



STATE CAPTURE AND CORRUPTION

ANC DISCUSSION DOCUMENT

1. INTRODUCTION

1.1 Why should we discuss State Capture and Corruption?

The ANC has for many years been discussing corruption and its corrosive effect on the organisation's social standing, integrity and influence in society and how it has contributed to its organisational, political, ethical and ideological decline. In other words, the ANC's capacity to lead the national democratic revolution has been significantly weakened.

In the recent past, a more organised form of corruption – widely known as state capture – has taken root in our state and political system. This phenomenon involved the capture, hollowing out and repurposing of key state institutions such as state-owned enterprises (SOEs), government departments and criminal justice entities. The repurposing of institutions is meant to serve the interests of a few individuals and not those of all South Africans.

This has resulted in the breakdown of people's trust in the ANC and many of the institutions of state. Despite various measures the ANC and the democratic government have taken to combat corruption, there is a widespread perception that little progress has been made to ensure accountability.

The 54th National Conference in December 2017 recognised that worsening corruption, factionalism, dishonesty and other negative practices seriously threaten the goals of the ANC. It said that these practices "contradict and damage our mission to serve the people and use the country's resources to achieve development and transformation".

The fundamental renewal of the ANC as an effective agent of transformation therefore requires that the organisation confronts corruption in all its forms – in government, society and within the movement. As part of this effort, National Conference resolved to support the establishment of a Judicial Commission of Inquiry into state capture. The terms of reference of the judicial commission of inquiry into state capture were in the main to investigate allegations of state capture, corruption and fraud.

The commission of inquiry was established in January 2018, chaired by then Deputy Chief Justice Raymond Zondo. The final report of the State Capture Commission was submitted to

the President on 22 June 2022 and released to the public. Within four months of receipt of the report, the President will formally submit the report to Parliament together with an implementation plans on the Commission's recommendations.

In welcoming the release of the first part of the report, the ANC said it would engage with the findings and recommendations of the Commission, and consider how these can help to enhance the process of fundamental renewal and rebuilding within our movement. Indeed, the final commission report concludes by observing that:

“What is abundantly clear from the evidence before the commission is that for as long as the ANC is in power, the failure of the ANC successfully to reform and renew itself as undertaken by President Ramaphosa will render the South African state unable to rid itself of the scourge of state capture and corruption.”

As the ANC, we agree with this statement of the commission. We view the observation and recommendations as constituting an opportunity for the much needed renewal of our movement.

The commission makes critical findings about our democratic government, parliament, public entities and indeed about the ANC. We may find some of the observations and findings unsettling, and there may be some assessments that we disagree with, but we must engage honestly and openly with all aspects of the commission's report. As the ANC, we must see it as another opportunity to identify our weaknesses and shortcomings and take the necessary steps to address them.

The ANC has called on all South Africans to engage with the Commission's report and to be part of the national effort to put state capture behind us and build an ethical, capable developmental state and a society governed by the values of our democratic Constitution and the rule of law.

1.2 Purpose of this document

The purpose of this discussion document is to assist ANC structures in reflecting on the phenomenon of state capture and corruption. This discussion has to take place against the background of our vision, principles, values, as well as revolutionary morality and ethics. This means an understanding of the ANC's principled transformation objective of massifying social and political benefits for all South Africans, especially the poor and vulnerable. This requires creating a socio-economic system that benefits all and not only the elites of our society.

In this regard, ANC members are required to discuss and propose solutions on how, in practice, corruption can be rooted out from within the movement, government and society. These deliberations are part of the overall renewal process of the ANC.

This document does not seek to present the position of the organisation, but instead serves as a guide for discussion and engagement.

2. WHAT DO WE UNDERSTAND BY STATE CAPTURE?

There has been much debate about the meaning of 'state capture', how it differs from corruption, and whether indeed it exists in South Africa.

The ANC is not uniquely affected by corruption. There are other institutions in society, including other political parties, social formations and the private sector, that have to confront corruption within their ranks. Nor is South Africa alone in the world.

The term "state capture" was reportedly first used in research conducted on former socialist countries as they transitioned to market-based economies, where small corrupt groups used their influence over government officials to appropriate government decision-making to strengthen their own economic positions. The members of these groups would later become known as 'oligarchs'. The Britannica defines state capture as "the domination of policy-making by private, often corporate, power".

The existence of many different interest groups within any given political environment is normal. State capture occurs when one of these interests dominates public power for their own ends. This undermines the democratic process and the national interest.

While state capture is seen as one form of corruption, it differs in several ways from other forms of corruption. One presentation to the State Capture Commission, for example, made the distinction between administrative corruption, which involves private payments to public officials to distort the implementation of official rules and policies, and state capture, which shapes various laws, rules and regulations through private payments to public officials.

In this way, governance is steadily repurposed "through the quiet invasion of governance structures (eg. the political executive, the boards of state-owned companies or state security institutions) in such a way that agents of state capture are positioned to disperse government benefits to select groups."

In South Africa, state capture was focused "not on small scale looting but on accessing rents and redirecting them away from their intended target into private hands. To succeed, the perpetrators need high level political protection, including from law enforcement agencies; intense loyalty and a climate of fear; and competitors need to be eliminated. The aim is not to bypass rules to get away with corrupt behaviour, it is to change the formal and informal rules of the game, legitimise them and select the players."

State capture steadily diminishes the possibility of fair and competitive allocation of public resources, destroys institutional capacity and erodes the rule of law. Once entrenched, state capture engenders a cycle that only worsens with time, undermining the democratic constitutional order.

From the ideological perspective of the democratic movement, state capture is a form of counter-revolution that directly threatens the advancement of the National Democratic Revolution.

3. THE IMPACT OF STATE CAPTURE

In a 2017 Report, the South African Council of Churches (SACC) identified the methods by which the state capture project sought to achieve its objectives as the following:

- securing control over state wealth, through the capture of state-owned companies by chronically weakening their governance and operational structures;
- securing control over the public service by weeding out skilled professionals;
- securing access to rent-seeking opportunities by shaking down regulations to their advantage, and to disadvantage South Africans;
- securing control over the country's sovereignty;
- securing control over strategic procurement opportunities by intentionally weakening key technical institutions and formal executive processes;
- securing a loyal intelligence and security apparatus, and securing parallel governance and decision-making structures that undermine the executive.

The impact of state capture on South Africa's social well-being and economic prospects have been devastating. In the period between 2010 and 2018, joblessness and inequality have worsened and there was minimal progress in dealing with poverty.

One of the key targets of the state capture project have been the SOEs. These national assets have been significantly weakened and broken down. State Capture has weakened the operational capability, financial position and skills base of SOEs. To this extent, they cannot perform their developmental and commercial roles. They are not playing their rightful role in the reconstruction, growth and development of the economy.

As part of the effort to conceal corrupt activities and to shield those responsible from detection or prosecution, critical entities of the criminal justice system were infiltrated, subverted and weakened. Not only did this stifle efforts to investigate corruption, but it has caused lasting damage to these institutions in relation to their core mandate to combat crime, corruption and lawlessness.

4. STATE CAPTURE AND COUNTER-REVOLUTION

We have always understood that counter-revolution will come from the forces that stood to lose from the success of the national democratic revolution (NDR). These forces exist in our domestic environment (such as the supporters of the apartheid regime) as well as internationally.

Twenty-eight years into democracy, the efforts to defeat the NDR have intensified. These efforts have manifested themselves in various ways, including but not limited to the destruction of state-owned enterprises, the relentless attack on institutions of democracy with the aim of rendering them powerless and irrelevant, state capture which led to grand scale corruption and weakening of state institutions and the weakening of the ANC resulting in a declining ability to discharge its revolutionary duties. These activities have all the hallmarks of a counter-revolution. Of greater importance is the recognition that forces from without and within the ANC have conspired to undertake these counter-revolutionary activities.

It is within this context that the matter of counter-revolution has arisen sharply in the current political conjuncture to the extent that it behoves the ANC to reflect seriously on it. In the Strategy and Tactics (1997), we asked whether there are active counter-revolutionary forces in South Africa. We also cautioned against painting opposition to our programmes as counter-revolutionary. At that time, we mainly anticipated that the most potent counter-revolutionary threat was going to come from without and paid little attention to the possibility of such a phenomenon arising from within the ANC. We determined that transparency in our leadership and reliance on the active participation of ordinary masses in political motion would forestall any successes of anti-democratic forces, anti-constitutionalism and constitutional delinquency.

The 2017 Strategy and Tactics document characterised this challenge thus: “[I]t cannot altogether be ruled out that the liberation movement itself can be so corrupted – in terms of its objectives, policies, value systems as well as composition and conduct of its leadership – that it becomes a bed of counter-revolutionary infestation”.

The orchestrated acts of public violence and destruction in July 2021 need to be viewed in this context. It was a deliberate, but unsuccessful, effort to foment a popular insurrection against the democratic state and our constitutional order with the intention of shielding those responsible for wrongdoing from accountability.

5. THE ROOTS AND CAUSES OF CORRUPTION

Corruption is not a new phenomenon in South Africa. The apartheid system was morally and systemically corrupt. Not only did its legal provisions appropriate to a small minority the assets and resources that rightfully belonged to all South Africa’s people, but there was also a prevailing culture of corruption within the apartheid state, state-owned companies, private business establishment and bantustan administrations.

The advent of democracy in South Africa was an opportunity to make a decisive break with that past. Through the adoption of a new democratic constitutional dispensation, the country sought to establish a new era of transparency, accountability, ethical conduct and respect for the rule of law.

The experience of the past 28 years shows that endeavour to have been, for the most part, successful. The country has a Parliament elected by universal suffrage in regular free and

fair elections, a strong and independent judiciary, robust institutions supporting democracy, and a free and vibrant media.

However, as our 54th National Conference acknowledged and as the State Capture Commission has clearly demonstrated, a culture of corruption persists within the state, political and other organisations, the business community and other sections of society. As reflected in other documents on this matter, some of the factors that have encouraged the development of such a culture include:

- the character of South Africa's political transition and how the structures, networks, systems and culture of corruption within the apartheid state and established business may have been carried over into the democratic dispensation;
- the nature of our social relations and a value system in broader society which measures success on the basis of the material possessions that individuals command;
- the tendency among companies to succumb to extortion, adapt their operations to corrupt environments and themselves to become facilitators of corruption and state capture;
- the management of the rise of an entrepreneurial 'class' among those previously marginalised and the temptations in this process to cut corners;
- the criteria for accession to political office in parties and in the state which may result in situations in which individuals with no other avenues for material self-advancement rely on state patronage to pursue lavish lifestyles;
- the system of party-political funding, which opens the door for patronage and corruption, and which we are only now starting to regulate in a systematic way.

These systemic causal factors of corruption and state capture require ongoing reflection within our society, the better to find solutions that are effective and lasting.

6. ANC'S FOUNDATIONAL PRINCIPLES

The ANC is a progressive organisation committed to building unity of all South Africans, promoting economic development for the benefit of all, fighting for social justice and to eliminate the vast inequalities created by apartheid and the system of national oppression. Underpinning, these goals are the values of solidarity, empathy, revolutionary morality and ethics, social justice as well as the commitment to serve.

The conduct of the ANC is informed by its objective of building a non-racial, united, democratic, non-sexist and prosperous society. Due consideration is put on lifting and advancing the social well-being of the poor and the vulnerable in society. The ANC pursues the radical transformation of our economy and society.

Accordingly, the Freedom Charter, the ANC constitution, Strategy and Tactics document and other policy documents provide a framework for ANC members located in various sites of South African life.

7. ANC'S POSITION AND APPROACHES

One of the tasks that the ANC undertook in the immediate aftermath of the first democratic election was to start redirecting the institutions and resources of state towards the needs and interests of the people as a whole.

However, even in the early days of democracy, the organisation was alive to the potential for corruption within the new democratic state and within the ranks of the ANC itself. In his closing address to the 49th National Conference in December 1994, President Nelson Mandela said:

"...[W]e must never forget the saying that power corrupts, and absolute power corrupts absolutely. It has happened in many countries that a liberation movement comes into power and the freedom fighters of yesterday become members of the government. Sometimes without any idea of mischief, precisely because they are committed and hard-working, they concentrate so much on their portfolios that they forget about the people who put them in power, and become a class, a separate entity unto themselves, who are not accountable to their membership, and who rely on law – that now I am a Cabinet Minister, the political organisation that put me in power can do nothing."

Three years later, at the 50th National Conference in December 1997, President Mandela said:

"During this period, we have also been faced with various instances of corruption involving our own members, including those who occupy positions of authority by virtue of the victory of the democratic revolution. These have sought either to steal public resources or to extort financial tributes from the people in return for services to which the people are entitled and which those in authority are legally and morally obliged to provide... Clearly, we have to take all necessary measures to purge ourselves of such members and organise ourselves in a way that will make it difficult for corrupt elements to gain entry into our movement."

In every ANC Conference since then, the issue of corruption within the state, business and society more broadly has been raised and various resolutions adopted on the actions required to combat it.

An important aspect of the ANC's approach to corruption over the years is a recognition of the extent to which some ANC leaders and members were responsible for corrupt actions, and, as a consequence, the extent to which corruption contributed to practices of patronage, factionalism and the manipulation of organisational processes within the ANC.

This is illustrated in the following extract from the Strategy and Tactics document adopted at the 50th National Conference in 1997 and reaffirmed by the 51st National Conference in 2002:

“Positions in government also afford the movement and its leaders powerful possibilities for patronage. There is nothing untoward per se in advancing cadres who, by their selfless contribution to the cause, deserve such acknowledgement. Yet this can easily lend itself to corrupt practices, undermining good governance and destroying critical and independent thought and expression, and the vibrancy of a truly revolutionary movement.”

The organisation took the view that as much as such corruption had a corrosive effect on the state, the economy and society, it was also deeply harmful to the ANC. The 52nd National Conference in 2007, for example, noted that “our accumulated weaknesses include [an] inability to effectively deal with new tendencies arising from being a ruling party, such as social distance, patronage, careerism, corruption and abuse of power”.

The ANC has therefore long recognised the existence of corruption within the democratic state, that some members of the ANC are complicit in this corruption and that such corruption undermines our democracy and the integrity of the ANC.

It is clearly not sufficient to recognise the problem. The task of any organisation like the ANC – especially with its history of principled struggle, its values and its mission – is to address the problem.

7.1 Measures to address corruption within the ANC

The ANC Constitution provides the basic guide to members on their rights, duties and required conduct. On joining the organisation, each new member is required to make a declaration, which reads in part:

“I, [...], solemnly declare that... I am joining the Organisation voluntarily and without motives of material advantage or personal gain...”

Members of the ANC decide freely to submit themselves to the rules, decisions and discipline of the organisation. Members who choose not to abide by the rules contained in the ANC Constitution or the decisions of its structures are free to leave the organisation.

Members of the ANC also affirm that they join the organisation selflessly, without anticipation of any personal reward. Clearly, any member that is involved in corrupt activities or seeks in any other way to use their position for undue self-enrichment is in violation of this basic undertaking.

The ANC Constitution contains remedies for the violation of its rules in the form of disciplinary proceedings. Among the acts of misconduct in respect of which disciplinary proceedings may be instituted are:

- engaging in any unethical conduct which detracts from the character, values and integrity of the ANC, as may be determined by the Integrity Commission, which brings or could bring or has the potential to bring or as a consequence thereof brings the ANC into disrepute;
- abuse of elected or employed office in the Organisation or in the State to obtain any direct or indirect undue advantage or enrichment;
- being convicted in a court of law for the offence of fraud, theft of money, corruption, money-laundering, racketeering or any other act of financial impropriety.

Among the sanctions that may be imposed for such misconduct are a fine, a reprimand, suspension of membership, expulsion from the ANC, or in the case of an office bearer, removal or suspension from office.

These disciplinary structures have played an important role in holding members to account for actions that violate the rules of the ANC Constitution, including acts of corruption, fraud and abuse of office.

A recurring challenge is that, in certain instances, the institution of disciplinary proceedings was dependent on a conviction in a court of law. This is particularly the case with respect to offences related to corruption and fraud. This has meant that the organisation has been unable to act against members facing serious charges of financial impropriety until the completion of court processes, which can often be lengthy.

In an effort to address this problem among others, the 53rd National Conference in 2012 agreed to the establishment of an Integrity Commission. Among other things, the Integrity Commission was to recommend action against leaders and members of the ANC who face damaging allegations of improper conduct. While the work of the Integrity Commission would not substitute for disciplinary action, it was established with the expectation that it would assist in dealing with allegations that had not yet been tested in court.

In resolving on the establishment of the Integrity Commission, the 53rd National Conference noted the following:

“More urgent steps should be taken to protect the image of the organisation and enhance its standing in society by ensuring, among others, that urgent action is taken to deal with public officials, leaders and members of the ANC who face damaging allegations of improper conduct. In addition, measures should be put in place to prevent abuse of power or office for private gain or factional interests. The ANC can no longer allow prolonged processes that damage its integrity.”

Since the establishment of the Integrity Commission in March 2013, there has been ongoing debate on its status and powers. The 4th National General Council in October 2015, for example, took the view that the Integrity Commission should have the power to take final decisions and not just to make recommendations to the NEC. The 54th National Conference

passed the matter on to the incoming NEC to consider whether decisions of the Integrity Commission should be binding or advisory.

In September 2018, the NEC adopted revised terms of reference for the Integrity Commission. These empower the Commission to make any recommendation on alleged unethical conduct by ANC members “that it deems fit”, which may include a recommendation for disciplinary action. The Integrity Commission is required to provide its judgments to ANC Officials, NEC and any affected member, and these must be tabled at the NEC for noting. Any member may appeal against a decision of the Integrity Commission to the NEC, which is the final arbiter on any appeal.

7.2 Response to state capture allegations

In its submission to the State Capture Commission, the ANC outlined how allegations of state capture came to the attention of the organisation and how they were addressed.

The submission noted that while there is now broad consensus within South African society that a process of state capture took place over the course of several years, it took some time for the term to gain currency and for the phenomenon it described to be clearly recognised as such.

Some actions that may today be considered as instances of state capture, were not necessarily recognised or described as such at the time. And even as the term gained currency, there were individuals in the ANC and in society more broadly who contested both the existence of the phenomenon and the use of the term.

The submission points to a few specific instances:

- **Waterkloof landing.** One of the earliest signals to the ANC of an unhealthy influence by private individuals over state institutions and resources was the landing of a private aircraft at Waterkloof Air Force Base in April 2013, carrying guests for a wedding of the Gupta family. In a statement released in the hours following the landing, the ANC said:

“The African National Congress has learnt that guests of a family hosting some wedding at Sun City landed at the Waterkloof Airforce Base today... We demand that those who are responsible for granting access to land aircraft in our country also explain the basis upon which such permission was granted, particularly to land at Waterkloof Airforce Base. Those who cannot account must be brought to book.”

- **Removal of Minister Nene.** Allegations of state capture assumed greater prominence in the aftermath of the removal of Cde Nhlanhla Nene as Minister of Finance in December 2015 and revelations by Deputy Finance Minister Mcebisi Jonas in March 2016 that members of the Gupta family had earlier offered him the position of Finance Minister.

These issues were raised sharply at the NEC meeting of 18-20 March 2016. The media statement released at the conclusion of the meeting said:

“The ANC NEC had frank and robust discussions on the serious allegations surrounding the Gupta family and its purported influence in the appointment of ministers, their deputies and other positions in key state-owned entities in their interests. Such actions can have no place in the ANC or its government as they have the potential to undermine and erode the credibility and confidence of our people in the leadership of their organisation, the ANC and its government.

“We reject the notion of any business or family group seeking such influence over the ANC with the contempt it deserves while also recognising the need to act to protect the integrity of our government and our organisation. The appointment of ministers and deputy ministers is the sole prerogative of the President of the Republic, in line with the Constitution. To this end, the ANC continues to confirm its full confidence in our President.”

- **Call for information on state capture allegations.** Given the seriousness of the allegations, the NEC made a call on all members who had information to approach the Secretary General’s Office. It was reported that while a number of ANC members came forward, only one person would make a written submission on the matter.

While the call for ANC members to come forward did not yield much information, the NEC called for further investigations by competent authorities and for ANC members to provide information to any such investigations.

- **Public Protector’s ‘State of Capture’ Report.** One of the investigations arising from the allegations in the public domain was that conducted by former Public Protector Thuli Madonsela, who released her ‘State of Capture’ report on 2 November 2016. While allegations of state capture were directed at senior leaders, it should be noted that it was ANC members who brought this matter to the attention of the movement, and many of them provided evidence to the Public Protector. Similarly, it was ANC members in the NEC and other structures who were calling for stern action on these allegations.

The NEC endorsed the proposal arising from the Public Protector’s Report for the establishment of a judicial commission of inquiry into allegations of state capture without delay.

Support for the establishment of a commission of inquiry into state capture was further reaffirmed by the 5th National Policy Conference in June/July 2017 and by the Alliance Political Council in October 2017. The 54th National Conference reaffirmed the call for the “expeditious establishment” of such a commission of inquiry.

It is important to also acknowledge the role of the Alliance partners and other formations. The positions, pronouncements and activities of these formations undoubtedly had an impact on the approach taken by the ANC. They also played an important role in drawing public attention to the issue of systemic corruption and thereby contributed to the steps that have been taken to investigate it.

7.3 Significance of the 54th National Conference

The 54th National Conference was a watershed moment in the ANC's efforts to assess its strengths and weaknesses and to confront state capture and corruption within its ranks.

Much of the discussion at the Conference on issues of state capture was framed by a 'Diagnostic Organisational Report' presented by the Secretary General to the National Policy Conference in July 2017. The Report directly addressed the allegations against the Gupta family and some ANC leaders in the broader context of state capture.

The National Conference adopted a resolution on organisational renewal that noted, among other things:

- an increase in corruption, factionalism, dishonesty and other negative practices that seriously threaten the goals and support of the ANC;
- that the lack of integrity perceived by the public had seriously damaged the ANC's image, the people's trust in the ANC, its ability to occupy the moral high ground, and its position as leader of society;
- that leadership structures seemed helpless to arrest these practices, either because they lack the means or the will, or are themselves held hostage by them; and,
- that the state investigative and prosecutorial authorities appeared to be weakened and affected by factional battles, and unable to perform their functions.

The Conference consequently resolved to:

- demand that every ANC member accused of, or reported to be involved in, corrupt practices account to the Integrity Commission immediately or face disciplinary processes;
- summarily suspend people who fail to give an acceptable explanation or to voluntarily step down, while they face disciplinary, investigative or prosecutorial procedures;
- publicly disassociate the organisation from anyone, whether business donor, supporter or member, accused of corruption or reported to be involved in corruption;
- ensure that ANC members and structures cooperate with the law-enforcement agencies to criminally prosecute anyone guilty of corruption; and,
- require the ANC deployees to Cabinet, especially Finance, Police and Justice, to strengthen state capacity to successfully investigate and prosecute corruption and account for any failure to do so.

The 54th National Conference resolutions signalled a clear determination by the membership of the ANC to acknowledge the organisation's failings, to make a decisive break with corrupt practices and to initiate the ethical, political and organisational renewal of the ANC.

In his closing address, President Ramaphosa said:

“At the state level we must confront the reality that critical institutions of our state have been targeted by individuals and families through the exercise of influence and the manipulation of governance processes and public resources...”

“Whether we call this state capture or simply corruption, this has undermined the integrity of our institutions, cost our economy hundreds of billions of rands and contributed to the further impoverishment of our people...”

“This Conference has resolved that this must be acted upon and stopped. We must also act fearlessly against alleged corruption and abuse of office within our ranks... This Conference has resolved that corruption must be fought with the same intensity and purpose that we fight poverty, unemployment and inequality.”

7.4 Assessing the ANC’s response to state capture

In its submission to the State Capture Commission, the ANC provided an assessment of its response to state capture. Among other things, it sought to address whether the ANC had acted correctly, in line with its values and principles, to the allegations; whether it could have done more and acted more quickly and decisively to end state capture.

In answering these questions, it is important to acknowledge that the allegations of malfeasance that the Commission was established to investigate occurred while the ANC was the governing party in national government and in most provinces and municipalities.

Allegations have been made at the commission – and the commission has made findings – against a number of ANC leaders and members. These allegations and findings have had a damaging impact on the ANC’s integrity and standing in society.

As we have noted, corruption within the ranks of the ANC was a broad issue of concern over many years. Indeed, there have been occasions where allegations have been made against ANC leaders and members, and instances where ANC leaders and members have been prosecuted by the State and disciplined by the organisation.

With the passage of time, however, as more reports began to surface in the public domain about the alleged ‘capture’ of public entities by private interests and the undue influence of certain individuals, notably members of the Gupta family, in executive decisions and appointments, ANC members began to raise concerns within the various structures of the organisation.

As the volume of evidence began to mount, the issue of state capture was increasingly a subject under discussion in the NEC and other ANC structures. It was also a matter taken up more directly by the Alliance partners, the South African Communist Party and the Congress of South African Trade Unions, and by ANC veterans and others outside the structures of the organisation.

The issue of state capture – whether indeed it existed, its extent and form, and what should be done about it – became a matter of political contestation within the ANC. Differences over this issue contributed to divisions within the NEC and other ANC structures, which divisions were evident also in government, in parliament and other sections of society.

Indeed, the issue of state capture and corruption was prominent in the contestation that took place ahead of the ANC's 54th National Conference in December 2017.

Although the ANC, as an organisation, did not have direct evidence of state capture activities in the earlier period, and did not have the investigative capacity to probe the various allegations, it is necessary to address the issue of whether the organisation, through action or inaction, enabled the commission of these activities.

In this regard, certain objective and subjective factors should be considered:

- Corruption is, by its nature, a covert activity. Those who perpetrate corruption and related crimes generally seek to keep their actions hidden and disguise their intentions. Therefore, even as corrupt activities may be taking place within institutions, it is entirely conceivable that most members of the institution would be unaware. It was due to the covert nature of these activities that, for the most part and for much of the period under consideration, these issues did not arise within the structures of the ANC, and, it would be fair to say, were not known to most of the members of these structures.
- The ability of any organisation – but especially a political formation – to act on allegations of malfeasance relies not only on its formal rules and procedures, but also on the balance of power within its structures. The alignment of views within such an organisation is further influenced by access to the offices of state, where the ability to appoint and dismiss – and even to dispense patronage – is concentrated among a few individuals.
- The ANC has recognised the erosion over time of its organisational integrity, as processes have been manipulated to advance the material interests of certain members and associated private companies and individuals. This manifests itself in weak and pliable branches, vote-buying and gatekeeping, factionalism and even open conflict. This provides fertile ground for state capture and corruption.

The ANC recognises – as clearly stated at its 54th National Conference – that it needs to rid itself of the practices, tendencies and organisational culture that corruption has implanted, and which in turn have enabled corruption.

The ANC has therefore embarked on a process of renewal and rebuilding, to build a movement characterised by integrity, accountability and the highest standards of ethical behaviour. The process of renewal is ongoing. The rate of progress is determined not only by the existence of political will and organisational capacity, but also by the continued existence of vested interests and resistance from those who have much to lose from the corrective measures mandated by the 54th National Conference.

8. REFLECTION ON THE STATE CAPTURE COMMISSION

8.1 Significance of State Capture Commission

The ANC's 54th National Conference resolved to support the establishment of a Commission of Inquiry into state capture, and the organisation has consistently expressed its support for the objectives and the work of the Commission. The ANC maintains that the Commission is an important part of the broader social effort to end all forms of state capture and corruption.

The Commission is unique in many respects. It is one of the few instances in the world where a sitting government – with the support of the governing party – has established an independent commission with a wide mandate to investigate allegations of systemic corruption within that administration. It represents a form of forensic introspection that few governments or parties would be willing to undertake.

The Commission's report confirms widespread and high-level corruption that implicates senior figures in state institutions, the ANC, business and other parts of society. For the ANC, the commission's proceedings and findings have been difficult.

While the findings have pointed to several deficiencies, weaknesses and failures within the movement, they also provide an impetus for the ANC to correct its mistakes. By revealing the extent to which state capture had taken root, the Commission has also enabled the country to confront this period in its history and to take the measures necessary to end these practices and prevent them from happening again.

The significance of the Commission will lie not only in its findings and recommendations, but also – and most importantly – how the ANC, government and broader society respond to them.

8.2 Main findings

The Commission report concludes that there can be no doubt that state capture occurred in South Africa. In particular, it said:

"In the final analysis much of the evidence presented to the Commission indicates that state capture in the South African context evolved as a project by which a relatively small group of actors, together with their network of collaborators inside and outside of the state, conspired systematically (criminally and in defiance of the Constitution) to redirect resources from the state for their own gain. This was facilitated by a deliberate effort to exploit or weaken key state institutions and public entities, but also including law enforcement institutions and the intelligence services. As just intimated, to a large extent this occurred through strategic appointments and dismissals at public entities and a reorganisation of procurement processes. The process involved the undermining of

oversight mechanisms. and the manipulation of the public narrative in favour of those who sought to capture the state.”

The findings have several implications, including with respect to possible constitutional and legislative changes, changes on how we work, specific SOEs, specific persons against whom action is recommended and matters for the ANC to address and recommendations for action by government.

8.3 Findings that have a bearing on ANC policies and practices

In reflecting on the ANC in particular, the Commission report said:

“Understanding the role of the ANC is vital to understanding State Capture in South Africa. It has been the only governing party since the advent of democracy, and specifically during the years under review. It has been responsible for deploying persons to the highest positions in the state. It has a significant majority in Parliament, allowing it effectively to control oversight of the Executive. State Capture has happened under its watch.

“In addition, various ANC leaders have been implicated by witness testimony at the Commission. There has also been substantial evidence that the party itself was a beneficiary of State Capture, as it received payments from third parties who are alleged to have corruptly acquired government contracts.”

These observations have significant implications for the ANC and its response to the commission report. It calls for a seismic shift in the ANC’s approach to several issues raised by the Commission, including its findings with respect to:

- Cadre deployment policy and practice
- Party funding principles
- Organisational discipline and accountability
- Parliamentary oversight

The ANC needs to engage with the findings of the Commission on each of these issues, and develop an appropriate response and plan of action to address those criticisms that are considered to have merit.

8.4 ANC’s response to commission findings

In establishing the task team to process the issues arising from the Commission and to make recommendations on the organisation’s response, the NEC identified the following issues that need to be addressed:

- **Findings that implicate the ANC**

There are a number of findings that implicate the ANC, either directly or implicitly, which the organisation will need to consider.

Rather than be defensive on findings that are critical of the ANC, the organisation should see these as an opportunity to reflect on its conduct, policies and practices. It should honestly discuss whether there is merit to these findings, and agree on the measures that need to be taken to address shortcomings.

- **Findings that implicate ANC members**

The position of the ANC on leaders and members who have committed acts of corruption or other crimes is clear. Their actions are a direct violation, not only of the laws of the land, but also of the ANC Constitution, its values and principles, and the resolutions and decisions of the ANC's constitutional structures.

Such members must face the full legal consequences of their actions. They cannot rely on the ANC for support or protection, nor may they appeal to the principle of collective responsibility. In accounting for their actions, they stand alone.

Where adverse findings are made against ANC members, the relevant resolution of the 54th National Conference should be invoked: that every ANC member accused of, or reported to be involved in, corrupt practices account to the Integrity Commission immediately or face disciplinary processes.

- **Recommendations that have policy or legislative implications**

The Commission has made a number of recommendations that would require changes to policy, legislation or regulations. It has also made recommendations around the establishment of new public entities to tackle corruption. As government works through these recommendations to determine which can and should be implemented and how, the NEC sub-committees need to be engaged on these recommendations.

Where appropriate, the NEC sub-committees should engage other structures of the organisation, the Alliance and other formations in broader society.

9. RENEWAL AND CORRECTION

Since the 54th National Conference, the ANC has embarked on a concerted effort to correct its mistakes and renew and rebuild the organisation.

Rebuilding and renewal require far-reaching changes to the way the ANC works. It will require substantial political will and extensive political work throughout all structures of the organisation.

At the centre of the renewal effort is the work underway to fight corruption and end patronage as a feature of the ANC's organisational life.

This requires, among other things, that we:

- intensify implementation of the resolutions of our 54th National Conference on dealing with corruption, including that every cadre accused of, or reported to be involved in, corrupt practices must account to the Integrity Commission immediately or face disciplinary processes;
- require ANC leaders to make regular declarations of financial interests as has been initiated at national level;
- conduct lifestyle audits of all ANC leaders and public representatives;
- develop a clear policy on ANC leaders and their family members doing business with the state;
- strengthen the Integrity Commission and provide it with clear administrative and legal support
- consistently ensure accountability by ANC leaders in relevant government structures on dealing with corruption as well as efficient utilisation of state resources to better the life of South Africans, especially the poor.

10. ROLE OF MEMBERS AND BRANCHES

10.1 Build ANC branches as agents of change

The renewal of our movement must be centred around our branches and our members. That is where change will be most visible and meaningful.

We therefore need to focus on the **organisational tasks** that branches must undertake.

These include:

- being aligned with the struggles of communities in the area,
- undertake campaigns within the communities, political education and recruitment,
- be connected to and cooperate with various community structures in the area
- holding regular branch general meetings that are focused on programmes,
- choosing a leadership that is respected in the community.

10.2 Root structures in struggles of communities

Branches must be involved in every issue that concerns communities and drive campaigns that address local needs. Members should be involved in community structures, including CPFs, SGBs, clinic committees, and so on. Each branch should have an annual plan against which branch performance audits will be done. Among other things, these plans should

include a community profile that identifies sectors and their issues; an outreach programme; and a programme of regular interactions with the community.

10.3 Build capable and committed cadres

Recruitment of members must be accompanied by effective induction, political education and the involvement of new members in local programmes that advance the interests of our people.

Recruitment needs to be more deliberate, seeking out those individuals with a clear political and social consciousness, integrity and commitment to the objectives of the ANC. The movement must systematically seek out the best members of the community to join and lead the ANC. Further, every ANC member needs to have a political development path that turns them into activists and cadres.

11. KEY AREAS FOR DISCUSSION

- a) The ANC championed the creation of the Constitution of the Republic. The oath of an ANC member is in line with the Constitution of the Republic. Considering these, discuss and make proposals on the role of ANC branches in:
 - protecting and advancing the Constitution of the Republic among our members and broader society;
 - building respect for the rule of law among our members and broader society;
 - supporting the work of law enforcement agencies and the judiciary.
- b) Working with the zones, subregions, and regions, make proposals on the role of ANC branches and members to ensure that in each municipality there is:
 - good governance;
 - people with the right competencies employed as Municipal Managers, Chief Financial Officers, etc.;
 - no political interference in the administration;
 - transparent tender processes.
- c) Each branch must reflect on the findings of the State Capture Commission relating to the ANC and make proposals so that the ANC does not find itself in this situation again. Guiding questions:
 - What went wrong?
 - Why it went wrong? What did we do or not do as the ANC that allowed this situation to develop?
 - How do we ensure that this does not happen again?
- d) Each branch must discuss and make proposals on:
 - strengthening the Integrity Commission;
 - Implementing the step aside resolution at regional and subregional level, more specifically relating to district and local municipalities.

12. CONCLUSION

While the ANC distances itself from those within its ranks who have been involved in corruption or who are complicit in state capture, the organisation must – and does – acknowledge that state capture took place under its watch. It involved leaders of our organisation and it found fertile ground in the divisions, weaknesses and tendencies that have developed in the organisation since former President Nelson Mandela sounded his clear warning in 1994.

The vast majority of ANC leaders, cadres and members are vehemently opposed to corruption in all its manifestations. But we should acknowledge that the organisation could and should have done more to prevent the abuse of power and the misappropriation of resources that defined the era of state capture.

The ANC does admit that it made mistakes as it sought to execute the mandate it was given by the voters. It failed to live up to the expectations of the South African people and it was inconsistent in upholding the values and principles that have defined the movement over more than a century of its existence.

In concluding our submission at the State Capture Commission, we said:

“As the leadership of the African National Congress, duly elected at our 54th National Conference, we acknowledge these shortcomings of our organisation and we extend a sincere apology to the South African people.

“We further undertake to work alongside all South Africans to ensure that the era of state capture is relegated to history and that the excesses that took place may never again occur in our country.”

END.