



STATE CAPTURE AS AN OBSTACLE TO DEMOCRATIC CONSOLIDATION IN AFRICA

CONCEPT NOTE

12TH ANNUAL EISA SYMPOSIUM

Introduction

EISA will organise its twelfth annual symposium on 28-29 November 2017, in Johannesburg, South Africa, to share experiences, harness lessons, and examine the phenomenon of ‘State capture’ and its impact on democratic consolidation in Africa. The 2017 EISA Annual Symposium has been motivated in large by the recent developments in the South African political context following the release of the 2016 Public Protector’s Report entitled ‘State of Capture’¹ as well as subsequent revelations in the so-called ‘Gupta-leaks’ emails. The symposium will explore how the phenomenon of state capture impacts the consolidation of democracy in countries such as South Africa and beyond, exploring specifically its influence on elections; the institutionalization and normalization of democracy; and the transformation of post-colonial states. It will take stock of the identifiable trends emerging in this area in Africa, as well as identify challenges and lessons learned on combatting state capture in other contexts such as post-communist Eastern Europe and Latin America.

The symposium will provide a platform for dialogue among key democratic governance stakeholders such as representatives of political parties, members of parliament, civil society organisations, academia, the media, as well as the African Union and Regional Economic

¹ Public Protector. 2016. State of Capture. (Online) <http://ewn.co.za/2016/11/02/must-read-the-full-state-capture-report>.

Communities (RECs). The symposium aims to generate policy-oriented recommendations with a view to shaping future direction in fostering and contributing to the consolidation of democracy in Africa.

Background

Almost 30 years on from what Samuel Huntington referred to as the ‘third wave of democratisation’, a significant number of countries in the African region will be holding their sixth or seventh multiparty election in the coming years. Botswana, Mozambique, Namibia, South Africa, Rwanda, Algeria and Zimbabwe are among the countries due to hold national elections in the coming years. It is notable that all these countries are governed by parties that emerged from liberation movements and have been in power for the decades since independence. Tanzania have continuously re-elected incumbent liberation party Chama Cha Mapinduzi (CCM) in every election since Tanzania’s first multi-party elections in 1995. Uganda has seen three attempts at a multiparty experiment – the first was in the early 1960s and the second early 1980s and the current attempt beginning in 2005. The 2016 national elections resulted in Yoweri Museveni’s National Resistance Movement (NRM) winning the third multi-party election and maintaining Museveni’s 30 year hold on power. In many of these countries opposition parties have been gaining support, though efforts have been insufficient, for various reasons, to unseat incumbent parties².

The increase in regular and relatively peaceful elections in Africa over the past three decades is encouraging for democracy. As states in the region head into these next round of elections there are however several indicators that may suggest that democratic consolidation may not be a certain outcome of elections. Attaining and consolidating ‘substantive’ democracy – including socio-economic transformation and social justice – continues to evade even the strongest democracies on the continent such as South Africa and Botswana. After more than two decades of democracy South Africa remains one of the world’s most unequal societies³. This is material, for as Matlosa⁴ notes “the essence of democracy is broader than just its intrinsic value in the form of civil liberties and political rights” and that it is essential to move towards a maximalist definition of democracy located within the framework of the democracy-development nexus.

² Lekalake, R. 2017. Why opposition parties struggle to win power. (Online) <http://www.news24.com/Columnists/GuestColumn/why-opposition-parties-struggle-to-win-power-20170221>

³ World Bank. 2016. Poverty and Shared Prosperity 2016: Taking on Inequality. Washington, DC: World Bank.

⁴ Matlosa, K. 2017. The State of Democratisation in Southern Africa: Blocked Transitions, Reversals, Stagnation, Progress and Prospects. *Politikon*, 44 (1), 5-26.

The economic growth and political transformation experienced since the 1990s has started to lag in recent years and with it trust in elected leaders⁵. Corruption scandals and inefficiencies in government departments are nothing new, but there is a far more sinister concern. Countries experiencing democratic transition, such as those mentioned above, are particularly vulnerable to the use of illicit political finance aimed at democratic pillars of society – the capture of politicians and parties, journalists and the media, the police as well as key state institutions such as the legislature, the executive, the judiciary and regulatory agencies⁶.

'State capture' is a concept that has received extensive attention principally in the post-communist states of Eastern Europe and Latin America, but has also found its way into South African political discourse in recent years. In her 'Typology of Corruption' Rasma Karklins⁷ defines state capture as "systematic high level political corruption that establishes a hidden political regime at odds with the constitutional purpose of state institutions"⁸. This 'meta-corruption' is described by Hellman and Kaufmann as "the capacity to influence the formation of the basic rules of the game through private payments to public officials". State 'captors' essentially influence how the rules are formed – encoding advantages for themselves in the legal and regulatory structure of the state⁹. The World Bank notes that this subversion or even replacement of legitimate and transparent channels of political influence can be undertaken by private interests or political leaders.

For the first time in democratic South Africa's history a 'state capture' narrative - as opposed to corruption – has emerged and gained momentum in recent years. Following the release of the 2016 South African Public Protector Report entitled 'State of Capture', an escalating number of political scandals and thousands of leaked emails between the Gupta family and prominent political representatives, there has been a palpable interest in analyzing the consequences for the South African state. A 2017 report released by members of civil society and academia suggest that South Africa has experienced a silent coup that has removed the ruling party from its place as the primary force for transformation in society¹⁰. These developments in South Africa prompt the questions of whether and to what extent the state capture phenomenon may be affecting other African states –

⁵ Bratton, M & Gyimah-Boadi, E. 2016. Do trustworthy institutions matter for development? Corruption, trust and government performance in Africa. Afrobarometer Dispatch no 112.

⁶ Kupferschmidt, D. 2009. Illicit Political Finance and State Capture. International IDEA.

⁷ Karklins, R. 2002. Typology of Post-Communist Corruption. Problems of post-communism, Vol 49 (4), pp22-32.

⁸ Kupferschmidt, D. 2009. Illicit Political Finance and State Capture. International IDEA. Page 32.

⁹ Hellman, JS. & Jones, G & Kaufmann, D. 2000. Seize the State, Seize the Day: An empirical analysis of State Capture and Corruption in Transition. EBRD and The World Bank

¹⁰ Swilling et al. 2017. Betrayal of the promise: How South Africa is being stolen. State Capacity Research Project.

where the looting of natural and state resources has already been a concerning practice – and what lessons can be learned to safeguard transitional democracies in the region.

The substantial theory developed in Eastern Europe and Latin America as well as recent revelations and developments in the South African political landscape demonstrate that state capture has profound implications for the consolidation of democracy in Africa - systematically eroding democratic processes in the following ways:

1. **Elections** – As state capture is entrenched, political competition is limited and undermined and elections and other institutions become facades intended to provide legitimacy to governments¹¹. Two of the most common methods employed to directly influence electoral outcomes has been through the illicit financing of political parties, and the purchase and control of media and journalists for purpose of creating bias information¹². Political systems dominated by one party over a long period of time are particularly prone to a blurring of party and state lines.
2. **Institutionalization and normalization of democracy** – During the transition between authoritarian and democratic systems of governance, states are particularly vulnerable to capture. So-called state captors will attempt to infiltrate the (new/transitional) executive institutions at critical points – ministries concerned with financial and economic matters are of particular interest to illicit business, and are therefore most vulnerable to capture¹³. In these cases where political institutionalization has not been fully actualized “capture of either the state or the party easily transmutes into capture of the other” thereby undermining the ‘normalisation’ of democratic politics – including political institutionalization and enhanced civil society participation in governance processes - eroding not only the representative nature of democracy but ultimately the socio-economic development of the state¹⁴.
3. **Transformation of the state** – The goal of liberation movements in Africa was “political independence in a sovereign state under government representing the majority of the previously colonized people”¹⁵. The goal of post-liberation movements/political parties has

¹¹ Kupferschmidt, D. 2009. Illicit Political Finance and State Capture. International IDEA. Page 32.

¹² Karklins, R. 2002. Typology of Post-Communist Corruption. Problems of post-communism, Vol 49 (4), pg 28.

¹³ Karklins, R. 2002. Typology of Post-Communist Corruption. Problems of post-communism, Vol 49 (4), pg 28.

¹⁴ Netshitenzhe, J. 2016. Relationship between party and state. MAPPS lecture.

¹⁵ Melber, H. 2002. From liberation movements to governments: on political culture in Southern Africa. African Sociological Review, Vol 6 (1): 161-172.

been to transform the inherited colonial state. Between the state and the political party (or movement) is the concept of government. It is through the government that that a “party’s mandate – deriving from the electoral will - is actualized within the state”¹⁶. In a system of state capture however, control of the state and its institutions is directed away from the people to the private interests wielding the licit or illicit political finances thereby undermining the development goals articulated in the political mandates of political parties.

Rational and problem statement

In order to consolidate democracy, there should be established ‘rules of the game’. State capture undermines these rules by eroding the process of democracy such as elections and institutions of the state. The degeneration of the processes and institutions of the democratic state slow and even reverse the transformation of the state. This leads to a system in which power is systematically diverted away from the people, unravelling democratic gains and socio-economic transformation.

South Africa, as one of Africa’s largest and most developed economies has played a crucial role within both the Africa region and southern Africa sub-region since its re-admission into these fora after 1994. Using its economic and diplomatic influence, South Africa has historically advanced a progressive human rights and democratization agenda. The current contestations over state capture in South Africa threaten to impact not only one of Africa’s most influential states, but undermine democracy and human rights efforts in other neighbouring states as well. The potential negative impact of a failed democratic state in South Africa would have regional and sub-regional implications. It is essential that State capture in South Africa is addressed from an institutional and procedural perspective to strengthen the state against private interests capturing key institutions of governance.

Key objectives

The overarching objectives of the 12th EISA annual Symposium are to identify possible trends of state capture in the African region, draw lessons from states within and beyond the African region, and debate ways forward to consolidate transitional democracies in the region. Specifically, the EISA Symposium will explore the following areas:

1. The de facto takeover of public institutions for private gain;
2. Collusive networks that aim to limit political competition;

¹⁶ Netshitenzhe, J. 2016. Relationship between party and state. MAPPS lecture.

3. Undermining free elections and influencing electoral outcomes; and
4. The manipulation of information and abuse of oversight .

Methodology

The Symposium will be conducted over two days with the intention of developing policy-oriented recommendations that are aim to shape the future direction of and contribute to the consolidation of democracy in Africa. The above objectives will be met through the holding of plenary sessions that will enable participants to share regional and national comparative case studies and experiences. The Symposium will be opened with a keynote address from an eminent African personality chosen for his/her scholarship, political and/or symbolic role in championing democracy on the continent. Prior to the workshop, authors will be selected and guided by Terms of Reference for writing papers as well as arrangements for their participation to the symposium. Papers will be consider for publication and distributed after the Symposium.

Participants

Participants will be drawn from key democratic governance stakeholders including representatives of political parties, members of parliament, election management bodies, civil society organisations, academia, the media, as well as the African Union and Regional Economic Communities (RECs).