

VIEWPOINTS

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Party and State in South Africa

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South Africa has a venerable liberation movement presiding over a modern constitutional democracy. Little wonder the party sometimes revolts against the constitutional order. The perverse relationship between the party and the state frustrates democratic consolidation and imposes limits to growth and development.

The ANC was banished to exile from the early 1960s to the 1990s. The 'external mission' was fixated with dismantling apartheid. It gave little thought to the architecture of a democratic state. It failed to imagine strategies to address the institutional underpinnings, economic management, and state-society relations of the new order.

When the ANC gave up arms and entered into negotiations in the early 1990s, this was uncharted territory. On the surface, it performed quite well in its first term. The Interim Constitution, and corporatist mechanisms like the National Economic Forum (which was a precursor to the National Economic Development and Labour Council) helped

to smooth the way. Together with the Government of National Unity, they allowed the ANC latitude to take political and economic decisions in a controlled environment.

But the ANC was not sufficiently prepared to govern. It lacked bureaucratic depth and policy finesse, save for a few technocratically-minded politicians. Missing was a change of culture in the organisation, and the ability to re-align its ethos and systems with new demands.

The 1996 constitution defined the normative parameters of governance. The cream of the ANC's intelligentsia, rather than the body of the party as a whole, allowed the ship to sail steadily. Limited leadership depth meant that, at some point, the organization would become unhinged, and taken over by factions not aligned to its professed values.

Technocrats drove the first phase of democracy. The 'liberation movement' character of the ANC was suppressed, except in leaders'



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rhetoric and internal policy documents. But the impulse to project a liberation identity came back to life during Thabo Mbeki's second term in office, when tensions between the party and the state sharpened.

New forces emerging in the ANC were battling to redefine its purposes. The 'broad church' party contained variegated ideological and factional strands, often at odds with each other: adherents of values associated with past leaders; perverse and sometimes corrupt elements; and new mixes of democrats, modernists, and those who saw the party as a vehicle to advance narrow personal interests. At best, the ANC became ideologically confused and organizationally incoherent.

Under Presidents Nelson Mandela and Thabo Mbeki, the ANC focused on how to build a democratic state, and articulate the values laid out in the country's constitution. These values included human dignity, the achievement of equality, the advancement of human rights and freedom, non-racialism and non-sexism, and constitutional supremacy itself.

These sentiments are no longer as pronounced in policy statements or in the rhetoric of party leaders. An era marked by policy experimentation – from the formulation of the Reconstruction and Development Programme, and later the adoption of a macro-economic stabilization framework – was replaced after 2007 by a more inward looking, and at times backward-looking, ANC.

Under Mandela and Mbeki, institutional mechanisms were created to entrench the rule of law: the Prevention of Organised Crime Act (1998), the Asset Forfeiture Unit located within the National Prosecuting Authority (1999), the Directorate of Special Operations ('the Scorpions'), and the Special Investigation Unit. The Prevention and Combatting of Corrupt Activities Act of 2004 was the jewel in the crown of a golden era of institution building to promote good and effective governance and entrench the rule of law.

These ANC leaders were not able, however, to root out corrupt and factional tendencies within the party, or to set high ethical standards for its cadres. They also left in place a leadership succession process tolerant of mediocrity and corruption.

An unreformed party ultimately meant constraints on institutional reforms in government. The movement's values and expectations, as embraced by its ordinary cadres, were at odds with the work of deployed cadres in government. The ANC's approach to cadre development was meanwhile blind to the reality that its human capital was limited, and the party's ideological rhetoric was not always realistic in the face of complex policy choices that government has to make. As such, the party acted as an albatross on the institutional modernisation of the state, and constrained the ability for policy innovation on a sustained basis.

The shadow of the ANC fell heavily upon the appointment of senior bureaucrats in government, in state-owned enterprises, and in diplomatic missions abroad, mainly through its national deployment committee. Local government, which lies at the coalface of public service delivery, has been a casualty of the party's interference in resource allocation in the state. Every year, the Auditor General paints a picture of systematic irregularity, wastage, and corruption in local government, with skills deficiency a mark of how deep the party interferes at this most important sphere of governance. Cadre deployment is one channel through which the party-state relationship is blurred. In the Zuma years this cadre deployment approach morphed into a personalistic mechanism: those who were personally loyal to Zuma, irrespective of their competencies, were appointed.

The blurred lines between the party and the state had an increasingly adverse impact on the functioning of the state bureaucracy and public institutions, since this approach has no regard for merit or sound governance. The bureaucratic core of the state – what Nicos Poulantzas refers to as the institutional kernel of the state¹ – constitutes the system and organisation of

¹ Poulantzas, Nicos, *State, Power, Socialism*. London: Verso, 1980.

the bureaucracy. It includes the human capital of the class of technocrats, their functions, the organizational structures used for resource allocation, and protocols governing how different agencies of government interact with one another to deliver social objectives.

For this system to operate well, it requires insulation from particularistic and ideological interests. Some of the thinkers who have theorized the developmental state refer to this as 'relative autonomy' – an ability to interact with particular interests but without being unduly influenced by them where they do not promote the collective good.

This brings us to the mediation of competing interests, the interplay between the bureaucracy and key political actors, including business, labour, and the ruling party outside of the state. When this interplay is badly managed, for example when cadre deployment neuters appropriate political oversight, the effectiveness of public institutions and the delivery of quality public services both suffer.

In government the corrosive tendencies of party interference have sometimes been associated with conflicts between Directors-General and their Ministers. At other times, there have been tensions in state-owned enterprises, involving ministers, the chairs of boards, and chief executive officers.

Poorly managed relationships between political principals, boards, and bureaucrats have compromised effectiveness in state-owned enterprises such as the South African Broadcasting Corporation, South African Airways, and Eskom. Such tensions generated, or were symptomatic of, corporate governance failures whose deeper cause has been weak boundaries between party factions and the state. The hidden rationale for superimposition of the party on the state – and this is increasingly becoming more glaring – is to capture the state for narrow self-interest. The extent of corruption that has resulted from this practice has imposed a huge cost on the fiscus.

In the past, such encroachments were subtle and manageable, and often with ideological ends. Those at the helm of government frowned on brazen corruption, and the detrimental effect of party intrusions on governance was far more disguised and rationalised as a necessity to exorcise the state of the tendencies of the regime and transform it to serve developmental ends. The party no longer has fidelity to such objectives, except for rhetorical purposes.

The Zuma period has unfurled brazen forms of corruption. A whole new set of political relations emerged in the Zuma era, conforming to what the political scientist Goran Hyden refers to as the 'economy of affection'. Such a system is defined by personal investment in reciprocal, informal relations and the circumventing of formalized processes. As Hyden cautioned, this way of organizing bureaucracy and politics undermines governance, independent institutions, accountability, and transparency.²

The institutional reformatting and weakening of the Scorpions, the Hawks, and the National Prosecuting Authority have formed part of the informalization and repurposing of the state under Zuma. This was abetted by the emphatic support of other ANC leaders, as well as by the complicity of those who chose silence. The existence of two centres of power – the overlapping authority between the ANC headquarters at Luthuli House and the seat of Government at the Union Buildings in Pretoria – constitutes a significant obstacle to modernisation of governance, policy innovation, and the creation of independent and competent government agencies that can successfully drive social and economic change.

Under the Zuma Administration, the two centres problem was resolved by the president taking power away from the ANC and concentrating it outside state institutions in an informal network loyal to him. This informal network, an economy of affection, was feted with major contracts in state-owned

² Hyden, Goran (2nd ed), *African Politics in Comparative Perspective*, Cambridge: Cambridge University Press, 2013.

enterprises and other government agencies. A web of patronage networks became the basis of political relationships, and a channel through which state decisions were made. This process is extensively explored in Advocate Thuli Madonsela's 'State of Capture'³ report, a report by a group of academics on the making of the shadow state,⁴ and 'Gupta leaks' stories by investigative journalists.⁵

The institutional erosion of the state through cadre deployment was confirmed by evidence that over half of municipal managers are not qualified for their positions.⁶ Cadre deployment is contrary to norms of good and effective governance and goes against the grain of the Public Services Amendment Act.

The Ramaphosa Presidency faces some of the same structural impediments. Ramaphosa can probably control just half of the NEC.

Ramaphosa has to find ways of bringing together the disparate elements and lead the renewal of the party, while re-tooling a complex state and economic institutions that have been damaged during South Africa's dark decade under Zuma. Whether he has a strategy to heal the deep fractures in his party, root out corrupt tendencies, reconfigure and improve governance, and revitalize the economy remains unclear. Much depends on reforming an incorrigible ruling party, a prospect that increasingly seems remote because so many ANC leaders may have to answer to one or other of the Commissions that Ramaphosa has established. Some may face serious corruption charges when the National Prosecuting Authority recovers its moral bearings.

South Africa's current challenges have been deeply rooted in overlaps between the party and the state. The worst features of this legacy intensified under Zuma. An unreformed party grafted itself onto the state, curbing the relative autonomy of the bureaucracy from politics, and perverting state institutions in pursuit of anti-developmental goals.

The blurred lines between party and state gave latitude to dominant ANC factions to repurpose the state for parochial ends. Zuma, with the blessing of the ANC, damaged key institutions, especially law enforcement agencies, the South African Revenue Service, and state-owned enterprises.

The rule of law will remain paralysed unless these institutions can be reformed and resourced by competent personnel. Economic underperformance also reflects the reality of a moribund party that no longer possesses moral legitimacy to drive change, and lacks sufficient technical capability to renew the public sector.

Much of what preoccupies South Africa today has its roots in the overlap between the party and the state. This has created conditions for corruption on a large scale, the weakening of key institutions, and an under-delivery on socio-economic commitments that has increased social discontent.

Such institutional crises are revealed in the current plethora of Commissions of Inquiry. There is the Commission on State Capture, appointed by Zuma before he was removed from office, and headed by Judge Zondo. This is seeking to get to the bottom of the institutional malaise created by what has become known as 'state capture'. The Nugent Commission has meanwhile revealed the extent to which the capabilities of the South African Revenue Service have been eroded. We are learning of yet more elements of institutional decay through the Commission of Inquiry into Impropriety at the Public Investment Corporation. The common thread across all these commissions is that ANC cadres have used their deployment within these institutions to enrich themselves and to favour their friends. There are no strong buffers interposed between the party and the state.

Conclusion: Proposals for Reform

There are no easy options. Proposals to alter the

³ Advocate Thulisile Madonsela 'State of Capture: A Report of the Public Protector'. Report No. 6 of 2016/17, 14 October 2016.

⁴ Public Affairs Research Institute. 'Betrayal of the Promise: How South Africa is Being Stolen'. May 2017

⁵ Amabhungane Centre for Investigative Journalism. 'Gupta-leaks.com: Everything you ever need to know about #Guptaleaks in one place' 21 July 2017. Available at <http://www.gupta-leaks.com/>

⁶ Auditor General of South Africa. 'Consolidated General Report on the Local Government Audit Outcomes' MFMA 2016-2017

electoral system, perhaps introducing constituency representation, are unlikely to take off any time soon. Besides, they may not bring about long-term solutions, but rather create new problems, such as the emergence of populist demagogues who are elected directly and may have little respect for restraining institutions.

Those who are faithful to the ANC care about its future. If they want the party to survive, they will need to undertake reforms to uproot corruption, professionalise the party, and make it a credible force for progressive change in society. Such reforms would need to go deep and affect the whole movement from the branches all the way up to national level.

President Cyril Ramaphosa also needs to place a huge bet on fixing the state. First, he needs to reform law enforcement agencies and appoint credible heads to preside over them.

Second, he needs to set a high standard for the appointments of the Director-Generals in government and the heads of state-owned enterprises and other key government agencies. This also goes for the heads of institutions charged with maintaining the rule of law.

Law enforcement agencies that act with independence and without fear or favour are crucial to fighting corruption and protecting constitutional democracy. Third, the office of the chief procurement officer at the National Treasury needs to be given more teeth, to ensure integrity in supply chain management and proper oversight of transversal procurement of goods and services.

Finally, Ramaphosa and his finance minister need to act decisively to promote structural reforms that may not conform to the ideological templates of the ruling party. This would need to balance the exigencies of stabilising the economy, improving growth prospects, and promoting competitiveness on the one hand; and mobilising energies in government and in the private sector to create possibilities for greater economic inclusion and shared prosperity.

For this to happen meaningfully, Ramaphosa will have to pull up his sleeves and act decisively against corruption. He will need to stand firm against cadre deployment traditions in the ruling party, and draw talent for the state from across the spectrum in the country.



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