State Capture

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1. Introduction

State Capture is corruption of a special type, which involves powerful private individuals or even organisations which exert undue, illegitimate and outright criminal influence on the state for their private benefit. Whilst the notion is largely linked to developing nations in Asia, Eastern Europe and Latin America, there is evidence of State Capture in Europe and in the United States.

It invariably differs in form and content from one country to the other and indeed from region to region. In this essay we discuss some of the salient aspects of this abhorrent practice.

Corruption refers to “a form of dishonesty or criminal conduct undertaken by a person or organisation entrusted with a position of authority often to acquire illicit benefit or when a public official acts in an official capacity for personal gain”. It involves bribery, embezzlement, blackmail, extortion and preferential treatment such as nepotism and patronage.

Perhaps as a starting point we should seek to define the notion of state capture or describe it for a better common understanding of what we are dealing with. The definitions are several but the theme is constant. They tend to compliment, as opposed to contradicting one another.
The World Bank defines State Capture as follows:

“The efforts of a small number of firms (or such groups as the military, ethnic groups and kleptocratic politicians) to shape the rules of the game to their advantage through illicit, non-transparent provision of private gains to public officials”.

Transparency International has described the phenomenon as follows:

“State capture refers to a situation where powerful individuals, institutions, companies or groups within or outside a country use corruption to shape a nation’s policies, legal environment and economy to benefit their own private interests”.

Vesna Pesic (2007) describes state capture as:

“Any group or social strata, external to the state, that seizes decisive influence over state institutions and policies for its own interests and against the public good”.

2. Global Prevalence of State Capture

State Capture was derived from the conclusion of a study conducted by a World Bank team of Hellman, Jones and Kauffmann in 2000.
As alluded to earlier, State Capture is a pervasive form of corruption prevalent in all regions of the world, albeit in varying forms and degrees. However, the World Bank study and many thereafter largely focussed on Asia, Central and Eastern Europe and Latin America. This unfortunately gives a skewed picture of the prevalence of the hideous concept of state capture.

This analysis, by commission or omission, ascribes the concept to the developing world. But we can safely argue that state capture is more widespread than it is usually documented.

Whereas the figure below shows prevalence of State Capture and culture of corruption by way of companies involved, empirical evidence has shown that a powerful single organisation also has the capacity to either collapse the state or to establish a parallel one, largely depending on the status of public official(s) that have been captured. It is the degree or level of capture that is key.

Whilst the impression is created of state capture as a problem of developing nations, particularly the former country members of the USSR including Armenia, Belarus, Croatia, Hungary, Lithuania, Poland, Russia, Ukraine, Slovenia, as well as Pakistan, Indonesia, Mexico and others, some researchers including International Transparency have recorded cases of state capture in Singapore, South Korea, Western Europe and the United States.
**Fig 1:** Percentage of Companies Involved in State Capture in Central and Eastern Europe
The common narrative, which is also backed by the World Bank, is that state capture is more likely to happen in transition economies where there is:

(i) the rewriting of an exceptional volume of laws, regulations and policies;

(ii) the unusual redistribution of wealth from the state to the private sector; and

(iii) the virtual absence of institutions either within or outside the public sector that could effectively check the abuse of public office (World Bank 2000: 25).

3. How Does State Capture Manifest Itself?

State Capture happens when one or more of the conducive conditions listed here exist. These include local parasitic patronage networks, red tape and bribe extortion, misuse of public resources, lack of local capacity, inadequate public procurement systems, facilitation and other informal payments, lack of efficient controls and oversight mechanisms as well as a culture of impunity.

State capture also manifests itself in various ways. For instance, it is recorded that in Mexico and Pakistan, the beneficiaries of state capture are mainly syndicates and warlords dealing in drugs. Indonesia “continues to face major challenges of state capture by the local elites, a deeply entrenched patronage system, and widespread petty and bureaucratic corruption”.

Africa

The isolated cases of state capture in Africa have kleptocratic politicians as the main beneficiaries. The early cases included Mobutu Sese Seko’s plundering of natural resources in the former Zaire for his own benefit. Idi Amin also turned Uganda into his own personal fiefdom. In Angola and Libya, Dos Santos and Muamar Gadhafi looted state resources from oil. The Egyptian army has a long history of capturing the Arab state. The worst kleptocrat is possibly Teodoro Obiang Nguema Mbasongo, President of Equatorial Guinea.

Americas

And in the United States, big corporations manipulate government to create a favourable legislative and operational climate for themselves in order to maximise profits. In Peru, intelligence services are said to be openly involved in widespread cocaine, weapons embezzlement and procurement irregularities.

Asia, Central and Eastern Europe

Central and Eastern Europe are, rightly or wrongly, seen as the epicentre of state capture. In Bulgaria, Columbia, Italy and Kosovo, the benefactors are organised crime syndicates, also mainly dealing in drugs. In Burma and Guatemala, the beneficiaries are mainly the army and the main commodity is drugs. In Russia, oligarchs collude with state officials in industries, natural resources, procurement and tax evasion.

Elsewhere, ethnic groupings and the bureaucracy are also known to engage in acts of corruption and state capture. In the Middle East, royalty controls oil resources.
4. South African Experience

State capture in South Africa was brazen, deep, cut across all sectors of public life and some argue that it was unprecedented. The key vehicle through which State Capture was conducted was a company called Oakbay Investments and its satellite formations such as Optimum Coal, Tegeta, Sahara, ANN7 TV station and the New Age newspaper.

Oakbay was owned by three expatriate Gupta bothers, who had arrived from India at the inception of the democratic government. Oakbay was the engine room for the malfeasance.

The Public Protector in a report titled State of Capture, found prima facie evidence that the Guptas had captured the Head of State and his family. The President in return and shamelessly abrogated his constitutional responsibilities to the family. The three bothers influenced the appointment and dismissals of ministers, appointment of senior public bureaucrats and held undue control and influence over the National Prosecuting Authority and other crime fighting agencies.

They selected directors general for government departments and captured senior managers at Transnet (the biggest logistics company in Africa) and Eskom, the biggest power utility on the continent.
Individuals that were alleged to have been captured include, Brian Molefe, Ben Ngubane, Mosebenzi Zwane, Malusi Gigaba, Lynne Brown, Faith Muthambi, including Berning Ntlemeza and Shaun Abrahams. The Guptas also captured other boards of critical state owned enterprises (SOEs), including Denel and South African Airways as well as the Revenue Services. It was nothing short of a silent coup.

There were also unsuccessful attempts to destabilise and capture National Treasury, which was seen as a stumbling block to the looting. Nhlanhla Nene was fired as minister of finance after he blatantly refused to sign or endorse nefarious deals. His replacement, Des van Rooyen lasted only four days in the position. He was roundly rejected by business, markets and the investor community.

This paved Pravin Gordhan’s return to the finance portfolio to calm markets. But Gordhan soon fell out of favour with the President and his handlers and was fired. He was replaced by Malusi Gigaba, alleged to be a Guptarite.

In response to this shameful episode, there was a national outcry for Zuma and his collective to vacate office. Marches were held across the length and breadth of the country as labour unions, churches and civil society organisations also joined the chorus for the President to leave office. Academics added their voices too.
Former Rivonia and Robben Island prisoners Ahmed Kathrada, Andrew Mlangeni and Dennis Goldberg pleaded with the President to leave; to no avail. In an amazing show of arrogance, he dug in his head in the sand like an ostrich and also dug in his heels.

Cyril Ramaphosa took over the presidency of the ANC at the end of 2017. The new ANC leadership tried everything in the book to coerce Zuma to leave office. He spectacularly refused. But when the threat of a motion of no confidence in him became reality, he tendered his resignation.

Ramaphosa took over as president of the country. He removed most of the alleged Gupta ministers from his cabinet. A new board and CEO were put in place at Eskom. Shaun Abrahams was removed from the NPA by the Constitutional Court and Ntlemeza has been removed as head of Hawks. Tom Moyane is on suspension and is facing two crucial probes.

As per the recommendations of the Public Protector, all allegations are being tested and ventilated though the State Capture commission of enquiry; and the evidence that has come out is spine-chilling, to say the least.

The disadvantages and cost of state capture to any nation cannot be overemphasised. The good thing is that nations are sharing lessons learned and strategies to combat the state capture scourge.
In South Africa, the clean-up operation is slowly but surely in operation. However, the main culprits, the Gupta brothers, are holed up in their safe house in Saudi Arabia and are refusing to come and appear before the Commission.

5. Strategies to Counter State Capture

Sitoris (2011) has proposed a number of key fundamental strategies to counter, minimise or eradicate state capture. These measures include, but are not limited to:

- Political accountability
- Build institutional mechanisms
- Strong civil society
- Independent media
- Competitive private sector
- Reform public sector management
- Credible political leadership, and
- State funding of political parties

These measures are however no panacea to counter state capture. Just like the phenomenon presents itself in various forms in different countries, the strategies to combat it will be dictated by the situation on the ground. There is no one size fits all.
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