Firstly, there were growing tensions between political networks aligned to Thabo Mbeki and to Jacob Zuma. In 2002 in Stellenbosch the “top six” candidates for the ANC's National Executive Committee were elected unopposed, producing an NEC strongly aligned to the Mbeki cabinet. Five years later at the National Conference in Polokwane every position was fiercely contested and the Mbeki slate was decisively defeated (Sachs, p.15). Such competition drove up the costs of internal elections. In this context, fund-raising efforts were diverted away from supporting the activities of the ANC itself, to stocking factional war chests. Whereas the organisation was flush with cash in 2007, by 2017 it was technically insolvent with liabilities exceeding the value of its assets (Paton, Business Day 20 December 2017).

Secondly, the South African government initially responded to the financial crisis by increasing spending on capital projects. South Africa was hosting the 2010 World Cup Soccer tournament and there was investment in various construction projects as well as the Gautrain. There was also increased spending by public agencies on roads, public transport and on water infrastructure. The largest of these investments, however, came from Eskom for the building of the Medupi and Kusile power plants (Ibid, p.5). Transnet launched its Market Demand Strategy with a R300bn capital investment programme, which included buying new locomotives amongst other things (Chipkin and Swilling, p.72). There was a widely shared assumption in the ANC, if not necessarily in the National Treasury, that growth would return to pre-2008 levels because the commodities super cycle was due to last for years. If this assumption ultimately proved naïve, it was nothing compared to the naivety of American regulators, including the US Federal Reserve under Alan Greenspan, about the self-correcting nature of the markets and the ability of financial institutions to effectively police themselves (Financial Crisis Inquiry Commission, p.xviii). In other words, errors of political judgement and ideology are part and parcel of the system of democratic government.

Like the decision to commercialise Mpumalanga's environmental assets, many of these decisions were initially taken in good faith. Once South Africa had won the right to host the World Cup, building stadiums and related infrastructure was a requirement of the bid award. In Transnet, the decision to increase the number of locomotives made business sense if the commodities cycle was expected to continue. The country would need more capacity to move gold and coal and steel and other goods to ports for export. Similarly, the build programme at Eskom followed from a very real problem: the country did not have enough generating capacity to keep the lights on. It certainly did not follow that this meant constructing two massive coal-fired power stations in a project managed by Eskom itself. Still, in retrospect these look like (huge) policy mistakes rather than decisions taken deceitfully.

A government-led infrastructure programme was attractive at multiple levels. It would modernise the country's core economic assets and it would create opportunities to transform the economy. At the ANC's National Conference in Mangaung in 2012, the party declared that "we are boldly entering the second phase of the transition", which would be characterised by "decisive action to effect economic transformation" (ANC cited in Chipkin and Swilling, *Op Cit.*, p.35). In 2014 the Department of Trade and Industry announced a new programme of "radical economic transformation" to "create a hundred Black industrialists in the next three years" (DTI, cited in *Ibid.*, 36). Most of this new spending would be through the extra-budgetary accounts of public utilities, which had less strict controls over how they were used (Sachs, *Op Cit.*, p. 25).

As Chipkin and Swilling *et al* have shown, the battleground for economic transformation was shifting to State Owned Enterprises. SOEs such as Eskom and Transnet had massive procurement budgets, which would be used to favour black-owned companies. The question was, which companies would they be selected and how?

The events that followed have been widely reported on and analysed. At the end of 2016, the then Public Protector, Thuli Madonsela, issued a report called the 'State of Capture'. It investigated whether the Mcebisi Jonas, then Deputy Minister of Finance, had been approached by the Gupta family and had been offered the position of Minister of Finance. Nhlanhla Nene, the then Minister of Finance, was allegedly fired on the 9th of December 2015 at the bidding of Ajay Gupta. When Jonas apparently refused the Ministerial position Des Van Rooyen was made Minister of Finance in his stead. In a similar vein Vytjie Mentor an ANC parliamentarian, claimed the Guptas had offered her the Ministry of Public Enterprises, in exchange for cancelling the South African Airways route to India (*Ibid.*, p.5). In the background to these accusations, were events at Transnet and Eskom and SAA. The Public Protector thus investigated whether "there were irregularities, undue enrichment, corruption and undue influence in the awarding of contracts, mining licenses, government advertising [...] and any other services" to the Guptas (*Ibid.*,p.6).

At stake was whether these actions amounted to 'state capture', a situation the Public Protector defined as being present if the relationship between the President and the Gupta family had evolved to the extent that:

the “Gupta family [had the] power to influence the appointment of Cabinet Ministers and Directors in Boards of SOEs and leveraging those relationships to get preferential treatment in state contracts, access to state provided business finance and in the award of business licences” (Ibid, p.5).

There are three key things to note about this definition.

The first is that it is not a description of corruption *per se*, which usually involves an element of private benefit. In the definition above what purpose preferential treatment serves is left open. This is presumably why the later Terms of Reference for the State Capture Commission distinguish between ‘state capture’ and ‘corruption’. Secondly, state capture arises when private individuals assume or are granted constitutional roles improperly. Thirdly, state capture concerns control of the highest political office (the cabinet) and the highest authorities in public utilities. In other words, state capture involves the subversion of the constitution and the governmental structure to favour particular businesses and persons.

This conception of state capture is at some distance to the way it is frequently discussed in civil society organisations or amongst journalists. Open Secrets, for example, write in their report *The Enablers* that “to uncover the structure and systematic issues that underpin state capture and corruption in South Africa [...] requires an understanding of the state and the way in which public officials have both abused their power and violated the law to *facilitate the enrichment of a small cabal of individuals and entities*” (Open Secrets, p.7) (emphasis added).

The Civil Society Working Group on State Capture, a coalition of more than 20 organisations, in its submission to the Zondo commission did not feel it even necessary to explain the term. The closest it come in this regard is how it defined the role of the commission itself. “At its broadest the commission is concerned with the involvement of public representatives, public servants and personnel attached to state entities in criminal acts that constitute corruption and fraud, and that involve illegal ‘inducements for gain’” (CSWG on SC, p. 9). These accounts simply take it as given that the purpose of such inducements is self-enrichment. Thuli Madonsela’s definition, however, left this purpose open ended. Therein lies the importance difference between the State Capture Commission as it was established and what was intended by the former Public Protector.

The SCC’s terms of reference are so broad as to be virtually limitless. 1.2 states that it must inquire and make findings on “any form of inducement or for any gain of whatsoever nature to influence members of the National Executive (including Deputy Ministers), office bearers and/or functionaries employed by or office bearers of any state institution or organ of state or directors of the boards of SOE's” (Government of South Africa, p.5). In clauses 1.2 to 1.4 the terms of reference are particular in the way that the Public Protector’s report was. They focus on whether President Zuma and/or the Guptas offered a cabinet position to Mcebisi Jonas (1.2), whether the Guptas had prior knowledge of cabinet appointments (1.3), and whether the President or members of the National Executive breached their constitutional oath in trying to facilitate contracts to the Guptas (1.4). Clause 1.4 doesn’t stop there, however. The SCC is asked to investigate whether any public official or employee facilitated any unlawful tender at

any SOE or any organ of state to any individual, company. Clauses 1.6 and 1.7 are similarly specific. Clause 1.5, however, 1.6 are very wide ranging. 1.5, for example, requires to commission to consider: “the nature and extent of corruption, if any, in the awarding of contracts, tenders to companies, busines entities or organizations by public entities listed under Schedule 2 of the Public Finance Management Act No.1 of 19 as amended” (Ibid.,7).

The problem with reducing state capture to corruption is that we conflate the *modus operandi* with the objective. Moreover, by expanding the scope of the commission so wide it becomes difficult to see the wood for the trees, that is, to see state capture for all the instances of corruption.

State Capture was about the repurposing of key state institutions and SOEs in particular to finance the activities of a faction within the African National Congress. Its purpose, that is, was to maintain in power a particular political network centred on Jacob Zuma. As we saw in Mpumalanga, repurposing meant subverting the mandates of public bodies and diverting their resources into factional war chests. It quickly became a criminal activity and needed a tame and weakened criminal justice system to survive and prosper.

There is compelling evidence before the commission that this model of politics migrated from Mpumalanga to other ‘Premier League’ provinces and to National Government and State-Owned Enterprises.

Commercialisation or the Mpumalanga model.

We saw that in Mpumalanga the criminal repurposing of the Mpumalanga Parks Board and the land reform process saw key individuals get very wealthy. Beyond that, however, commercialisation also favoured the emergence of numerous front companies that were largely fund-raising fronts for the ANC. The State Capture Commission has heard compelling evidence that this model of politics was at work in the Free State too.

Shortly after becoming Premier of the Free State in 2009, Ace Magashule announced plans to build 16000 low-income houses, which, unlike RDP structures, would be larger and better suited for family life. In Pieter Louis Myburgh’s book, *Gangster State*, this project occupies a central place in his narrative of provincial capture and Magashule criminality. Together with the Vrede Dairy scandal, it forms an important part of the deliberations at the State Capture Commission too. Of central concern is how the contractors for this project were selected.

Ace Magashule had had an embattled route to the Premiership. In 1993 the Free State ANC had nominated him as the provincial candidate for Premiership. He was clearly the ‘people’s choice’, coming first on the provincial list for the first democratic election in 1994 (Twala, 110). This was not to be, however. Mosiuoa ‘Terror’ Lekota, a relative outsider was imposed as Chair of the Provincial NEC and it was he who became the first Premier of the Free State. From 1998, moreover, the right to appoint premiers was formally aggregated to the national ANC leadership rather than left to Provincial structures. Consequently, after Lekota was forced out in 1997, President Mbeki appointed a series of relatively unknown women as Premiers in

the Free State (Lodge: 2005, p.743). This set up an ongoing conflict between the Premier and the disappointed leaders of the powerful ANC branches in the industrialised north of the province (Ibid., p.743). It also created ongoing conflict with the southern ANC branches. The south, in this case, consisted of branches largely situated in that fragment of Bophuthatswana that found itself in the Free State, Thaba Nchu, and QwaQwa. The marginalisation of the northern leadership effectively gave greater political voice to former homeland leaders and homeland networks. This was true in government too where new Provincial administrations were often cobbled together from former homeland departments and agencies and the Orange Free State Provincial Administration. The Free State Agricultural and Eco-Tourism Development company (Agri-Eco), for example, formed in 1995 incorporated several provincial parastatals, as well as Thaba Farm Equipment from Thaba Nchu (Bophuthatswana) and the QwaQwa Agricultural Company as well as their subsidiaries (HSRC, p.73). The Free State ANC, like the ANC in Mpumalanga, had effectively become the place where competing elites and histories came together, often furiously. Unlike in Mpumalanga, however, in the Free State this process of elite mediation and integration was much less successful.

By October 2010 the Department of Human Settlements had only spent 10% of its budget. No houses had been built. The award of tenders had been very slow and several of the losing companies had taken the department to court. Nonetheless, 361 bids had been received and 109 had been selected as qualified to do the work, 81 of them established contractors and 28 were emerging contractors. The department, however, was at risk of forfeiting more than a billion rand of its budget to the National Treasury if the stasis continued. The new MEC for Human Settlements in Magashule's cabinet was Mosobenzi Zwane. Instead of merely extending the tender period, he set the entire project aside.

Zwane proposed a new solution. The department would buy all the supplies that future contractors would need in advance. To this end the department spent R500 million rand on materials, almost half the Human Settlements budget (Mokoena:22092020, p.160). Such pre-payment was illegal in terms of the Division of Revenue Act (DORA) and when confronted by the National Minister of Human Settlements, Tokyo Sexwale, Zwane agreed to stop this practice. The former Head of Department, Mpho Mokoena, testified before the State Capture Commission, however, that on return to the Free State the MEC instructed him to continue as before. Zwane also presented Mokoena with a new list of 106 contractors that he instructed him to award contracts to (Ibid, p. 138). These contractors had not been selected via a formal and legal procurement process, as required by the law. Instead Zwane's list was comprised of some of those contractors from the original tender, some from the Province's data base and some that were from neither. Nearly half were completely unknown to the Mokoena. Moreover, he believed that six of them were "very close" to the MEC.

Incredibly, the project went ahead despite the fact that it was illegal in its current form and despite the fact that the department had no technical capacity in the form quantity surveyors, architects or civil engineers (Maxatshwa: 23092020, p. 66). Moreover, the Department of Human Settlements had grossly misrepresented its capacity to the National Department of Housing in order to hold onto its budget. In the end the department laid thousands of foundations but built no units at a cost of a billion rand (Makoena: 22092020, p.103). Judge

Zondo summarised the situation: “Now it is not just this matter where I am hearing this kind of evidence, where a lot of money has been set aside for things to be done that would benefit people but the money ends up with other people and the people who are supposed to have benefitted from that money or what was to be used, what that money was to be used for do not get anything”. (Zondo: 23092020, p.127).

The other matters that the judge had in mind was the Free State asbestos project and the Vrede Dairy Farm saga. In the case of the former, the Department of Human Settlement (them again) paid out R250 million to a joint-venture between Blackhead Consulting and Diamond Hill Trading to remove asbestos in Free State houses. The joint venture, in turn, sub-contracted the work to another company, Master Trade, who, in turn, sub-contracted it to a third party, Master Trade, who did the actual work. They received R21 million in this regard. Blackhead and Diamond Hill did not work on the project.

Edwin Sodi, the businessman who ran Blackhead Consulting denied that anything unlawful had happened, even though the contract with the provincial government was clear that the companies who won the tender were the ones expected to do the work themselves (Pretorius: 29092020, p.100). Moreover, the asbestos contract had been awarded without going through a competitive bidding process (Pretorius: 29092020, p. 51). What Sodi struggled to explain was a spreadsheet that was submitted into evidence. Created by his then business partner at Diamond Hill Trading it recorded the following: Master Trade, the firm to which they outsourced the asbestos removing job, had been paid R48 million rand. This left an amount of R207 million for Blackhead and Diamond Hill to share, that is, R103,5 million each. Yet the spreadsheet recorded that each company had only received R86 million. “So, did it not concern you that if you take your R86million you add another R86million you get approximately R172million? There’s nearly R30million missing” (Pretorius: 19082020, pp142-143). Judged Zondo himself speculated that in theory the difference between the two could be explained by illegal kickbacks (Zondo: 1908202, p.148).

As it turned out the spreadsheet in question mentioned several mysterious payments, including to ‘TZ’, ‘TM’ and ‘Diederichs’, as well as to AM, OM and MEC who, collectively received R25 million. Sodi insisted throughout the day that he had neither read the spreadsheet nor that he had received it (his evidence changed), nor did he know who the initials referred to. In the course of further questioning, however, several names emerged. The first three were likely the initials of provincial officials without whose permission or support the asbestos deal could not have happened: Thabane Zulu (TZ), a Director-General in the national department of Human Settlements, Tim Mokhesi (TM) the Head of the Department of Human Settlements in the Free State and Margaret Ann Diedericks the acting Head of Department of Human Settlements in Gauteng. Sodi, moreover, turned out to be in business with Mokhesi *viz* a property in Parys. He had also paid a R600 000 deposit on a car for Thabane Zulu, ostensibly to repay him for an equivalent debt in alcohol that he had accrued at a bar that Zulu owned. ‘AM’ likely referred to Ace Magashule the Free State Premier, and ‘MEC’, to Mosobenzi Zwane. It is not clear who ‘OM’ is.

In further questioning it turned out that Sodi was a regular and generous donor to the ANC, to ANC politicians and to friends that happened to be government officials. There was R7,5 million paid to Bongani More, the Deputy Director General of Human Settlements in Gauteng, Colin Pitso, the Chief of Staff in then Minister Mokonyane's office received R6,5 million. There was a payment to Diane/Anoj Singh for R10 000. Linda Ngcobo, an official in the Gauteng Housing department and in Cogta got R2 million. At the time of the ANC election in 2014, Sodi paid R3,5 million in respect of ANC tee-shirts and other ANC expenses. There was a reference to a payment of R371 553 to Paul Mashatile. Sodi explained that this payment "was made directly to the ANC" (Sodi: 29092020, p. 41). There was a payment to Pinky Kekana, currently the Deputy Minister of Communications and to Thulas Nxesi for R6,5 million, when he was Treasurer General of the ANC. Today he is the minister of Employment and Labour. Zizi Kodwa, the Deputy Minister of Intelligence received payments adding up to R174 000. Sodi explained: "Chair, it was related to – you know, for instance, he will say that we have not been paid on time this month from Luthuli House or there are delays in payment. It is still happening now and he would ask for assistance because maybe he has got debit orders" (Ibid, p.44).

Advocate Pretorius put it to Sodi that "part of the pattern is that money goes back to officials either in joint deals or in other forms and the ruling party benefits from these deals as it did from all the work that you did" (Pretorius: 29092020, p. 53). Sodi replied: "I grew up supporting the ruling party [...] A lot of the opportunities that we have as young, especially black people, where opportunities created by the ruling party [...] I continued in subsequent years during the elections to vote for the ANC and to support wherever possible. [T]he requests sometimes, when they come – the request may come and say listen, we owe a service provider, for instance, R300 000, they catered for a function at one of our conferences, are you able to assist?" (Sodi: 29092020, p. 54).

In the case of the Vrede Dairy Farm, a project that was intended to finance and support emerging black farmers, saw a similar amount as was paid to Blackhead and Diamond Hill Trading end up in the account of a Gupta-owned company. In the Gupta leaks, the trove of emails between the Gupta brothers and their various associates, an internal accounting ledger was found related to the Free State Dairy deal (Holden: 312 2020, p. 27). It showed that R280 202 652 was paid to Estina (Pty) Ltd in 8 tranches between the 9th of July 2012 and the 5th of May 2016. This money was then 'washed' in a variety of ways to end up back in the Estina account. The link back to provincial politicians or ANC politicians in general is not so straightforward as in the Asbestos case above. The infamous Gupta wedding at Sun City was paid from this money, however. In the case of the Guptas, however, the transfers are often in kind: a sympathetic newspaper and/or a partisan television channel. Nonetheless, a model of politically inspired criminality is discernible.

Private companies are awarded lucrative contracts. Sometimes payments are made to departmental officials in return for easing things along. This is straightforward corruption. More importantly, these companies are expected to make regular and substantial donations to ANC politicians. This could be for purposes of self-enrichment, though it is more likely used

for political purposes. In other words, these payments likely serve to help select politicians contest, win and maintain their power in the African National Congress itself.

In the cases of Eskom and Transnet a variant of this model was at work.

Eskom and Transnet

In 2010, government announced an R84 billion infrastructure fund to be spent over the following five years. Barbara Hogan was then Minister of Public Enterprises and she welcomed the initiative (Hogan, p. 6). Transnet and Eskom would spearhead the investment programme. That same year, Minister Hogan fell out with President Zuma over the handling of the removal of Eskom CEO, Jacob Maroga. She was fired from her post and replaced by Malusi Gigaba. Chris Wells, the Acting CEO of Transnet resigned and was replaced with Brian Molefe. Siyabonga Gama who had been fired as CEO for corruption just two years earlier was brought back onto the executive as well. In 2012 Transnet announced its 'Market Demand Strategy' comprising R300 billion of investment, including the acquisition of new locomotives. That year Anoj Singh was made the Chief Financial Officer and Iqbal Sharma was appointed chair of the 'Bid Acquisition Committee' that oversaw procurement.

Molefe, Singh and Sharma turned out to all have strong Gupta ties. In 2012 a consortium comprising McKinsey and its Black Empowerment partner, Letsema, won the contract to provide financial advisory services. Soon after, Transnet raised concerns about a potential conflict of interest. Letsema also worked with General Electric (GE), who were potential bidders for the locomotives project. Transnet proposed another company, Regiments, as McKinsey's BEE partner, without disclosing that Regiments was partly owned by Salim Essa, a Gupta associate.

In 2013 McKinsey estimated the costs of each locomotive at \$25 million or R34 million, calculating the value of the total projects at R38,6 billion over seven years. This price included all hedging costs as well. They also recommended flexibility in the contracts so that Transnet could adjust its acquisition programme in case there were fluctuations in demand. In 2014 McKinsey withdrew from Transnet and Regiments took over the work. Ultimately, Transnet signed a three-year contract with China South Rail to procure 1064 locomotives over three years at a price of R54 billion. David Fine, in his testimony to parliament reported, that "when McKinsey asked Transnet about these changes, Mr. Singh said that Transnet had done new calculations based on funding costs, exchange rates and inflation and had come to the conclusion that it was better to secure the deal they did" (Fine, 2017).

A similar *modus operandi* was tried at Eskom. The difference between Eskom and Transnet lay in their respective relationships to the National Treasury. Transnet, despite everything was a going concern financially. It is able, therefore, to finance a large portion of its debt off its own balance sheet. This was not the case at Eskom, whose massive borrowing was underwritten by National Treasury guarantees. This gave the minister and the department some oversight of Eskom affairs, especially as they related to the huge power station build programmes. Rationalisation at the National Treasury had already gone far, and treasury

officials were not easily amenable to political instruction, therefore. So when Minister Gigaba tried to set aside the award of contracts for the building of the Medupi and Kusile power stations, his efforts were thwarted. It explains why at Eskom 'state capture' focused on the award of coal contracts. This also goes a long way to explain the lengths that President Zuma went to, to replace Pravin Gordhan and then Nhlanhla Nene with someone more amenable to his politics and to his whims.

In the State Owned Enterprises a variant of the Mpumalanga and Free State model was applied. Transnet and Eskom officials either insisted that legitimate companies with real technical capacity (McKinsey, Neotel) partner with specific 'Black Empowerment' partners. or they pushed out existing suppliers to make space for a new company with strong backward connections to the Zuma political network. That Regiments and later Trillian, as well as the Gupta companies, were defined as empowerment partners stretched the spirit and definition of a Black company very far, suggesting that something other than economic empowerment was at work.

Unlike in Free State matters, the State Capture Commission has heard little evidence that the rents that accrued to Gupta-linked companies from the locomotives deal, for example, were paid to President Zuma, to other politicians or to the ANC. Anecdotally, however, there is evidence that some of this money was converted into cash and made its way around in the boots of cars to associates of key officials.

Witness 1 was a Close Protection Officer (bodyguard) at Transnet for Brian Molefe (Witness 1: 13 August 2020, p.21). He testified to often taking Brian Molefe to Saxonwold or other places to meet Atul Gupta. He also testified to delivering and fetching bags from the Gupta residence. On one occasion he looked into such a bag at saw that it was half full of R200 notes. He testified at the State Capture Commission that he often went to deposit sums of between R5000 and R20 000 in cash for Mr Molefe. Siyabonga Gama's driver recounted the following incident. On one of the 3 or 4 occasions that he took Gama to the Gupta residence in Saxonwold, a Gupta relative came out of the house and deposited a bag into the car he was driving, a Range Rover Evoque. He later dropped Gama off at the Maslow hotel, where he was instructed to transfer this bag from Gama's car to that of Mr Tommy Jiyane. Advocate Pretorius asked Witness 2, "what did you see?" "Inside the suitcase there was stacked bundles of cash. The top layer contained R50 notes and R100 notes" (Witness 2: 13 August 2020, p. 79). Thamsanqa (Tommy) Jiyane, was a procurement officer at Transnet, fired in 2018 along with Gama himself and the Group head of supply chain Edward Thomas for their role in incurring R49 billion of irregular expenditure in the acquisition of locomotives. These may have been personal kickbacks. They might have not been.

In 2017 Brian Molefe addressed ANC comrades on the occasion of the January statement. He made it clear that he regarded himself as a disciplined deployee of the movement. We must learn to question the leadership of the ANC, he proposed, but not too much. He continued: They see things that ordinary members do not. So when the ANC leadership approaches you to do this or that, you might initially complain and ask, but why me? Later, however, you will realise how it fitted into a grander scheme of things. Molefe called such deference to the ANC

leadership, revolutionary discipline (Molefe, January 2017). As in the Free State it is plausible, likely even, that a portion of the billions looted from Transnet and Eskom found their way back into factional war chests to keep Jacob Zuma and his political allies in power in the ANC. It is a great pity that the investigators of the State Capture Commission did not pursue these leads further.

ANC leadership

The centrality of the ANC in state capture and as the privileged site of elite contestation is given further credence by the remarkable testimony of Barbara Hogan, the former Minister of Public Enterprises, to the State Capture Commission.

In October 2009 a dispute broke out between the Board of Eskom, chaired by Bobby Godsell and the Chief Executive Officer, Jacob Maroga. Maroga apparently resigned and the board accepted his resignation. Later Maroga refused to vacate his office, insisting that he had not, in fact, stepped down. He appealed to Minister Hogan to intercede on his behalf and to confirm his position. She would not, claiming that she did not have such authority. “In terms of corporate governance in a company,” Hogan explained, “the relationship between the CEO and the Board is one of accountability and as a Minister, as a shareholder, the corporate governance framework does not allow the shareholder to intervene in that relationship”. “You can try and mediate and sort out things, but you cannot make a decision about what must take place” (Hogan, p.43).

On the 5th of November 2009, Hogan received a call from the President. According to her testimony he asked, “What do you think you are doing?” He then gave her an instruction. “They [the board] have got to stop now”. Hogan refused to confirm Maroga’s appointment insisting that such an instruction must come from the President himself. There were attempts to negotiate a short-term compromise: the board would confirm Maroga in his position if he agreed immediately to go on leave. Maroga, according to Hogan, refused it. On the 9th of November, en route to Eskom, she received a call from the President to say that he had given Jacob Maroga permission to return to Eskom as CEO. The same day Maroga sent a letter to the Minister and to the Board. He copied in the Eskom Executive, the managing directors, other departments and even the Parliamentary Portfolio Committee on Energy. “I wish to affirm,” the message declared, “I remain the chief executive of Eskom. The shareholder at the highest level has confirmed that any action regarding my status [...] must be requested formally and granted by the shareholder. I have affirmed that no request has been formally lodged and none has been granted” (cited in Hogan, p. 58).

Shareholder at the “highest level” clearly referred to the President. Hogan called the letter a “declaration of independence” from the Board and of the Minister. Maroga and the President had “flouted everything relating to corporate governance”; essentially allowing the CEO to go “rogue” (Hogan, *Op Cit.*, p.59).

At this point Minister Hogan decided to approach the ANC. Enoch Godongwana went to see ‘senior office bearers’ at Luthuli House. Then something unexpected happened: “Mr Maroga

[...] received a telephone call from the President to say that he must vacate that office immediately, and that he would only go back on my authority. Mr Maroga then vacated his office and I went down to Parliament to make a public statement about the position of the CEO in – of Eskom’ (Ibid, p.64). The ANC had, apparently, disagreed with the President in this matter and Zuma had deferred to the party’s view. In other words, he had accepted the authority of the ANC in settling disputes between members of the political and bureaucratic elites.

Conclusion

In post-Apartheid South Africa the ANC took it upon itself to try and resolve two historic legacies of the Apartheid period. Firstly, it tried through Black Economic Empowerment to change the class structure of South Africa by creating mobility for Black South Africans into the middle and capitalist classes. At the same time, it sought to consolidate the territory of the Republic by amalgamating the homelands back into a unitary state. In this regard the ANC became the nodal point or pivot point between a vertical process of transformation and a horizontal process of integration. It became, that is, the site of the political and it did the work of the political.

As a site it became the preeminent place where the multiple and contradictory, frequently antagonistic and violent, shards of South African society came together. In the ANC's own conception of nation-building, the task of reconciling these fragments into a common society fell to the organisation itself. Mediation largely happened informally according to the friendships, ties and 'ways of doing things' that had developed within the ANC in exile, within MK and its intelligence operations, within the unions and the various congresses of the United Democratic Front, not to mention according to the ways and means of former homeland politicians and officials. Often such practices were indifferent to the law if not downright hostile.

The mechanism that ANC leaders used to play their role as pivot in economic transformation and political integration had emerged almost by accident. The introduction of the New Public Management in the 1990s created cohorts of senior managers at all levels of the state and especially at Provincial and local government level with wide discretion over government resources. The ANC deliberately politicised these appointments, thereby creating a transmission line for party officials into the higher echelons of the state bureaucracy. It provided a platform for 1) integrating homeland officials into senior roles in government and the state and 2) giving party officials direct access to and control of key state institutions. Yet the ANC has been unable to contain the competition and the violence that resulted.

Several things occurred simultaneously:

1. The ANC was unable to maintain its cohesion as various networks clashed internally
2. Some of these networks, especially those who later came to cluster around Jacob Zuma, turned to corrupt and criminal activities to sustain their political lives and to seek power and/or maintain power in the ANC.
3. The politicisation of government administrations, as well as the transposition of internal party antagonisms into departments and State-Owned Enterprise, rapidly collapsed their organisational capacities, as budgets were repurposed and as political appointments crowded out those with technical expertise.
4. With the erosion of state capacity (and with the failure to build it up) the South African government has proved unable to implement any of its major policies, from creating a stable supply of electricity, to delivering decent public education, to improving safety and security for South African citizens or to providing quality public healthcare.

5. No ruling elite has emerged in South Africa, neither a ruling class that is able to drive economic growth, nor a grade elite (or administrative echelon) able to build government institutions and administer effectively.

What does it mean in this context to defend democracy in South Africa?

Democratisation contains the seeds of its own destruction. The ANC has held in unstable equilibrium the various fragments of South African society. It has done so because of a paradox: the very access to state positions and the resources that fuel factionalism in the ANC is also the basis of its strongest cohesion. The ANC's hostile elites must combine to win elections in order to rise in the class structure and to enter senior positions in the grade structure. If democratisation means strengthening multi-partyism and seeing the ANC lose power then that cohesion will weaken too and various elites will abandon the party. Some will form political parties and compete in the framework of South Africa's democracy. Some will not, however. We have seen this already with the Economic Freedom Fighters who use parliament instrumentally and are always one-step away from becoming a militia. Democratisation potentially arms democracy's enemies.

The ANC's unstable equilibrium, however, comes at the expense of government and building a professional and autonomous civil service. As long as the ANC remains in power the ability of respective governments to implement policies declines. Daily life in South Africa is becoming poorer, more sordid and dangerous.

This is South Africa's impossible conundrum. Democratisation risks civil-war, the status quo produces decline. There are no easy answers out of this dilemma.

The progressive reform of government, however, offers a way forward. The professionalisation of the public service by, in the main, distinguishing between political office and administrative office and creating a buffer between the two will reinforce the autonomy of the civil service. If this buffer is a process of independent and meritocratic recruitment and promotion it will gradually improve the organisational capacity of government departments at all levels. When accompanied by transparency in public procurement and intensive media reporting on and civil-society monitoring of government performance there is a prospect of building bureaucratic strength quickly.

Most importantly, civil service reform will reduce the scope for networks within the ANC (and other parties) to deploy their members and associates into key positions in government and in the state. If this happens, the ANC will cease to be the pivot point in the double process of political integration and economic transformation. The ANC will cease to be the chief site of the political and become an ordinary political party in a political field defined by the constitution. What will become of frustrated elites? They too might reject the new political dispensation and choose exit. This time, though, they will encounter a more powerful and capable state.

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