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Corruption and State Capture: An interpretive reading of the reports of the Judicial  
Commission of Inquiry into Allegations of State Capture.

By

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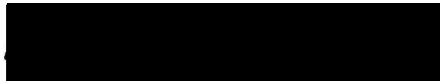
## DECLARATION

I, Mbalendo Reid Zulu (218029409), declare that this study titled “Corruption and State Capture: An interpretive reading of the reports of the Judicial Commission of Inquiry into Allegations of State Capture”, is my own work and a product of independent work and has been written by me in its entirety. The dissertation has not been submitted for any degree or examination at any other university. All citations and references throughout the study have been acknowledged accordingly.

Signed: M.R. ZULU

Date: February 2025

Supervisor Signature:

A solid black rectangular box redacting the supervisor's signature.

Date: March 31, 2025

## **DEDICATION**

This dissertation is dedicated to my mother, Constance Bongekile Zulu, and my sister, Khumbo Mbulaphindo Zulu. It is also dedicated to my nephew, Ziphazethu Khazimula Zulu, I hope this leads you to a journey of academic success, and I hope you can inspire future generations of the Zulu family. This dissertation is also dedicated to the community that raised me, Izingolweni, hopefully it inspires change in my community.

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## **ACRONYMS & ABBREVIATIONS**

ANC	- African National Congress
COSATU	- Congress of South African Trade Unions
DA	- Democratic alliance
DARD	- Department of Agriculture and Rural Development
DPW	- Department of Public Works
GEAR	- Growth, Employment Acceleration and Redistribution
JCISC	- Judicial Commission of Inquiry into State Capture
MEC	- Member of the Executive Council
NDR	- National Democratic Revolution
NDP	- National Development Plan
RDP	- Reconstruction and Development Plan
SACP	- South African Communist Party
SOE	- State-Owned Enterprise
VDP	- Vrede Dairy Project

## ABSTRACT

State capture and corruption gained ground and became topical during the tenure of Jacob Zuma as the president of the Republic of South Africa. As rumours made their way to the media, the then-Public Protector, Thuli Madonsela, was tasked with investigating corruption and state capture. The Public Protector recommended the creation of a body to further investigate these allegations. As a result, the Judicial Commission of Inquiry into Allegations of State Capture was established. This study analyzed and interpreted the reports produced by the Judicial Commission of Inquiry into Allegations of State Capture. The study answered the following research questions: What is a state according to the Judicial Commission of Inquiry into Allegations of State Capture reports? What are the concepts and theories of state capture that guided the Judicial Commission of Inquiry into Allegations of State Capture? How does state capture manifest itself in the Judicial Commission of Inquiry into Allegations of State Capture? What are the consequences of state capture? As its primary data sources, this study used the *Judicial Commission of Inquiry into State Capture Report: Part VI Vol I - Estina, Vrede* and the *Judicial Commission of Inquiry into State Capture Report: Part VI Vol 2*. Books and academic journals were used as secondary sources. This research utilized liberal, neo-liberal and new institutional economic perspectives as its theoretical lenses. This qualitative study utilized the case study method to collect data, which was also used to analyze the data.

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# **Chapter 1: INTRODUCTION**

## **1.1. Introduction**

This chapter introduces the phenomena of corruption and state capture in South Africa. Corruption and state capture gained nationwide attention in 2016 to the extent that the Judicial Commission of Inquiry was tasked with investigating the validity of the allegations. Chapter One will show the background of the phenomenon tackled by this study. Chapter one is also responsible for discussing the study's research objectives and questions, the problem statement, the significance of the study, the definition of terms and concepts, and a brief overview of the chapters that will follow.

## **1.2. Background**

State capture started gaining attention between 2015 and 2016 after allegations of the Gupta family's influence in the firing and appointment of cabinet members and SOE directors surfaced. However, the roots of state capture in South Africa are more profound than what the media exposed. They are traceable to the Apartheid era. The Apartheid era was a period in South Africa when the government systematically oppressed people of colour. This system placed people of colour in a disadvantaged position, economically and socially. As Fredericks and de Jager (2022) states:

The systematic oppression of black people led to the creation and elevation of parties like the ANC and SACP which fought for the liberation against colonialism and apartheid. These parties championed socialist ideas which were influenced by the Soviet Union from the 1960s into the post-1994 democratic dispensation (Fredericks & de Jager, 2022, p. 23).

These parties championed socialist ideals throughout the liberation struggle until the inevitable decline of the Apartheid system, and the introduction of the era of democracy. They held these ideas because they believed that the people of colour in South Africa deserved to be empowered economically and socially—a remedy for the system that previously excluded them from the rewards of South Africa.

With the advent of the democratic era in 1994, the ANC acquired power and took that chance to implement socialist plans and try to reverse the impact of Apartheid. Fredericks and de Jager (2022) explained this process thus:

In the pursuit of this transformation, the NDR and a concomitant strategy of cadre deployment were employed with the ANC as the vanguard—which not only required the undoing of the white partisan state structures but to have these corrected by having the state be partisan in favour of the previously disenfranchised – that is, black people in general and Africans in particular (Fredericks & de Jager, 2022, p. 28).

By implementing these plans, the ANC centralised power to itself. These actions created a path to the start of state capture.

State capture acquired prominence during the era of Jacob Zuma as President. However, the captors of the economy first carved a path for Zuma to be president. Thabo Mbeki, Zuma's predecessor, was removed from office because he centralised state power to the presidential office. Mbeki excluded the SACP and COSATU from state power. Zuma had support because ANC affiliates trusted that he would share state power with the Tripartite Alliance and his loyalists. When Zuma got into power, there were signs that state capture was occurring as he and the Gupta family exercised their relationship to the maximum. To illustrate this, February (2019: 3) points out that "In 2010, the Gupta brothers were part of the business delegation accompanying Zuma on a state visit to India".

When state capture was exposed, the public protector received three complaints about the issue from Father S Mayebe, Mmusi Maimane, and a member of the public, who was unnamed (February, 2019). The two allegations that are the root of the public protector's investigation originated from Mcebisi Jonas and Vytjie Mentor. Both claim that they once received offers for cabinet posts from the Guptas. February (2019) revealed that Vytjie Mentor claimed that the Guptas offered her the Public Enterprise portfolio in the cabinet after the removal of Barbara Hogan in 2010. Mcebisi Jonas claims that the Guptas also offered him the position of Minister of Finance after the removal of Nhlanhla Nene from that position; this allegedly occurred in 2015 (February, 2019). February (2019), in her article about state capture, stated:

Against this background came the intervention of Public Protector Thuli Madonsela. In March 2016, she announced that after having received several complaints, she would be investigating state capture (February, 2019, p. 8)

The Public Protector followed up on the allegations and complaints about state capture within the government, and her investigation resulted in her writing a report. Dassah (2018) mentioned:

Given the severe implications state capture has for South Africa, the Public Protector recommended that the president appoint a commission of inquiry within 30 days headed by a judge appointed by the Chief Justice to report its findings and recommendations to the president within 180 days (Dassah, 2018, p. 7)

The Zondo Commission then obtained the task of investigating further and producing reports detailing their findings.

### **1.3. Problem Statement**

The publication of the reports of the Judicial Commission of Inquiry into the Allegations of State Capture resulted in a lot of research and publications on state capture. However, most of this literature does not interrogate the key concepts and theories, which are state and state capture. With this in mind, this research project has the following research questions and objectives.

### **1.4. Research Questions and Objectives**

#### 1.4.1. Research Questions

- What is a state according to the Judicial Commission of Inquiry into Allegations of State Capture reports?
- What are the concepts and theories of state capture that guided the Judicial Commission of Inquiry into Allegations of State Capture?
- How does state capture manifest itself in the Judicial Commission of Inquiry into Allegations of State Capture?
- What are the consequences of state capture?

#### 1.4.2. Research Objectives

- To examine and understand how a state is perceived in the Judicial Commission of Inquiry into Allegations of State Capture reports.

- To examine and understand the concepts and theories of state capture that guided the Judicial Commission of Inquiry into Allegations of State Capture.
- To examine and understand the manifestation of state capture in the Judicial Commission of Inquiry into Allegations of State Capture.
- To examine the consequences of state capture.

### **1.5. Significance of the Study**

Existing literature focuses on various aspects of corruption and state capture. These aspects include the definition of corruption and state capture, the causes of corruption and state capture, and the consequences of corruption and state capture. However, is rarely researched are the philosophical assumptions of various approaches to corruption and state capture. The significance of this study is that it interrogates the assumptions of the Judicial Commission of Inquiry into the Allegations of State Capture. This important because different assumptions about corruption and state capture leads to different diagnoses and recommendations.

### **1.6. Definition of Terms and Concepts**

**Corruption** – This phenomenon is the conceptualisation of the action of government officials or influential individuals who misuse state power and privately gain from resources meant for the betterment of the public. Mostly, corruption is a phenomenon involving people or individuals responsible for running the state. Hence, Manyaka and Nkuna (2014) mentioned:

They view corruption as a two-way process that involve members of both the public and the private sector, who engage in illegitimate and unethical actions that diminish the country's economic prospects and degrade social and political institutions (Manyaka and Nkuna, 2014, p. 1573).

The notion of corruption that is most notable in South Africa is rooted in the idea of good governance because South African politics and the South African government aim to reverse the effects of Apartheid. Kroukamp (2006; 207) cemented this by stating, "The phenomenon of corruption has captured the attention of South Africans that are committed to good governance".

**State capture** – This phenomenon differs from corruption; even though it can be used interchangeably in some literature, the terms refer to two different phenomena. State capture is

a phenomenon where policymakers use policies and laws to benefit privately from the resources of the public. Citing Fazekas and Tóth (2014), Dassah (2018) differentiated between state capture and corruption thus:

Although state corruption and state capture are linked, the latter is not simply widespread corruption, but essentially a distinct network structure in which corrupt actors cluster around certain state organs and functions' (Dassah, 2018, p. 3).

For state capture to occur, a network of individuals must collaborate to capture the economy. A prime example is the relationship between Jacob Zuma and the Gupta family and their associates.

The Judicial Commission of Inquiry into the Allegations of State Capture – It is an entity that investigated the allegations of state capture against former President Jacob Zuma and the Gupta family. This entity existed because of the then-Public Protector Thuli Madonsela's instructions to create a body to investigate Zuma further. February (2019) explains that the commission was created in January 2018 after Ramaphosa had replaced Zuma as the ANC president and public opinion was against Zuma and the Guptas. Deputy Chief Justice Ray Zondo lead the Judicial Commission of Inquiry.

**Apartheid** – The concept represents an era in South Africa where the White government systematically oppressed people of colour, Indians, Coloureds and Black people, using the state. Apartheid entailed the exclusion of one group from privileges and goods (Adam, 1972). There was an exclusion of people of colour from social and economic privileges. The system was exceedingly more rigid on black people.

**NDR** – This plan that the ANC implemented when they got into power resulted from the socialist influence that the ANC cherished. Fredericks and de Jager (2022, cited in Johnson, 2009; 29) stated, "Many ANC members received training in the Soviet Union and other socialist countries, schooled in the ideas of Marxism-Leninism". The USSR was an ally in the struggle for the liberation of the people of colour in South Africa, which is why they influenced the parties that gained much support from the black communities. The NDR (National Development Revolution) was an idea created by the Soviet Union to combat the oppression of the African people through socialism. Citing Dubow (2000), Fredericks and de Jager (2022; 30) stated, "To address this, a two-stage revolution was proposed with the idea of a national liberation (stage one) progressing towards a socialist regime (stage two)".

## **1.7. Chapter Overviews**

### **1.7.1. Chapter 1: Introduction**

This chapter provides background on the phenomenon of state capture in South Africa. It gives the context by showing the events that help highlight the issue. It also discusses the research problem, research questions and research objectives, the significance of the study and the definitions of the concepts and terms that are essential to the study.

### **1.7.2. Chapter 2: Literature Review**

This chapter reviews the literature on state capture and corruption. The chapter shows the history of state capture in South Africa and the events that led to the creation of the Judicial Commission of Inquiry into Allegations of State Capture. It also reviews literature on corruption in South Africa, the consequences of state capture, and corruption in South Africa. It then shows the gaps in the literature.

### **1.7.3. Chapter 3: Theoretical Framework**

This chapter discusses the theoretical framework that guides this study. It discusses the concept of the state, mainly the international perspective. It discusses the liberal perspective of the state. It also discusses three perspectives of state capture: the neo-liberal perspective, Marxist perspective and the neo-institutional approach.

### **1.7.4. Chapter 4: Research Methodology**

This chapter discusses the research methodology and methods used in this study. The chapter discusses the case study and qualitative methods within this study. It discusses the case study method used to collect and analyse data. It discusses ethical considerations and the limitations of the study.

### **1.7.5. Chapter 5: The concepts of state and state capture in Judicial Commission of Inquiry into Allegations of State Capture Reports**

This chapter focuses on the concept of the state and the theories of state capture that guided the Judicial Commission of Inquiry into Allegations of State Capture.

#### 1.7.6. Chapter 6: The manifestation of state capture: The Vrede Dairy Farm Project

This chapter discusses and analyses the Judicial Commission of Inquiry into Allegations of State Capture's report, the Judicial Commission of Inquiry into State Capture Report: Part VI Vol I - Estina, Vrede. It focuses on the patronage network model, the Vrede Integrated Dairy Project, and the dynamics of patronage.

#### 1.7.7. Chapter 7: Consequences of State Capture

This chapter discusses and analyses the Judicial Commission of Inquiry into State Capture Report: Part VI Vol I - Estina, Vrede. It focuses on the consequences of state capture according to the report.

#### 1.7.8. Chapter 8: Conclusion

## **Chapter 2: LITERATURE REVIEW**

### **2.1. Introduction**

A literature review is a presentation of the academic writing available and based on the topic of the study. It showcases the information previous researchers, scholars, or academics have contributed to the topic. It also showcases the knowledge the researcher obtained about the topic. Citing Baumeister et al. (1997) and Tranfield et al. (2003), for Snyder (2019; p. 333), "A literature review can broadly be described as a more or less systematic way of collecting and synthesising previous research." A researcher can collect and analyse information to form a profound understanding of the studied topic, develop a new perspective on the study or criticise the available literature. It also means that the researcher can utilise it as a research method. Boote et al. (2005, 4) argue that "It sets the broad context of the study, clearly demarcates what is and what is not within the scope of the investigation and justifies those decisions." The importance of the literature review is that it outlines the essential and helpful information for the study. Literature review allows the researcher to decide what to cover on the topic and what the previous research has already covered. It also allows the researcher to provide recommendations for future research.

This chapter will focus on how other researchers defined state capture, the history of state capture in South Africa, and the background of forming the Judicial Commission of Inquiry. The chapter will then discuss how previous researchers define the concept of corruption and the history of corruption in South Africa. It will also focus on the causes of state capture and corruption and the consequences of the two phenomena. Lastly, it will provide a conclusion.

### **2.2. The Definition and History of Corruption in South Africa**

Philp (2016) argues that corruption has three components. A public official acting selfishly, violating public office power that hinders the public's interests, and a third party that will privately gain (Philp, 2016). Banerjee, Mullainathan, and Hanna (2012) similarly argue that corruption occurs when an official breaks a rule for selfish interest, like supplying services to someone when those services are for others. Corruption can occur for monetary gain or some other kind of gain, like helping a relative, which is nepotism. Banerjee, Mullainathan, and Hanna (2012) further argue that corruption is an umbrella term for all illegal activities. Banerjee, Mullainathan and Hanna (2012) and Rose (2018) further point out definitions and

understandings of corruption differ from one social context to another. Rose (2018) claims that early definitions of corruption were centred around morality while modern definitions focus on the violation of rules. Citing Brooks, (1970) Rose (2018,) suggests that:

One of the earliest academic definitions comes from Robert Brooks (1910/1970, p. 58), who defined corruption as: “the intentional misperformance or neglect of a recognised duty, or the unwarranted exercise of power, with the motive of gaining some advantage more or less personal” (Rose, 2018, p. 223).

Morris (2011) points to the distinction between bribery, kickbacks and extortion:

But beyond bribery, corruption also includes kickbacks which operate much like a bribe, but where the illegal payment is made after the service is rendered, usually from a portion of the governmental award itself, and extortion where the public official threatens to use (or abuse) state power to induce the payment of a bribe (Morris, 2011, p. 10).

Manyaka (2014) defines corruption as:

a two-way process involving members of the public and the private sector who engage in illegitimate and unethical actions that diminish the country's economic prospects and degrade social and political institutions (Manyaka, 2014, p. 1573).

Kroukamp (2006) argues that Africa is more susceptible to corruption. Kroukamp (2006; 206) states, "The high prevalence of corruption, especially within African states, is based on the assumption that the continued prevalence of traditional moral values within African societies is a key enabler of corrupt behaviour". Kroukamp (2006) explained that in some African contexts, "the receipts of gifts and payments by officials are deemed to be culturally acceptable." It may explain the relationship between former president Zuma and the Gupta family.

Hyslop (2005) traces the evolution of corruption in South Africa from the 1870s to the post-apartheid era. In the 1870's Transvaal Boer Republic, Paul Kruger created rent-seeking opportunities for his Boer constituency. Senior positions in the post-1910 Union of South Africa's administration were occupied by English speaking white individuals. Between 1924 and 1933, General Hertzog “did attempt to provide rent-seeking opportunities for Afrikaner farmers and workers (for example through agricultural subsidies and extended use of white labour in parastatals such as the railways)” (Hyslop, 2005, p. 780). The advent of the apartheid

era saw the removal of English speakers from senior civil service position. These were replaced by White Afrikaans speaking individuals. The Afrikaner rent-seeking programs had baffling results. Hyslop (2005; 782) points to the baffling results of the Afrikaner rent-seeking programs. The aim of these programs was to create Afrikaner capitalist and middle classes. This goal was achieved in the 1970s but the new Afrikaner classes were not interested in Afrikaner ideology. Thus, "With the Afrikaner establishment unable to discipline its followers, a scramble for personal enrichment began" (Hyslop, 2005, p.782)

The Afrikaner project of creating further resulted in corruption. The functioning of the Bantustan project required a massive injection of funds to "recruiting black civil servants to staff the homeland bureaucracies, on supporting traditional chiefs, and on construction projects in homeland capitals (Hyslop, 2005, p. 782-783). Hyslop (2005; 783) points out that "Further opportunities for official rent-seeking were afforded by the legal fiction of homeland independence". When it was clear that the end of apartheid was in sight "there was a rush to grab as much in the way of spoils as possible before the curtain came down" (Hyslop, 2005, p.784).

The legacy of Apartheid influences corruption in South Africa. Pillay (2004) points out that:

With the advent of democracy in South Africa in 1994, the newly elected government and the people of South Africa inherited a distorted system of governance – with institutions that were in direct conflict with the imperatives of sustainable economic growth, social development, and reintegration into the world economy and the community of nations (Pillay, 2004, p. 588).

### **2.3. The definition of State Capture**

State capture refers to a situation where sections or departments of the state are captured by the elite and powerful through the manipulation of laws for personal gain (Martin and Solomon 2016, Madonsela 2019, Hellman et al. 2000). Fredericks and de Jager (2022; 22) argue that "State capture is understood as the repurposing of state institutions for private interests." Fredericks and de Jager (2022) also explain that state capture results from the relationships between business groups and individuals in critical positions to influence state institutions. Through this influence, institutions are moved away from serving the public towards serving private beneficiaries (Fredericks and de Jager, 2022). Dávid-Barrett (2023) similarly argues:

State capture is a type of systematic corruption whereby narrow interest groups take control of the institutions and processes through which public policy is made, directing

public policy away from the public interest and instead shaping it to serve their own interests (Dávid-Barrett, 2023, p. 224).

Dassah (2018) explains that:

'Capture' is a military metaphor invested with connotation of force used by individuals or business entities to hold the state to ransom, but the capture process is, in fact, informal, subtle, covert or surreptitious in nature, not overt or characterised by violence (Dassah, 2018, p. 2).

These individuals capture the economy and work with policymakers or politicians who allow capture for something in return. Shai (2017) gave an example of the participants in the phenomenon of state capture when he mentioned:

The vibrancy of this public and scholarly discourse was reignited by the claims by some politicians from the ruling party, the African National Congress (ANC), that in the recent past, they were approached by the Gupta family (business moguls) for consideration in ministerial appointments (Shai, 2017, p. 62).

The African National Congress, the then-dominant ruling party in South Africa, could allow capture because of its political influence. Dassah (2018; 1) points out that state capture "systematically unpacks the phenomenon as a type of business–state relationship distinct from influence, corruption and lobbying and outlines its types, features and essence".

There is a tendency to use state capture and corruption synonymously. Dassah (2018; 3) clarify the difference between the two "Although state capture is an aspect of corruption, it is not synonymous with grand corruption". Dassah (2018) went on to explain the difference by stating:

The former refers to individuals or entities surreptitiously influencing the lawmaking process to shape the formation of the game's basic rules. In contrast, grand corruption involves subverting existing rules of the game governing contract awarding and implementing laws (Dassah, 2018, p. 3).

Madonsela (2019; 117) elaborates thus: "These actors thrive in states where economic power is highly centralised, social interest is weak and formal political channels of political influence are underdeveloped." The actors that Madonsela (2019) is referring to are private firms,

political leaders, and narrow interest groups. Differentiating state capture from other forms of corruption, Dávid-Barrett (2023) argued:

Because it changes laws and institutions, state capture shapes the rules of the game under which the whole society must operate, with a much wider and longer-lasting impact than forms of corruption that simply distort one-of transactions (Dávid-Barrett, 2023, p. 225).

Dávid-Barrett (2023) argues that state capture is a form of corruption but emphasises the role and power of the interest group that will benefit by influencing policymaking. Dávid-Barrett (2023) explains that state capture can be divided into three stages. The influence of the formation of policies, the influence when implementing the policies, and the disabling of the institutions that can threaten the activities (Dávid-Barrett, 2023). State capture is the manipulation of political influence or state power which results in the use of policymaking to re-direct state resources into private hands. The two actors in this situation are state officials and individuals from private businesses or entities.

#### **2.4. Conditions that facilitate state capture**

One of the conditions that facilitate state capture is an overly centralised state. This is mainly the case when the stifling of political and civil rights accompanies centralisation. Most post-independence states had centralised power, which they partly inherited from colonialism. The belief was also that a centralised state could address developmental issues. On assuming power, the ANC followed the same path. Southall (1998) points out that:

Since the election, however, the ANC's dominance has begun to be extended by a centralisation of control exercised through the machinery of state, notably through four processes: the rewriting of the transitional interim constitution and the promulgation of a new constitution which, among other things, abolishes the necessity for coalition government after the next election; the attempted containment of autonomy of the ANC's structures which have been established at the level of the new provinces; the exercise of party discipline within parliament and some curtailment of the government's accountability to parliament; and, fourthly, the imposition of administrative and financial discipline upon the provinces (Southall, 1998, p. 443).

Elaborating on this, Khambule (2021) suggests that:

The centralisation of state power within the ANC is intended to address historical socio-economic injustices while also accelerating economic growth. While bureaucratic competencies were institutionalised in East Asian developmental states to benefit the state capacity, the South African ANC-led government has entrenched a peculiar system that puts loyalty over national developmental interests (Khambule, 2021, p. 174).

Fredericks and de Jager (2022) argue that the ANC's post-apartheid policies have their history in the relationship of the ANC, the SACP and the Soviet Union. The ANC's *Strategy and Tactics* (1969) and the SACP's *The Road to South African Freedom* laid the foundation for post-apartheid policies. Fredericks and de Jager (2022) stated:

According to the ANC's (1969) *Strategy and Tactics* document, 'the success of the national democratic revolution... – destroying the existing social and economic relationship – will bring with it a correction of the historical injustices perpetrated against the indigenous majority' (Fredericks and de Jager, 2022, p. 30-31).

Hyslop (2005) traces the centralizing tendencies in the ANC to the organisation's exile history. As Hyslop (2005; 785) points out "In the context of guerrilla war and underground work, the ANC, understandably, developed an overriding ethos of organisational loyalty". Hyslop (2005) further explains that these relationships resulted in patronage networks and hindered the ruling party from publicly condemning old comrades for corrupt activities.

State capture is also enabled by close relationship between the business groups and the state or government representatives (Khambule, 2021). Citing Georg (2016), Dassah (2018) further explained:

The Gupta brothers' acknowledged friendship with the president and their ownership of lucrative tenders for coal supplies to Eskom, the power utility, has created tension between factions within the African National Congress (ANC), prompting the Deputy President to describe the government as waging 'war with itself' (Dassah, 2018, p. 5).

The nature of political and economic institutions may contribute to corruption and state capture. Citing Persson and Tabellini (2004), Svensson (2005) explained that:

The form of political institutions—parliamentary versus presidential and proportional versus majoritarian—can also affect the level of corruption as it influences the

incentives of politicians and voters' ability to hold politicians accountable for abuse of power (Svensson, 2005, p. 26).

In South Africa, the ANC centralised power as the party intended to reach its desired goals without being hindered by other political parties or entities. Citing Southall (2014), Khambule (2021,; 174) stated, "The Zuma years institutionalised loyalty over competence, signalling the entrenchment of a patronage system that rewards loyalists with positions of power". The ANC kept filling government positions with only its members, leading to political individuals associating themselves with the political party to have some power or influence. Citing Twala (2014), Fredericks and de Jager (2022) stated that:

Cadre appointment and deployment are commonly based on cadres' loyalty and connections to senior leaders, and based on these connections, they are rewarded for 'good behaviour' (Fredericks and de Jager, 2022, p. 33).

Since centralisation of power was accompanied by cadre deployment, it caused divisions within the ANC. In the Thabo Mbeki era, the SACP and COSATU members felt they needed to be consulted in decision-making. Citing Southall (2009), Fredericks and de Jager (2022,) also stated that:

Consequently, disgruntled ANC members from a wide range of factions, including members from the SACP, COSATU, the ANC Youth League, the ANC Women's League, Black Economic Empowerment (BEE) oligarchs and ANC leaders under investigation for corruption (hoping that if Zuma's court cases were squashed, theirs would be too), all threw their weight behind Zuma (Fredericks and de Jager, 2022, p. 35).

Similarly, citing Friedman (2019), Khambule (2021) argues that:

Zuma and his faction proposed no alternative to economic exclusion, but they saw it as an opportunity. One option open to some people excluded from the formal economy's benefits was to attach themselves to political parties and politicians to gain access to resources. Politicians who used their position to get hold of resources, either from public coffers or businesses seeking political influence, could have enriched themselves and bought political support by dispensing patronage. It was this brand of patronage politics that united the Zuma faction (Khambule, 2021, p. 12)

These internal divisions led to the ouster of President Mbeki and his replacement with President Jacob Zuma.

During Zuma's turn as president, many activities occurred that could be considered part of the state capture agenda. Madonsela (2019; 117) stated, "Zuma-Gupta's symbiotic relationship was pursued through traditional black economic empowerment, which is aimed at reforming the white-dominated economy." The author showed how Zuma and Guptas took advantage of the NDR plan. In 2008, Jacob Zuma became the president of the ANC, and his son, Duduzane Zuma, was appointed director of a Gupta-owned company called Mabengela Investments (February 2019). This signaled the start of the Gupta-Zuma relationship and state capture. February (2019) also stated that:

The relationship between the president's son and the Guptas would feature prominently in concerns about the influence that the family might exert on Zuma and various aspects of governance (February, 2019, p. 3).

The Gupta-Zuma relationship did not only feature the former president and the Gupta brothers, but their families were also involved. The capturing group included not only the families but also other elites, which were political figures and entrepreneurs. Citing Swilling (2017) Madonsela (2019) mentioned some of the individuals involved when stating:

In South Africa, the controllers were Zuma and the Guptas; the elites, Malusi Gigaba, Brian Molefe, Mosebenzi Zwane and Anoj Singh; the entrepreneurs or brokers, Eric Wood, Salim Essa, Ashok Narayan and Iqbal Sharma; and the dealers, the Guptas (Madonsela, 2019, p. 117).

When Jacob Zuma became president in 2009, he started by changing the leadership structure, replacing individuals loyal to his predecessor, Thabo Mbeki, with individuals who were loyal to him (Fredericks and de Jager, 2022). One can argue that he did this to reward those who helped him get into power, but one can also argue that he did this to secure his position as president from any open competition. Zuma's associates were rumoured to have power over the state. One event that showed that they had some influence was when Brian Molefe was named the new CEO of Transnet (a state-owned company) in 2011 (Madonsela, 2019). In addition, companies in which Zuma's friends and associates had stake received lucrative government contracts. For example, "A company in which Sharma, Rajesh Gupta and

Duduzane Zuma were partners received a stake in producing steel plate components for heavy vehicles bodies in February 2014” (Madonsela, 2019, p.121)

The Guptas did not only capture state-owned companies, but they were also influential in appointment of cabinet of ministers in South Africa. The Guptas were accused of manipulating Zuma’s cabinet reshuffling. Citing Calland (2013), Fredericks and de Jager (2022) summarized:

Accordingly, Zuma reshuffled his cabinets on four separate occasions during his first term as president: October 2010 – seven ministers were replaced, two others reassigned, and 17 new deputy ministers were appointed; October 2011 – two ministers were removed, two reassigned, two others were promoted; October 2012 – one minister reassigned and one other promoted; July 2013 – three ministers were removed, three others appointed and one other reassigned (Fredericks and de Jager, 2022, p. 36).

Fredericks and de Jager (2019) point out that Zuma reshuffled the cabinet 12 times during his tenure as president. The oppression of people of colour in South Africa created an environment where state capture could thrive. The ideas and policies that were birthed as remedies of the exclusion of people of power were utilised as vehicles for capturing the state by the ANC. The notion of loyalty is evident in the thriving of state capture, as Zuma’s path to the presidency was carved by internal conflict within the ANC which was defined by loyalty to him or Mbeki.

## **2.5. Consequences of State Capture**

In general, corruption tends to negatively impact the economy. Kroukamp (2006) points out that:

Corruption is especially harmful in developing countries such as South Africa due to the effect that these countries tend to have fewer resources and need to use these scarce resources in the most effective way, as well as a lack of confidence in the government (Kroukamp, 2006, p. 207).

Dávid-Barrett (2023) argues that:

A particular feature of state capture is that economic activity tends to become skewed towards the sectors that the elite can best control, reducing opportunities in other parts of the economy and constraining the economic diversification which is generally regarded as important for long-term development (Dávid-Barrett, 2023, p. 236).

Thus, state capture weakens the economy in the long term. A weakened economy will not be able to provide the necessary resources and services for the public. The negative consequences of state capture on the economy are best illustrated by the reaction to the removal of Nhlanhla Nene as Finance Minister. Khambule (2021) explained that:

The most significant example of the reaction and power of the civil society in South Africa's state capture was the removal of Finance Minister Nhlanhla Nene, which had dire consequences on the value of the South African currency (Khambule, 2021, p. 175).

One of the tools that capturers used is to overprice the products that they deal with. While citing Eberhard and Godinho (2017), the best example of this was mentioned by Fredericks and de Jager (2022):

Eskom, for example, faced gross financial problems in terms of its operating expenditure – with coal procurement being amongst the most significant problems – in which the average coal costs rose from R190 per ton in 2011 to R400 per ton in a few years (Fredericks and de Jager, 2022, p. 37).

The result of state capture and economic mismanagement of Eskom is rolling blackouts affecting South Africa.

State capture and corruption result in overall crippling of the economy. Manyaka and Nkuna (2014) claim that the South African public sector loses large amounts of money yearly. Citing Consumer Goods Council (2006), Manyaka and Nkuna (2014; 1576) further stated that "According to Consumer Goods Council (2006), South Africa loses between R50 Billion to R150 Billion annually due to fraud and corruption".

In response to state capture, civil society, political parties, and other organised groups joined together and protested state capture (Khambule, 2021). Eventually, allies of the ANC, like the SACP, joined the protest to remove Zuma from office. Khambule (2021) stated that:

Resistance against state capture from 2015 began to form within the ANC's internal structures and from opposition parties through political parties working together to file a series of motions of no confidence against President Zuma (Khambule, 2021, p. 175).

State capture not only affect the resource sectors, but also affected the labour market. Citing City Press (2015), Martin and Solomon (2016; 28) point out that, "Many economists agree that

the distortions within the South African labour sector have impeded both economic growth and the alleviation of poverty in the country". Kroukamp (2006; 211) points out the political impact of state capture: "On the political front, corruption undermines the ethos of democratic governance with eventual results in the erosion of public confidence and trust in the democratic process". This lack of trust in state institutions, Kroukamp (2006) suggests, leads the public into being sceptical about participating in politics. This may also lead to anarchy and chaos as public would not believe in the political system(Kroukamp, 2006).

Corruption has the potential of creating a new culture and norms of dishonesty and greed (Kroukamp, 2006). It affects the judicial system and the police as these sectors may start prioritising individuals who are able and willing to pay bribes. This disrupts the rule of law, leading the public to distrust the government further. State capture affects the economy, crippling it, ensuring that it becomes ineffective in distributing resources and services to the public.

## **2.6. Conclusion**

This chapter covered significant themes in literature dealing with corruption and state capture in South Africa. The chapter began by discussing the contested concepts of state capture and corruption. It was followed by the discussion of conditions that facilitate state capture. Among these conditions are an overly centralised state, a lack of meritocracy, and a close relationship between the state and the business elite. While state capture thrives on weakened institutions, it also contributes to this weakness. In the case of South Africa, state capture also contributed to the weakening of State-Owned Entities and the failure of developmental projects. However, it is essential to interrogate the theoretical assumptions of these various critiques of state capture. Since the concept of state capture is anchored on the conceptualisation of the state, the next chapter, will interrogate assumptions of various state theories.

## **Chapter 3: THEORETICAL FRAMEWORK**

### **3.1. Introduction**

For Varpio et al. (2020; 990), "A theory is a set of propositions that are logically related, expressing the relation(s) among several different constructs and propositions." Thus, a theory explains and provides an understanding/foundation of an issue. A theoretical framework contains a theory or theories, and it holds or supports the proposed theory/theories for the study as it lays the foundation for the research. Varpio et al. (2020; 990) stated, "A theoretical framework is a logically developed and connected set of concepts and premises—developed from one or more theories—that a researcher creates to scaffold a study."

Since the proposed study is on state capture, the concepts of state and state capture are essential. In this chapter, the liberal perspective is utilised to discuss the state. The chapter also discusses theories of state capture. Namely, the neo-liberal perspective, the Marxist perspective, and the new institutional economic approach. There is a general agreement about the features of a state. As Heywood (2014; 116) stated, "According to Article 1 of the Montevideo Convention, the state has four features: a defined territory, a permanent population, an effective government and the capacity to enter into relations with another state." However, the concept of the state is contested.

### **3.2. The Contested Concept of the State**

For Heywood (2014), a state has four elements: a defined territory, a government, a permanent population, and the ability to enter into relations with other states. A state must be recognised internally and externally, by its people and the international community. Furthermore, the state is a political association, but unlike other political associations, such as townships and provinces, the state cannot be incorporated into another political association (Kukathas, 2014). On a political community, Kukathas (2014) elaborates thus:

On this account of community, there can be a political community, defined as a collectivity of individuals who share an understanding of what is public and private within that polity (Kukathas, 2014, p. 359).

Individuals within a state share how they collectively view a state (their state) and how that state is supposed to function. Kukathas (2014) further explains that the state is a political community that may consist of one or multiple nations.

Kukathas (2014) sees the state as a corporate entity; it is viewed as a legal person and can act as a legal person and have responsibilities. Kukathas (2014) summarises the definition of a state thus:

A state is a supreme form of political corporation because it can incorporate within its structure of authority other political corporations (such as provinces and townships) but is not subject to incorporation by others (such as supranational organisations) (Kukathas, 2014, p. 360).

The state is the primary actor in the international system, and it has external and internal responsibilities (Heywood, 2014). The state's external responsibilities relate to its relations and interactions with other states (Heywood, 2014). The internal responsibilities of the state are dictated by the elements essential for identifying a state. As the state interacts with other states, it has sovereignty. A state's relations with other states do not dictate the state's actions, primarily its internal actions and decisions. Heywood (2014) elaborates on sovereignty thus:

However, although not explicitly mentioned in the Montevideo Convention's list of state features or Weber's notion of a monopoly of the legitimate use of violence, the underlying character of the state is established by a single core characteristic: sovereignty (Heywood, 2014, p. 117).

Sovereignty gives the state independence and jurisdiction within its territorial borders.

It is essential to distinguish a state from a government. For Kukathas (2014; 360), "Government is an institution whose existence precedes that of the state". The government consists of individuals who run the state, which the public accepts (Kukathas, 2014). The recognition by the public allows the government to have the power to rule as they see fit; this is how the state has sovereignty. To further clarify:

Government exists when people accept (willingly or not) the authority of some person or persons to address matters of public concern: the provision of non-excludable goods, the administration of justice, and defence against external enemies being typical examples of such matters (Kukathas, 2014, p. 360).

A government's responsibilities include allocating the state's resources to the public, the process of policymaking and lawmaking, and the actions towards the international system. The government develops relationships with other states, whether the relationships are peaceful and prosperous or defined by tensions and conflicts/war.

The importance of territorial borders can be extensively highlighted using the 'Scramble for Africa' phenomenon when European countries colonised Africa. European states did not recognise Africa as a continent consisting of states, or states equal to them. Griffiths (1986; 204) advises, "The political boundaries of modern Africa emerged mainly in the 30 years after the Berlin Conference". The territory of African states today was defined by Europeans. Griffiths (1986; 204) later stated, "Boundaries were drawn to define the different European spheres of influence, first as short lines made roughly at right angles to the coast". The colonisers used territorial borders to identify what they recognised as states, as they were preventing conflict with each other over the land they were colonising. As the modern state can be attributed to Europe, the importance of territorial borders was also highlighted by Europe, mainly when colonising Africa.

The most important feature of the state is the population; every other feature is built around the population. The state fails to exist without the citizens or the people (Kano, 2022). The population is the total number of individuals residing inside the defined territory. They are recognised and governed by the government of that particular state (Jessop, 2015). When explaining how the population is governed, Jessop (2015) stated:

We should also note that the population governed by states is subject to nationalising, gendering, 'racialising', and other identity-based divisions; and that this is associated with different patterns of inclusion and exclusion both within and at the borders of a state (Jessop, 2015, p. 75).

The state is understood in many ways, but the prevailing perspective is that of the international lens, highlighting the importance of territory, sovereignty, government, population and the capability to enter into relations with other states.

### **3.3. Liberal Perspective on the State**

Heywood (2014) argues that liberalism is an ideology that champions the notion of a natural equilibrium. Although the author shows this from an international point of view, there is a constant idea of not regulating the space in which one operates, whether it is the individual, group or state. Liberals champion the liberty and rights of the individual, which is why they believe the state must have minimal interference in the affairs of the individuals. Obo et al. (2014) argue that the state is a necessary evil that should have limited power over the individual.

The liberal perspective values the state as the overseer of the rights and property of individuals because of the voluntary mutual agreement between the state and the people. Drougge (2019; i) stated, "Additionally, the state ought to provide necessities for those in need and establish public institutions for which societal, but not individual, demand exists". The state fulfils its duties by creating institutions responsible for its obligations to the people. Drougge (2019) highlights three aspects of a liberal state: property rights, the rule of law and welfare. Liberals believe that the institutions created by the state must be responsible for these aspects (Drougge, 2019). Liberals view property rights as equal to life itself, as they believe these rights factor in the economy. As liberals believe that the state should have minimum interference in the affairs of the individuals. They believe the economy will prosper in a free market system.

The second aspect of a liberal conception of a state is the rule of law. The rule of law is an impartial system to protect and secure those individuals' liberties. Citing Tamanha (2004), Drougge (2019; 14) explained that the rule of law "safeguards the liberties of individuals and ensures that they cannot be threatened by the state or other entities". The rule of law furthers the notion of limited interference of the state regarding the individual, ensuring that the individual enjoys their natural rights.

The third aspect of the liberal perspective is welfare. However, there are two liberal views on welfare. First is the laissez-faire view, which is the idea that interference of the state in the public's affairs may violate the individual's rights because it could impede the individual's interests (Drougge, 2019). Second, the equality of opportunity perspective is based on the idea that human beings must not be deprived of the basic needs they require.

### **3.4. The Neo-liberal Perspective of State Capture**

The neo-liberal perspective on the state is internationally dominant and is favoured by international financial institutions (Dassah, 2018). Citing Robison & Hadiz (2004), Dassah (2018, p. 2) on state capture from a neo-liberal perspective: "For neo-liberals, state capture occurs because policymakers are inherently corrupt and use state power for rent allocation and patronage". Thus, state capture results from the individuals in power, their nature, decisions and actions. Neo-liberals have this perspective because they believe that the state should not control the economy. For neo-liberals, the economy should be allowed to self-regulate and be naturally controlled by the factors of supply and demand (Dassah, 2018). From a neo-liberal perspective, Dassah (2018) concludes that capturing the economy eventually leads to the

mismanagement of resources such as savings and investments. Therefore, hindering economic development.

### **3.5. Marxist perspective on state capture**

Obo et al. (2014) advise that Marxists:

Believe that irrespective of how "liberal" or "democratic" a state claims to be, it is mainly an instrument for the domination, oppression and exploitation of the economically weak class by the powerful and dominant class (Obo et al., 2014, p. 539).

Marxists believe the state is a parasitic organisation that uses taxes to fund the elite class, so they hold on to power. Marxists believe that the state is either controlled by the elite class or consists of individuals from the elite class. In the Marxist view, state capture is permanent as the state serves the interest of the influential individuals or elite. Dassah (2018) explains two Marxist views of state capture. One perspective views the state as an instrument of domination. The perspective of the Gramscians focuses on classes of society.

The first Marxist view, the Instrumentalist Theory of the state, focuses more on the elite class's domination. Wright et al. (1975) argued that the state leans towards the interest of the capitalist/elite class because the elites control it. Miliband (1969) cited by Wright (1975), explained that the elite class's ownership of the means of production results in the state being an instrument of domination by the capitalist class. Wright et al. (1975) displayed a second Marxist view that opposes the Instrumentalist Theory of the State when stating:

The fundamental thesis of the structuralist perspective is that the functions of the state are broadly determined by the structures of the society rather than by the people who occupy positions of state power (Wright et al., 1975, p. 37).

The Structuralist Theory of the state focuses on the class structure, the relationship between the working class and the elite class, and the capitalist state. The Gramscians view the state and its institutions as disbursing power according to the structure/classes of society, benefiting the elite the most (Srouji, 2005). The state is always captured (Srouji, 2005). The elite primarily influences the state, and state capture is a consequence. As the state is already under the control of the elites, who pursue their interests, state capture is a natural phenomenon. The two views of Marxism differ because the first view looks at the elite's domination and the second view looks at the distribution of power among the classes of society.

### **3.6. New institutional economic approach**

Hodgson (2006; 2) defines institutions “as systems of established and prevalent social rules that structure social interactions”. Examples are “Language, money, law, systems of weights and measures, table manners, and firms (and other organisations) are thus all institutions” (Hodgson, 2006, p. 2). Thus, institutions provide the norms and guidance for people’s actions. In light of this definition of institutions, “New institutional economists believe in the intervention of state institutions to address market failure and are opposed to neo-liberals” (Dassah, 2018, p. 2). As neo-institutional economists believe that state institutions must somewhat regulate the economy, they believe a captured state results from weak or strong institutions. Dassah (2018) showed two types of capture of the view of the New Institutional Economists.

The first type of capture results from private entities wanting to benefit from the state by influencing advantageous policies (Dassah, 2018). The second type of state capture “sees policymakers and rent seekers groups as having the common aim of extracting as much as they can from society while maintaining their power base” (Dassah, 2018, p. 3). Thus, the second type of capture is a consequence of political figures who want to loot state funds and benefit as they have access to political or state power. The Judicial Commission of Inquiry's perspective of state capture relates to the second type. The Commission credits government officials and other influential individuals for the phenomenon. The second kind of state capture can be better applied to the South African case. State capture in South Africa should be understood in the context of the transition from the apartheid era. The South African Constitution envisions a welfare liberal state. On the one hand, the Constitution guarantees all liberal freedoms, including property rights. However, these freedoms are bounded by the state's welfare obligations. South Africa's Constitution mandates the state to intervene in different aspects of its citizens' social and economic lives.

Section 27 of the South African Constitution mandates the state to take reasonable measures towards realising rights to health care, food, water and social security. Thus, the 1994 Reconstruction and Development Plan (RDP) envisioned South Africa as an activist and development-oriented state (Khambule, 2021). However, the RDP faced opposition from international financial institutions and was replaced by the Growth, Employment Acceleration and Redistribution Policy (GEAR) (Khambule, 2021). With increasing inequalities and

opposition, GEAR was eventually replaced by the New Growth Path, culminating in the National Development Plan (NDP), which aimed to create a developmental state.

A prosperous developmental state requires developmental leadership, which is lacking in South Africa. A state that lacks developmental leadership is vulnerable to capture. South Africa's presidency was most vulnerable during the tenure of former president Zuma. The capture of South Africa's presidency began with the Guptas befriending President Zuma. The Guptas used their resources to cement their relations with the Zumas. The Guptas employed two of Zuma's children, Duduzane and Duduzile, in their companies (Bhorat et al., 2017). The public confirmation of this relationship was when Zuma thanked one of the Gupta brothers at an event that a Gupta company sponsored. The capture of Zuma and the presidency allowed the Guptas access to the national government, state-owned enterprises, and provincial and municipal government. This is illustrated in Figure 1 below, which displays a model of a patronage network. The purpose of the patronage network is to distribute rent. Bhorat et al. (2017) defined rents as resources reallocated to a previously underprivileged group to bring balance between groups and set the stage for development.

Figure 1: Generalised model of a patronage network.

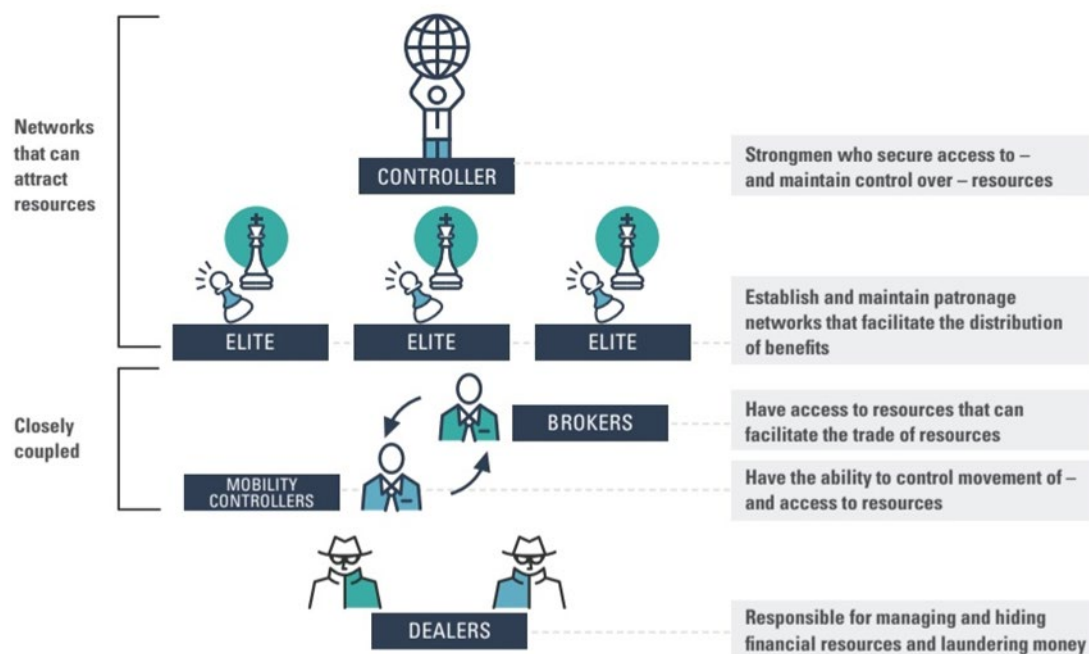


Figure 1 (Bhorat et al., 2017, p. 56) illustrates the structure of a patronage network, a vehicle of the second type of state capture mentioned above, involving power elites, rent seekers and

other individuals manipulating the economy. At the helm of this patronage network is a patron or controller. This structure is constructed by the influential power elite in a state, from political officials to private business owners. Olver (2018) explains the concept of patronage as an alliance between a controller (patron) and individuals who may be their supporters. Individuals who assist patrons in preserving power, in turn, receive benefits. Bhorat et al. (2017) view the patrons as occupying the top of the patronage network and having access and control over resources.

The second rung of the patronage network consists of the elite. The elites comprise of individuals who occupy influential positions in private businesses, government, state institutions, etc. (Bhorat et al., 2017). In order to be part of this group, individuals have to be influential when it comes to decision-making. Bhorat et al. (2017; 57) defined the role of the elites by stating, "The elites are responsible for establishing and maintaining patronage networks, which facilitate the distribution of benefits."

Within the structure of the patronage network, brokers occupy an essential role. Citing Sandoval (2013), Bhorat et al. (2017) described brokers by stating:

Broker networks consist of middlemen who facilitate the movement of funds, information and goods both domestically and across transnational networks, and make use of "recruitment networks, lending networks, remittance networks and smuggling networks" to do so (Bhorat et al., 2017, p. 57).

The brokers are painted as the backbone of the patronage network, as they have the connections to move funds locally and internationally. They are the connection of networks, facilitating the movements that result in the patronage networks being successful in quest of privately benefiting. Dealers are responsible for the movement of money internationally. This includes money laundering (Bhorat et al., 2017).

Within the patronage network, the patron, the elite, brokers and dealers make up the shadow state. Madonsela (2019; 116) describes a shadow state as "a network of relationships that bind together a group of people that secretly work together in activities that contradict their formal role in a constitutional state." The shadow state works behind the scenes to influence the formal constitutional state. The overall aim of the shadow state is to repurpose the organs of the formal state. Bhorat et al. (2017) describe repurposing as the informal reorganisation of state

institutions, infiltrating them for a different purpose and driving them away from the initial formal direction.

### **3.7. Conclusion**

The premise of this theoretical framework chapter is that various theories and concepts of the state underpin various conceptualisations of state capture. This chapter interrogates four conceptualisations and theories of the state and state capture: classical liberalism, neo-liberalism, new institutional economics, and Marxism. The liberal perspective views the state as an impartial institution fulfilling the mutual agreement between it and the people, protecting their rights and property. The neo-liberal perspective is a modern rebirth of classical liberals; neo-liberals argue that state capture is caused by the fact that policymakers are naturally corrupt. New institutional economists argue that state capture occurs when institutional independence is compromised, or institutions are weak. Marxism argues that the state is a class instrument. For Marxists, states are always captured; the only difference is the class that captures the state. This research will combine liberalism, neo-liberalism, Marxism and new institutional economics to analyse the Zondo Commission's reports. The next chapter focuses on this study's research methodology and methods.

## **Chapter 4: RESEARCH METHODOLOGY**

### **4.1. Introduction**

For Goundar (2012; 10) research methodology is made up of "the procedures by which researchers go about their work of describing, explaining and predicting phenomena." A research method is a plan the researcher implements to collect and analyse data, to understand a phenomenon better or more deeply (PHILO-notes, 2020). It is essential to distinguish between research methodology and research methods. The research methodology is a tool researchers or scientists use to share their experience of a phenomenon (Nachmias & Nachmias, 1982). The methodology helps other researchers or scholars to analyse the research provided, in a critically manner. Other researchers can replicate the initial research to prove its validity and provide constructive feedback, as the methodology is made public and accessible to all (Nachmias & Nachmias, 1982). The research methodology justifies using a particular research method in a study (PHILO-notes, 2020). For Goundar (2012; 9) "One of the primary differences between them is that research methods are the methods by which you conduct research into a subject or a topic". Goundar (2012) points out one of the differences between research methodology and research methods.

### **4.2. Research Methods**

The research methods execute the research; they are the map or process the researcher follows to conduct the investigation (PHILO-notes, 2020). Different research methods are implemented to reach different results, depending on the researcher's primary objective. There are qualitative research methods and quantitative research methods. For Bless et al. (2013; 15), "Quantitative methods emerged from the philosophical belief that the world runs according to natural laws and that the role of the scientist is to uncover or discover these pre-existing laws". Researchers who use quantitative methods look at the resulting facts objectively without looking for a deeper meaning. Quantitative methods rely heavily on statistics and numbers (Bless et al., 2013). Researchers tend to collect information using and sticking to specific rules to be as objective as possible. Bless et al. (2013) credit the following methods as examples of quantitative methods: structured questionnaires, surveys and questionnaires.

Bless et al. (2013; 15) state that comparing qualitative and quantitative research methods, "In comparison, qualitative methods emerged from more recent philosophical beliefs that truth is

relative and that knowledge is constructed”. Hennink et al. (2011) elaborate on qualitative research thus:

In broad terms, qualitative research is an approach that allows you to examine people’s experiences in detail by using a specific set of research methods such as in-depth interviews, focus group discussions, observations, content analysis, visual methods, and life histories or biographies (Hennink et al., 2011, p. 9).

Researchers who implement qualitative research methods prioritise the human perspective; reality results from the experiences, biases and assumptions of those who occupy it (Bless et al., 2013). Qualitative methods find a more profound understanding of the topic of the study. Bless et al. (2013; 16) elaborates thus: “The researcher investigates a problem from the respondent’s point of view”. Qualitative methods highlight the subjective perspective of the participants involved in the study. Hennink et al. (2011) emphasised this by stating:

Perhaps one of the main distinctive features of qualitative research is that the approach allows you to identify issues from the perspective of your study participants and understand the meanings and interpretations they give to behaviour, events or objects (Hennink et al., 2011, p. 9).

Qualitative research methods are implemented advantageously to the people being studied. In their natural setting, researchers observe how their perspective is shaped by where they live (Hennink et al., 2011). The social, economic and cultural context is very influential (Hennink et al., 2011). Bless et al. (2013) mentioned that some problems that are investigated need both approaches, in which the methods collaborate and complement each other. Therefore, this is the mixed-methods approach. The mixed-methods approach is an approach that tries to tackle the research questions by collecting and analysing both the quantitative data and the qualitative data (Frances Chumney, 2015).

### **4.3. The Case Study Method**

This study utilised the case study research design which is a qualitative research approach. The case study focuses on collecting data from sources of evidence which can be interviews or documents like articles and journals. Citing Bromley (1990), Lune and Berg (2017) stated:

Some sources define the case study method as an attempt to systematically investigate an event or a set of related events with the specific aim of describing and explaining these phenomena (Lune & Berg, 2017, p. 170)

Guthrie (2010) explains that the case study research design is implemented in a situation to find in-depth information about the issue's meaning to the individuals involved. The case study method examines one or more (two or three) cases profoundly (Guthrie, 2010). Lune and Berg (2017; 171) stated, "First, case studies require multiple methods and/or sources of data through which we create a full and deep examination of the case". Lune and Berg (2017) continued to explain that the case will dictate the appropriate methods, and qualitative methods are used more frequently than quantitative methods, as depth is significant in the case study method.

There are two perspectives on the case study method. The first perspective focuses on a theory rather than the actual case; the cases highlight the studied theory. The second perspective focuses on the actual case under investigation. Guthrie (2010; 67) stated, "The case is the research population, but it does not represent other populations, and extrapolations cannot be made to them". Thus, the data found from a case study method cannot be generalised. It was the case for this study as only one situation of state capture in South Africa was under examination. The Judicial Commission of Inquiry produced the report as they investigated the allegations against the Guptas.

Guthrie (2010) mentioned that this perspective of the case study method can have four different focuses: individuals, projects, institutions and communities. Individuals are prioritised by professionals like social workers or psychologists, who want to capture their stories as biographies (Guthrie, 2010). Projects become the focus of this perspective when consultant researchers want to examine the implementation or impact of a particular policy. It can occur during or at the end of the project (Guthrie, 2010). Guthrie (2010) explains that institutions become the focus of the perspective when researchers want to examine an organisation, the actions and nature of that organisation. This focus was parallel to the study. The study focused on reports produced due to an investigation conducted about Zuma, the Guptas and the ANC. The fourth focus of this perspective can be communities, which is implemented when researchers desire to find information about the nature of residential communities. This research method is perfect for the study and was suitable as the study relied on reports and articles classified as documentation.

#### **4.4. Data Collection**

The data was gathered from primary and secondary data sources. Primary data is information the researcher collects directly, and secondary data is collected using other researchers' work and other primary data sources (Rabianski, 2003). Primary sources come from an individual who experienced, witnessed, or was directly involved in an event (Lincoln Learning Solutions, 2021). Primary data sources can be memoirs, diaries, interviews, etc. Secondary sources are produced by individuals not directly involved in an event. These sources rely on primary sources and can be summaries or interpretations of primary sources (Lincoln Learning Solutions, 2021).

The study utilised one of the reports of The Judicial Commission's Allegations of State Capture, specifically, the *Judicial Commission of Inquiry into State Capture Report: Part VI Vol I - Estina, Vrede*. A report that provided supporting evidence, is the *Judicial Commission of Inquiry into State Capture Report: Part VI Vol 2*. These were the primary data sources that were utilised

Secondary sources included books, journal articles and online sources on corruption and state capture in post-1994 South Africa. Yin (2018; 115) states, "For case study research, the most important use of documentation is to corroborate and augment evidence from other sources". As secondary data sources were used to gather information and understand state capture in South Africa, primary data sources (reports) cemented that understanding. They were used to dive deeper into the concept and events of state capture provided by the secondary sources.

#### **4.5. Data Analysis**

The data was presented and interpreted using case study analysis. Creswell and Poth (2018; 206) stated, "For a case study, as in ethnography, analysis consists of making a detailed description of the case and its setting". The case study analysis allowed the study to adopt or use a technique that was seen as best fitting for the data analysis in this study. The case study research design also has another different method to choose from. Citing Stake (1995) Yin (2018) indicated that different forms of data analysis and interpretation could be found in case study research.

Yin (2018; 206) stated, "In direct interpretation, on the other hand, the case study researcher looks at a single instance and draws meaning from it without looking for multiple instances". Yin (2018; 206) followed by stating, "It is a process of pulling the data apart and putting them

back together in more meaningful ways". The above technique was the best to use when analysing the data collected in this study. The goal was to interpret the reports, make sense of the findings and gain a deeper understanding of the events of state capture. This technique was also best fitted because the study did not focus on only one individual, his history, nature, and actions. The study focused on several individuals and organisations. Hence, the actions of state capture committed by these different individuals need to be examined and combined to form a greater understanding of state capture.

#### **4.6. Ethical Considerations**

Neuman (2006; 129) stated, "Ethics define what is or is not legitimate to do, or what "moral" research procedure involves". Ethics help the researcher navigate the path of morality. At times the duty of research might lead the researcher to engage in unethical acts to reach the desired goal. Citing Oddi and Cassidy (1990) Akaranga and Makau (2016) stated:

More declarations on research ethics were made, but the most significant one was the Helsinki Declaration of 1964, which states the need for non-therapeutic research, emphasising the protection of subjects by noting that the well-being of individuals is more important than scientific or social needs (Akaranga & Makau, 2016, pp. 2-3).

The benefits of research, however significant they are, should not outweigh the well-being of those implicated or involved in that particular study. Citing Fouka and Mantzorou (2011), Akaranga and Makau (2016) explained that research ethics is necessary for researchers to ensure that the dignity of participants is protected and that the research is carried out accurately. The University of Kwa-Zulu Natal required the researcher to apply for ethical clearance via the Human and Social Science Research Ethics Committee. With this application being approved, the researcher adhered to the conditions and demands of the committee to ensure that the research was conducted using the proper research techniques.

#### **4.7. Limitations of the Study**

The state capture in South Africa might be as relevant as ever in the present-day media. However, it is a relatively new concept that has yet to be profoundly understood. The study was done on a desktop, relying only on existing literature available online or in libraries. The first limitation is the need for more literature that tackles state capture in South Africa, which resulted in a limited understanding of the concept. The researcher could not interview individuals implicated in the Commission's report. These individuals may bring more insight

into the phenomenon of state capture. The lack of funding for this study resulted in missing these opportunities. The researcher's location is also a limiting factor, as the researcher is located in Pietermaritzburg, while individuals who could give answers are spread throughout the world. These challenges were resolved with the implementation of the research questions. The narrowing of the information needed from the evidence and literature assisted the researcher in focusing on the available data. The reports already provided testimonies from witnesses without the researcher needing to contact the witnesses himself.

#### **4.8. Conclusion**

This chapter discussed the research methodology and research methods that guided this study. The case study method is a qualitative research method that was seen as the best option for the study. The goal was to find the deeper meaning of the events of state capture and interpret those events. The data collected in this study is from primary and secondary sources. The case study method was again implemented to analyse the collected data using direct interpretation. The ethical considerations of the research were included, along with the limitations that the study encountered. The next chapter will focus on the evidence from the report, on the concepts and theories relating to the state and state capture.

# **Chapter 5: THE CONCEPTS OF STATE AND STATE CAPTURE IN JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE REPORTS**

## **5.1. Introduction**

This chapter answers the first and second research questions. These questions are: According to the Judicial Commission of Inquiry into Allegations of State Capture reports, what is a state? What are the concepts and theories of state capture that guided the Judicial Commission of Inquiry into Allegations of State Capture? This chapter argues that the Judicial Commission of Inquiry into Allegations of State Capture was guided by liberal and neo-institutional understanding of the state. The next section will examine the concept of the state that guided the Commission's mandate, investigation, and reports.

## **5.2. The Concept of the State**

The Commission's investigation and reports assume the South African state is liberal. The Commission assume that the state is made up of multiple and divergent interests. The role of the state is to accommodate these interests through some form of a social contract. Thus, the JCISC (2022) stated:

The concept of "state" is understood to mean the civil government and organised public sphere of a country, and includes the legislative and executive branches of government, but also all the public mechanisms and institutions whereby public services are delivered to the citizenry by all levels of government. Section 239 of the Constitution helpfully encompasses the notion of the state in the South African constitutional order. It defines an "organ of state" primarily to mean any department of state or administration in the national, provincial or local sphere of government. However, the definition goes further and includes "any other functionary or institution" exercising a power or performing a function in terms of the Constitution, a provincial constitution or any legislation. It expressly does not include a court or a judicial officer. The Public Finance Management Act, ("the PFMA") which regulates financial management in national and provincial government, further defines the state in South Africa. It applies to all national public entities. These include national government business enterprises' and public companies which are publically funded. (JCISC, 2022, p. 4).

First, the state is made up of government, legislative and executive branches of government and other public mechanisms and institutions whose purpose is to provide public service. Implicit in the Commission's report is that the state is an impartial entity tasked with serving the public. One of the Terms of Reference thus inquired whether this impartiality was disturbed:

1.4. whether the President or any member of the present or previous members of his National Executive (including Deputy Ministers) or public official or employee of any state-owned entities (SOEs) breached or violated the Constitution or any relevant ethical code or legislation by facilitating the unlawful awarding of tenders by SOE's or any organ of state to benefit the Gupta family or any other family, individual or corporate entity doing business with government or (JCISC, 2022, p. 26).

Given the Commission's liberal and neo-institutional understanding of the state, it is important to interrogate the Commission's understanding of state capture.

### **5.3. The Concepts of Capture and State Capture**

The Commission views "capture" as acquiring something through illegitimate methods (JCISC, 2022). The JCISC (2022) further explains that capturing the economy does not necessarily mean the ensnare of all arms of the state. However, having a good grip on an institution(s) that will allow the capturer to influence resources is possible. Commission regards "capture" as the control of state institutions or organs of state through illegitimate means. Acquiring control of one or a few institutions is sufficient to disturb the economy because that captured institution betrays its purpose to the public. The JCISC (2022; 23) stated, "State capture occurs when the national interest is undermined by the interests of a small and confined set of actors." This means that the Zondo Commission was investigating the possibility of a state institution(s) being repurposed, resulting in its ineffectiveness towards providing resources and services to the public. The Commission was therefore guided by a neo-institutional approach.

The Commission's Terms of Reference further clarify this. The JCISC (2022) stated:

The Commission's investigation into state capture in South Africa in terms of the TORs is therefore concentrated on irregular public appointments, improper conduct by the national executive and public functionaries, the concerted efforts and activities of the Gupta enterprise in acquiring control of governance and procurement in SOEs and government agencies and general corruption (including fraud, money laundering,

rackeering and various other illegal activities) in public entities and government at all levels (JCISC, 2022, p. 30).

Although the Commission understanding of state capture includes corruption, fraud, and other illegal activities, it understands that these terms are not interchangeable with state capture. The JCISC (2022; 5) state that "Corruption may be part of state capture but state capture is more than that. State capture, at least in theory, concerns a network of relationships, both inside and outside government, whose objective is to ensure the exercise of undue influence over decision-making in government and organs of the state, for private and unlawful gain". State capture "is a situation where corruption has become so routinised as to become institutionalised, and where the shape and future trajectory of state institutions are determined by capturers through corrupt and clandestine means" (JCISC, 2022, p 12-13).

The Commission argued that the manifestation of state capture in South Africa was different from its manifestations in other contexts:

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 (JCISC, 2022, p. 31).

The first step in capturing the state is capturing some of its organs (JCISC, 2022). This may be done by strategically putting loyal individuals into positions of power. In the case of South Africa, "The availability of various vacancies served as a golden opportunity for Zuma to seize control over key state institutions by placing political loyalty above competency" (Martin & Solomon, 2016, 24). Citing Hartley (2016), Martin and Solomon (2016) mentioned that Zuma placed Sandile Ngcobo as Chief Justice to fulfil an agenda of undermining the state powers.

Several elements are present in state capture in the South African context:

A number of them will normally be present with state capture: i) the allocation and distribution of state power and resources, directed not for the public good but for private and corrupt advantage; ii) a network of persons outside and inside government acting illegally and unethically in furtherance of state capture; iii) improper influence over appointments and removals; iv) the manipulation of the rules and procedures of decision-making in government in order to facilitate corrupt advantage; v) a deliberate

effort to undermine or render ineffectual oversight bodies and to exploit regulatory weaknesses so as to avoid accountability for wrongdoing; vi) a deliberate effort to subvert and weaken law enforcement and intelligence agencies at the commanding levels so as to shield and sustain illicit activities, avoid accountability and to disempower opponents; vii) support and acquiescence by powerful actors in the political sphere, including members of the ruling party; viii) the assistance of professional service providers in the private sphere, such advisers, auditors, legal and consulting firms, in masking the corrupt nature of the project and protecting and even supporting illicit gains; and ix) the use of disinformation and propaganda to manipulate the public discourse, in order to divert attention away from their wrongdoing and discredit opponents (JCISC, 2022, p. 32).

#### **5.4. Conclusion**

This chapter discussed the concepts of the state and state capture that guided the Judicial Commission of Inquiry into Allegations of State Capture. Through reading the Commission's reports, this chapter argued that the Commission assumed that the South Africa state is a liberal state. The Commission's understanding of state capture was guided by neo-institutional approach. The following chapter will focus on the Vrede Dairy Integrated Project.

## **Chapter 6: THE MANIFESTTION OF STATE CAPTURE: THE VREDE DAIRY FARM PROJECT**

### **6.1. Introduction**

This chapter answers the third research question: How does state capture manifest in the Judicial Commission of Inquiry into Allegations of State Capture? This chapter utilises the *Judicial Commission of Inquiry into State Capture Report: Part VI Vol I - Estina, Vrede* as its data source. The following section will briefly explain the Vrede Dairy Farm project.

### **6.2. Vrede Integrated Dairy Project**

The Vrede Integrated Dairy Project should be understood in the context of the post-apartheid government's attempt to deal with the legacy of Apartheid. In acquiring political power, the ANC set the goal of changing the economic and social situation in South Africa, where the white population previously had an advantage. In the ANC's vision, changing the economic, social, and political landscape of South Africa would require the National Democratic Revolution (NDR). Through the NDR, the government was to focus on the development of marginalised communities. Fredericks and de Jager (2022) explained that the ANC and SACP published documents in the 1960s promoting ideas about national liberation. Fredericks and de Jager (2022) stated:

After ascending to political power in 1994 and confronting the white partisan apartheid state structure, the ANC drew on its NDR plan as part of its national project of state transformation and democratisation (Fredericks and de Jager, 2022, p. 31)

The Vrede Integrated Dairy Project was pitched as a remedy for the economic exclusion of black people during Apartheid, as local black farmers of Vrede were the intended beneficiaries of the project. The project was conceived by Mosebenzi Zwane and supported by the then Premier of the Free State province, Ace Magashule. Mr Zwane saw the opportunity presented by the unused land in the province as a remedy to hunger, which is why the project was part of the Mohoma Mobung Strategy (JCISC, 2022). The Zero Tolerance for Hunger strategy accompanied the Mohoma Mobung Strategy (JCISC, 2022).

As the JCISC (2022; 3) stated, "It was said that the project would create about 150 jobs and benefit a member of local black farmers". The project would benefit not only Vrede but the whole province of the Free State.

When displaying a presentation of the MEC of Agriculture, Mr Mosebenzi Zwane, the JCISC (2022) stated:

The land had to be worked on for production, which had to be processed within the province. As those who attended understood it, the concept was to create certain agri-centric hubs which would specialise in agri-processing and bring the production and processing of agricultural products to the Free State for the benefit of the provincial economy (JCISC, 2022, p. 1).

The presentation showcased an opportunity for the Free State province. The project could have made the Free State a powerhouse in dairy production instead of provinces like KZN and Gauteng dominating production and sending products to the Free State at a greater price (JCISC, 2022). The evidence displayed the notion that the project could contribute to the province's economic growth (JCISC, 2022). The JCISC (2022) displayed the project as a path carved by the DARD to propel the Free State in becoming a major contributor to the dairy industry.

The initial proposal was that the Department of Agriculture and Rural Development (DARD) would spend R300 million while its partner would spend R200 million (JCISC, 2022). DARD chose "a little-known company called Estina (Pty) Ltd which only had R16.00 in its bank account the day before the DARD paid the first amount of R30 million" (JCISC, 2022, p. 3-4). Estina (Pty) Ltd was registered on June 24, 2008 with its business as "Commercial Industrial Sales & Support" (JCISC, 2022). DARD entered into an agreement with Estina on 7 June 2012(JCISC, 2022). Table 1 (JCISC, 2022, p. 15-16) below shows the proposed costs.

Table 1. (Constructed by the author from JCISC data)

FIXED WORKING CAPITAL	UNITS	BUDGET VALUE
Integration & mechanisation	1,000ha	R45,000,000
Rain fed mechanisation	1.350ha@ R20,000	R32,000,000

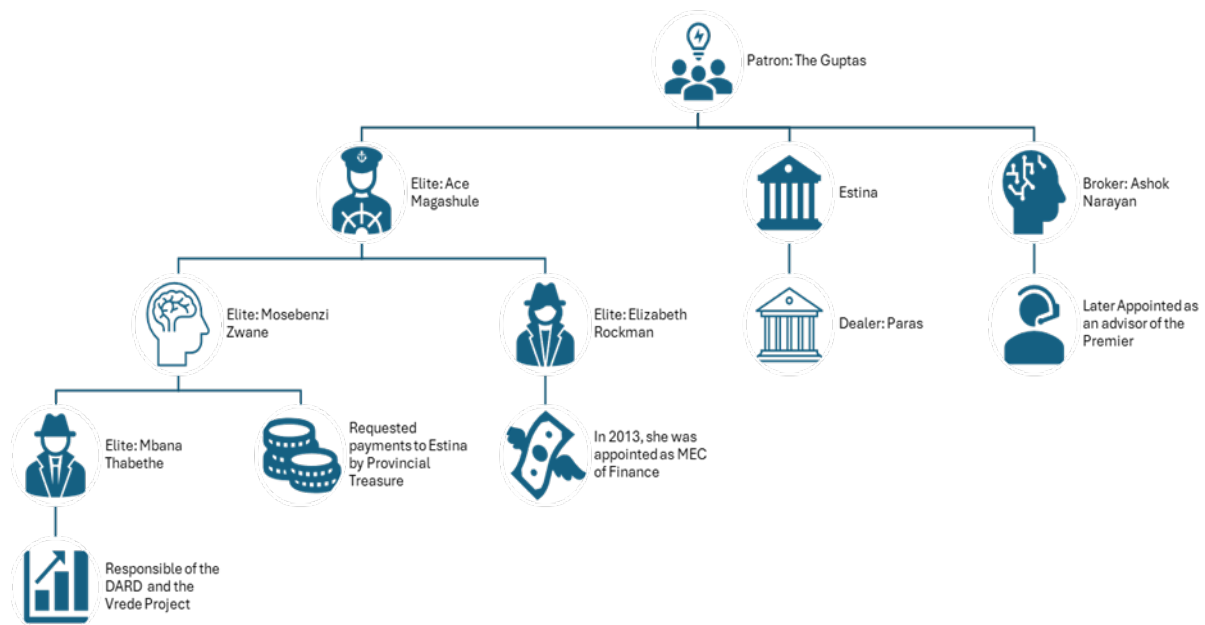
Dairy Cattle – ‘Cows in Milk’	500 @ R25,000	R12,500,000
Dairy Cattle – Rest of herd (followers)	500 ea @R25,000	R12,500,000
Dairy bulls/A		R500,000
Milking parlour	1,000 CIM unit  1,000 ea @  R5,000	R5,000,000
Bulk cooling tanks		R25,500,000
Dairy products manufacturing		R60,000,000
UHT Long Life Milk Plant		R149,000,000
Feedlot		R15,000,000
Grain & oilseed mill		R19,000,000
Animal feed plant		R10,000,000
IP Working Capital Requirement		R40,000,000
Total Funding Required	Excl VAT	R500,000,000
Total Funding Required	Incl VAT	R570,000,000
Capital Injection/IP/Equipment etc.	ESTINA/PARAS	R228,000,000
Grants for R114m/yr. for 3 Years	DoARD	R342,000,000

The registration of Estina was amended on 19 October 2012 with its business as agriculture (JCISC, 2022). Thus, the DARD appointed Estina without relevant experience. In addition, handing the company the Vrede Project was unlawful since the DARD did not follow the proper procedures.

### 6.3. The Patronage Network Model

As mentioned earlier, the evidence presented in this chapter is mainly from the *Judicial Commission of Inquiry into State Capture Report: Part VI Vol I - Estina, Vrede*. The chapter showcases the Vrede Integrated Dairy Project for further understanding of state capture. Chapter 3 presented a generalised patronage network model. As illustrated in Figure 2, this section adapts the patronage network to the Vrede Dairy Project case study.

Figure 2. The Broker Network of the Vrede Integrated Dairy Project (Constructed by the author)



At the national level, former president Zuma and the Guptas occupied the role of the patron. Evidence reveals that the Guptas had a superior influence on the Vrede Project, making them the patrons of this patronage network. every individual connected with the project is also connected to them. The Commission's report points at the Guptas as the architects of the Vrede Dairy Project. The report states that:

The influence of the Guptas was based on their strong relationship with the MECs of the Free State Province which enabled the influence of the Guptas over the operations the Vrede Dairy Project, including; (a) the registered office address of the business; (b) payments to Estina; (c) access to land at Vrede; (d) reckless trading at the Vrede Dairy

Project; (e) side-lining of intended beneficiaries; (f) threatening of beneficiaries and other witnesses (JCISC, 2022, p. 32).

The influence of the Guptas predates the conception of the project and any relationship with individuals who are directly and indirectly involved in the project. Literature highlights the relationship between the Guptas and Zuma. Bhorat et al. (2017) explain that when Zuma won the ANC presidency, the Guptas showed favour as they strengthened their ties with him by hiring his children into powerful positions. It then segued to building relationships with individuals who assisted Zuma with his ascension into the presidency.

While Jacob Zuma's name recurs in the Commission's report, he is absent from the Vrede Project. However, the Gupta family had a long-standing relationship with Zuma. Dassah (2018, cited in Georg, 2016) stated:

The Gupta brothers' acknowledged friendship with the President and their ownership of lucrative tenders for coal supplies to Eskom, the power utility, has created tension between factions within the African National Congress (ANC), prompting the Deputy President to describe government as waging 'war with itself (Dassah, 2018, p. 5).

Bhorat et al. (2017) define the elites as individuals who occupy powerful, decision-making positions in private business, government and state institutions. The role of the elite is to establish and maintain the patronage network. Evidence from the Commission's report shows the following individuals as members of the Free State provincial elite: Mr Ace Magashule, Mr Mosebenzi Zwane, Mr Mbana Peter Thabethe and Ms Elizabeth Rockman.

Ace Magashule was the second most powerful individual in the patronage network, after the Guptas, occupying the role of the Premier of the Free State Province. Using their connections to Zuma, the Guptas enlisted Ace Magashule to lead a patronage network exploiting provincial resources. The JCISC (2022) showed evidence that the Vrede Dairy Project was a governmental project that Mr. Ace Magashule endorsed as his project. He already had a relationship with the Gupta family because of former president Jacob Zuma, as Magashule was a Zuma loyalist.

The findings show that the Public Protector's investigation of the Vrede Dairy Project focused on the possible involvement of the Executive Council in allocating funds for Estina inappropriately (JCISC, 2022). With the help of his position in the Free State government, Mr Magashule played a significant role in the patronage network. Evidence shows that Mr.

Magashule introduced the project via the Mohoma Mobung Strategy to the masses at the State of the Province Address (JCISC, 2022).

The report displays Mr. Ace Magashule as responsible for executive decisions regarding the project. For example, he approved a trip to India for research by Mr. Thabethe, the DARD HOD, and an EXCO Resolution (JCISC, 2022). These actions benefited the patronage network and furthered their capture of the project. Mr Mxolisi Dukwana's evidence to the Commission confirms that he and Mr Magashule visited the Gupta residence multiple times. Mr Magashule once mentioned that the Gupta family was going into business with his son (JCISC, 2022).

Mr Mosebenzi Zwane was the MEC of Agriculture in the Free State Province. Mr Zwane was important in conceptualising and implementing the Vrede Dairy Farm Project. Mr Mosebenzi Zwane, the architect of the Vrede Dairy Project, also has a relationship with the Guptas; he has been implicated in the affairs of the Guptas heavily, with him being mentioned a few times in the reports. The JCISC (2022; 34) stated, "Mr. Mosebenzi Zwane has a long standing and active relationship with the Tony Gupta that dates as far back as 2010/2011".

Mr Zwane was equally essential to the patronage network as Mr Magashule. He also shared some executive duties with the Premier, which is visible in his involvement in approvals towards Estina. The evidence shows that he instructed Estina to pay R30 million before the project started (JCISC, 2022). The findings also suggest that Mr Zwane was very influential in securing the land for the project. Mr. Zwane occupied an executive role in the patronage network.

Evidence paints Mr Zwane as one of the figureheads of the project. Mr Zwane involved himself in the project by setting and attending meetings with the supposed project beneficiaries (JCISC, 2022). He testified that he was involved in a trip to India funded by the DARD to meet with Paras (JCISC, 2022). However, Mr. Zwane testified that he was not heavily involved in the project. He denied knowledge of Estina's involvement in the project when he was within the department (JCISC, 2022).

The evidence and literature paint Zwane as an individual who created the idea for the project for the sole purpose of the benefit of the Guptas. Literature reinforces this, further displaying his involvement in other projects. The evidence he provided about the project and his position on it can lead to a proper conclusion about his involvement. His testimony contradicts itself. He tried to distance himself from the project, minimising his role. However, he then provides

evidence showing his involvement in essential acts, such as his trip to India and interactions with the beneficiaries in the meetings. He claimed he was unaware of Estina's involvement but later confirmed that he visited India to meet with Paras. The company that was selected to assist Estina because of their experience in agriculture. These contradictions show that he lied in his testimony; this displays that he was more involved in the project than revealed.

The most prominent individual in the project is Mr Thabethe, who was coincidentally brought into the Free State provincial government when it established the project. Although the evidence paints him as the most active in the Vrede Dairy Project because he is the HOD of the Department of Agriculture and Rural Development, he received commands from Magashule and Zwane (JCISC, 2022). Mr Thabethe testified that he was appointed by the Premier in the position of HOD of the DARD because of his experience and mastery of agriculture (JCISC, 2022). The JCISC (2022; 3) stated, "Mr. Thabethe said that he conducted a study into dairy production and production of dairy products". After conducting his study, Mr Thabethe saw India as the most suitable country to collaborate with concerning the project (JCISC, 2022). It resulted in a trip to India, where Paras was brought in.

From the patronage network, Mr Thabethe was the most visible and active individual within the Vrede Dairy Project. He made some executive decisions while he was simultaneously on the ground within the project. He is the one who approved Estina's proposal, coincidentally after a meeting with the Guptas (JCISC, 2022). The evidence displayed his activeness when he dealt with an individual who came to investigate the improper activities within the project. That individual was a threat to the patronage network. Mr Thabethe disputed his attempt to investigate, telling him he had no power to carry out that investigation (JCISC, 2022).

He attended a meeting with Mr. Mosebenzi Zwane and the "intended beneficiaries" in the community. Mr Thabethe testified that Estina was not the only intended beneficiary of the project, explaining that Zanya Investments (Pty) Ltd was to hold the beneficiaries' shares (JCISC, 2022). However, this did not materialise. Mr Thabethe is connected with the Gupta family, as evidence shows that he met with Tony Gupta at the Gupta residence when Estina's proposal was accepted (JCISC, 2022).

Because of the limited literature on the Vrede Dairy Project, Mr. Thabethe's role can be misinterpreted as non-existent. However, because of the abundance of evidence, it is exposed that Mr. Thabethe bore the most responsibility within the project. It is also visible because he provided the most information regarding the project, while others like Mr Magashule and Mr

Zwane distanced themselves from it. Mr. Thabethe was prominent in the project because of his knowledge and experience in agriculture. In a setting where most involved parties have little to no field experience, he is an important player to have and lead the project. However, he had such control over the project because of Guptas. They would not trust an individual who would not look after their interests since they had already placed individuals like Mr Zwane and Magashule, who can assist them in looting funds.

Mr. Mbana Peter Thabethe was Head of the Department of Agriculture and Rural Development. He was the most crucial player in the project, as his arrival in the position of HOD coincided with the project's initiation. Literature on the patronage network of the Vrede Dairy Project is limited, with most literature focusing on Zuma and the Guptas. Bhorat et al. (2017) paint this as Ace Magashule's patronage network. Martin and Solomon (2016) stated:

Moreover, the Guptas run South Africa's state machinery in a manner that benefits not only themselves, but also their alliances, commonly referred to as the Premier League, at the national and provincial levels of the state (Martin and Solomon, 2016, p. 24).

Martin and Solomon (2016) include the Premier of the Free State Province as one of the members of the Premier League, meaning Mr Ace Magashule was involved. Martin and Solomon (2016, cited in Shivambu, 2016) mentioned Mr Zwane as being involved in the dairy project, assisting the Gupta's loot funds, and they indicated that their dealings went beyond the project.

Ms. Elizabeth Rockman's relationship with the Guptas predated her involvement in the Department of Finance and the Vrede Project. The JCISC (2022; 18) stated "In March 2013 Ms. Rockman was appointed MEC of Finance for the Free State Province, from the position of Director-General of the Free State Provincial Government". The evidence shows that the appointment of Ms. Rockman as MEC of Finance was accompanied by a meeting with the Guptas and further payments to Estina. It is visible that Ms Rockman's role was to secure more funds for the patronage network. Ms. Rockman testified that in the meetings she had with the Guptas, they discussed events on the farm.

Like Mr Thabethe, Ms Rockman's role is not visible in the literature. However, the evidence within the report exposes that she had a small but crucial role within the patronage network, assisting in the looting of funds. The appointment of Ms. Rockman as the MEC of Finance came long after the project had started, but she had meetings with the Guptas about the project

that were not within her department. It is possible that she was brought solely to loot funds within the department. She got the position because of her prior interactions with the Guptas. They felt comfortable with her.

Brokers are a crucial aspect of the patronage network since they ensure the flow of funds and data locally and internationally. Evidence in the report shows Mr. Ashok Narayana as the mediator within the patronage network. As a broker, Mr Narayana facilitated communication between the Guptas and government officials. Mr. Ashok Narayana is an individual who initially had no legitimate connection or role in the government, but he participated in the project. The JCISC (2022; 11-12) stated, "The Department of Agriculture funded the travel and accommodation of Mr. Thabethe and Mr. Narayana despite Mr. Narayana not being part of government". The trip to India by Mr Thabethe and Mr Narayana was controversial as those who approved it failed to rationalise why Mr Narayana was part of it. He was later the Premier's advisor. He lingered within the project.

Evidence provided by Ms. Rockman confirms that Mr. Narayana was cordial with the Guptas as she testified that he was present in one meeting alongside her and Tony Gupta (JCISC, 2022). The involvement of Mr Narayana is why the Vrede project was seen as a project for looting funds, especially for the Guptas. Everyone within the patronage network and the project has a justifiable reason for their presence, except for Mr Narayana, who is very visible. The trip to India alongside Mr Thabethe raised questions, especially since the department signed off and funded it. This is why Mr Narayana can be viewed as the broker within the patronage network, considering the role Paras occupied within the patronage network. The individuals within the patronage network kept finding reasons to keep Mr. Narayana in the project. He was the guard placed to ensure that the interests of the Guptas came to life.

Dealers are "Groups that can move the money transnationally (e.g., the professional money laundering syndicates in Hong Kong, the United Arab Emirates and elsewhere)" (Citing Le Billion 2008, Borat et al., 2017, p. 57). Regarding the Vrede Dairy Project, the entity that fits this description is VRS Foods t/a Paras (Paras). Paras is a company based in India that collaborated with Estina, as they had dairy production experience (JCISC, 2022). However, the evidence shows that Paras may have used Estina to secure opportunities for dairy production in South Africa (JCISC, 2022). Borat et al. (2017) stated:

According to documents linked to the investigation and given to amaBhungane, the dairy project appears to have been conceived during a visit to India by senior Free State

Department of Agriculture officials and then Agriculture Member of the Executive Council, Mosebenzi Zwane, whose hometown is Vrede (Bhorat et al., 2017, p. 27).

Although Paras is absent in the literature, the trip to India can be viewed as an event where Free State government officials initiated a relationship with Paras. Evidence highlights this trip as an obscure phenomenon; it is more alerting because it involved Mr Narayana, who was not supposed to be on the trip because of a lack of a position within the government (JCISC, 2022).

The last notable participant is the Indian company Paras, which Mr. Thabethe and Mr. Narayana brought in, as they were to bring their expertise into the project because of their experience. State officials like Mosebenzi Zwane and Mr. Thabethe are visiting India in connection with Paras. In the evidence Mr Mosebenzi Zwane provided, he admitted that although he went to India to meet with the CEO of Paras, the meeting did not come to fruition (JCISC, 2022). Mr. Thabethe, on the other hand, showed that he was more informed about the collaboration with Paras. In his evidence, Mr Thabethe informed the Commission that, in his view, the primary partner was Paras; he inquired about a South African partner to Paras, which is when Paras informed him about Estina (JCISC, 2022). The JCISC (2022; 148) stated, "His further explanation was that the expertise he wanted was in Paras, and that he was not really interested in what Estina was involved in".

When mentioning the role of the dealers, Bhorat et al. (2017; 56) stated, "Responsible for managing and hiding financial resources and laundering money". Bhorat et al. (2017) explain that they can move funds internationally. Bhorat et al. (2017) emphasise the importance of including an international actor in this patronage network to legitimise the fraudulently acquired funds through trade. Paras is this international hub. Paras' role cannot be downplayed in the project or the patronage network. Paras was essential in the project because it has experience in what the Vrede Dairy Project was ideally trying to achieve, and Paras is already internationally relevant.

Although this patronage network does not feature Jacob Zuma, his relationship with the Guptas aided them in establishing it, enlisting Zuma's loyalist, Ace Magashule. Magashule's position as the Premier of the Free State Province assisted in endorsing a project implemented to loot state funds. Even though literature highlights him and Mr Zwane as the only players in the project, the evidence suggests that other individuals. Mr Thabethe and Ms Rockman had crucial roles within the patronage network. Evidence also sheds light on the crucial roles of the broker, Mr Narayana and the dealers, Paras, who are absent in the literature.

Bhorat et al. (2017) supported this by stating:

Ultimately, a National Treasury investigation found that the dairy project had many irregularities, stating that “a company without agricultural experience and led by a computer sales manager – flouted treasury rules and was designed to milk provincial government coffers (Bhorat et al, 2017, p. 27).

Bhorat et al. (2017) also emphasised that the National Treasury never approved the dairy project and that the Free State government carried this agreement with Estina without proper permission. The wheels of state capture were already in motion before the presentation and implementation of the project. The DARD could not be patient. They committed to one inexperienced company and did not give other companies an opportunity, although that could have been more beneficial to the cause. The motives of illegal activities are apparent. They did not want to analyse possible faults of the project even though they were visible, signalling that their concern did not lie in the project's success but in obtaining the deal involving Estina. The main objective of the individuals who implemented the project was to gain from it privately; this indicates a connection between them and the company they chose. This connection is the Guptas.

Individuals like Ace Magashule were awarded powerful positions after Zuma's victory. Martin and Solomon (2016; 26) stated, "Free State Premier Ace Magashule is one of Pres. Zuma's most important and consistent allies". Evidence shows that the Guptas had enormous influence regarding the Vrede Dairy Project. From the state officials overseeing and responsible for the project to the private company selected as the partner. Mr. Mosebenzi Zwane made questionable decisions because of his relationship with the Guptas. For these reasons, the Guptas are viewed as the masterminds and architects of the project. Their influence is detected in every decision and move within and around the project. Because of their puppeteering efforts, the Guptas placed everyone and everything in place, from establishing Estina as a company to placing Mr Thabethe as a HOD. Moreover, it includes everything in between and after. The placement behind the scenes by the Guptas led to faults within the projects because they relied on their relationships instead of the quality of expertise.

The JCISC (2022) showed evidence of how the project was mishandled when stating:

Mr. Albert Doctor Radebe, a municipal councillor and a local farmer on the Geluk Farm in the district of Vrede, testified that, after the start of the project, he heard of dead cows dumped next to a stream that supply water to the town of Vrede (JCISC, 2022, p. 51).

Literature shows that loyalty over quality defines state capture in South Africa, which can lead to disastrous results. Fredericks and de Jager (2022; 36) stated, "In 2009 changes were most significant amongst the top leadership structure in which Zuma substituted Mbeki loyalists with Zuma devotees". Zuma strengthened his reign at the top by surrounding himself with individuals who were loyal to him.

Fredericks and de Jager (2022) emphasised that these changes assisted Zuma in capturing the state. February (2019) mentioned that the Guptas favoured Duduzane Zuma, Jacob Zuma's son, by placing him as director in their companies. Martin and Solomon (2016) supported the notion of loyalty in Zuma's camp, as they mentioned a few individuals who occupied important positions because of their alliance with Zuma. Individuals like Siyabonga Cwele, Bheki Cele, Menzi Simelani and Sandile Ngcobo were mentioned (Martin and Solomon, 2016).

The culture of prioritising loyalty is evident in the literature and the evidence within the reports. Zuma and the Guptas are painted as spearheading state capture in South Africa, and the culture of doing that is similar. Literature shows that during Zuma's tenure as President, he reshuffled his cabinet multiple times, showing that even he recognised that some of the individuals he placed failed to satisfy their designated roles. The Vrede Dairy Project suffered from the same fate; as was stated in the reports and multiple times within this study, the company selected to handle the project lacked experience in agriculture and dairy farming. The prioritisation of looting funds over conducting quality projects is apparent in the evidence.

#### **6.4. The Dynamics of Patronage**

Khambule (2021; 170) stated, "The genesis of state capture can be traced to a particular social representation model that emphasises close relations between the state and business groups, mainly selected business groups". Khambule (2021) recognises that state officials in South Africa use public funds and development strategies to divert the funds into the pockets of patronage networks. It is parallel to the Guptas' relationships with state officials and manipulation of the Vrede Dairy Project. The Guptas' patronage network aimed to manipulate the need for rent allocation in the Free State into a source of exploitation for them and their associates. It was possible with the placement of individuals connected to them into influential

positions within the Free State provincial government and the project. Those individuals satisfied their roles to ensure the success of the capture. Although not involved, Zuma is an individual who must be addressed in this patronage network. The Guptas and most of the state officials have relationships with him. The success of other projects he was involved in are blueprints of this project. However, this patronage network did not necessitate his involvement.

The crucial objective of the patronage network was to move rents into its hands, and Estina fulfilled its purpose to great lengths. Evidence shows that a total of R280 million was paid to Estina by the Free State government (JCISC, 2022). A pattern of funds was paid to Estina after influential individuals were involved in patronage networks. For example, the first payment was paid after Mr. Zwane, who distanced himself from the project's affairs, instructed the CFO of the Dept. of Agriculture to request funds from the Provincial Treasury (JCISC, 2022). The second example provided by the evidence is a meeting between Ms Rockman and Tony Gupta, where Tony Gupta discussed the payments to Estina, it followed by two consecutive payments to Estina (JCISC, 2022). Although Estina was presented as a company not affiliated with the Guptas, the funds received by Estina were later paid into Gupta-related accounts/companies.

Bhorat et al. (2017) stated:

By June 2014, the Free State agricultural department announced that it had cancelled its contract with Estina, which had nevertheless done well out of the deal after the province ultimately invested a total of R144 million in the dairy farm, according to amaBhungane (Bhorat et al., 2017, p. 27).

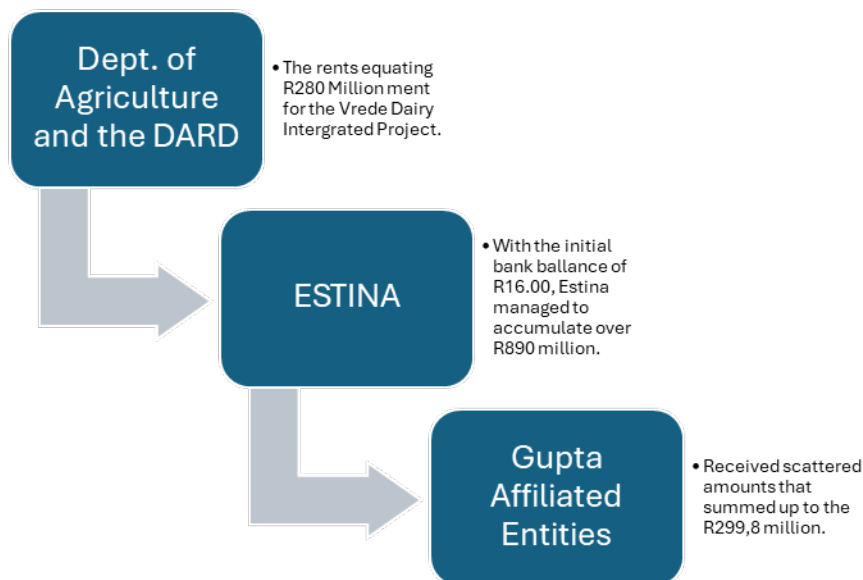
The movement of funds before, during and after the project exposes the project's true intention; it also shows the sole focus of the patronage network. Although the total amount Bhorat et al. (2017) provided is not similar to the evidence in the Judicial Commission's reports, the exact sentiment of looting funds through the dairy project is visible. People involved within the patronage network ensured the success of their interests by requesting payments to Estina, using their influence and positions. Placing individuals from the patronage network and other influential positions in the provincial government into the project was a strategic move that resulted in the mission's success. A prime example is the appointment of Ms Rockman into a crucial position within the Free State government and meetings about funds with the Guptas. The movement of funds from Estina is a crucial aspect of the patronage network for the success of looting funds.

The report shows the movement of funds from Estina’s bank account to Vargafield (Pty) Ltd, Oakbay Investments, Linkway Trading, and Gateway Limited, all controlled by Gupta Enterprises (JCISC, 2022). As explained, the DARD paid a total of R280 million to Estina; evidence shows that more funds were poured into Estina, summing up to R891,8 million (JCISC, 2022). This includes the interest in Estina-controlled accounts, round-tripping using the initial R280 million, and other unnamed sources (JCISC, 2022).

Figure 3 illustrates the relationship between the departments, Estina and Gupta-related entities.

Table # (Constructed by the author)

ESTINA



The movement of funds from Estina to other entities connected the project to the Guptas. Estina collected the money through investments from the DARD, which are legal means, while not being tied to the Guptas on paper. Estina was used to collect the funds legally. After the movement of funds from the hands of the government, the patronage network feels comfortable moving the funds into other companies that can allow the funds to be accessed by members of the patronage network.

## 6.5. Conclusion

This chapter answered the third research question which is: How does state capture manifest in the Judicial Commission of Inquiry into Allegations of State Capture? This chapter commenced by providing background and introduction to the Vrede Integrated Dairy Project.

This chapter then adapted the patronage network model to the case study of Vrede Integrated Dairy Project. Finally, this chapter used the modified Patronage Network Model to illustrate the dynamics of patronage. The following chapter will analyse the consequences of state capture according to the *Judicial Commission of Inquiry into State Capture Report: Part VI Vol I - Estina, Vrede*.

## **Chapter 7: CONSEQUENCES OF STATE CAPTURE**

### **7.1. Introduction**

This chapter answered the fourth research question: What are the consequences of state capture? It provides further evidence from the report, *Judicial Commission of Inquiry into State Capture Report: Part VI Vol I - Estina, Vrede*, focusing on the consequences of state capture from the Vrede Dairy Project. In particular, this chapter discusses the economic, cultural and political consequences of state capture.

### **7.2. The Economic Consequences of State Capture**

The capture of the Free State Provincial Government displayed economic consequences that are found in other state capture contexts. The common effect of state capture is the draining of resources from the government to private entities. The mishandling of the Vrede Dairy Project resulted in the loss of funds. The provincial government's investment in this project did not produce a profit. The land that was given to the Vrede project belonged to Phumelela Municipality, under the Vrede district (JCISC, 2022). Before it was given to the Vrede project, that land was lease to local farmers for one million rands a year. However, that profitable venture with local farmers was cancelled due to the establishment of the Vrede Dairy Project, which secured a rent-free 99-year lease (JCISC, 2022).

The evidence within the report suggests that the Vrede Dairy Project suffered from mismanagement from its initiation to its cancellation; this is a consequence of the department handing the project to the Gupta patronage network. The findings established that Estina had no prior experience in agriculture or dairy farming, yet they received the contract for the Vrede Project. The evidence exposes that when the department selected Estina to handle the project, they neglected the proper procedure, and the company did not compete for the tender (JCISC, 2022). The JCISC (2022; 31) stated, "There was no information that the tender was advertised by the Department, and no other providers responded to the advert". Estina mishandled the project, leading to failure of the project. Witnesses, such as Mr. Radebe and Mr Basson, testified that that there were dead cattle on the farm (JCISC, 2022).

The establishment and the maintenance of this failed venture cost money. For example, Mr Basson was hired to person various duties for the project. The JCISC (2022) stated:

He attached to his affidavit invoices for a variety of services that he provided to the farm and the calculation shows that he provided just over R2 million worth of cattle feed between 8 August 2014 and 4 January 2016 (JCISC, 2022, p. 54).

### **7.3. The Culture of Fear Around the Project**

The report has shown that individuals who oppose the project and those who are vocal about the faults of the initiative suffered a fate that was supposed to deter them. The deceived beneficiaries were vocal about the project. Evidence shows that two representatives of the beneficiaries, Mr Dhlamini and Mr Ncongwane, experienced threats after being vocal. The JCISC (2022) stated:

The two beneficiary witnesses talk of threats to their lives, particularly that of Mr Dhlamini, and of the killing without perceptible criminal justice consequences of those of beneficiaries who spoke out about the concerns of the beneficiaries, including investigators (JCISC, 2022, p. 85).

Evidence also exposes that three other individuals died after being threatened; one of them was Mr Moses Chauke, who was investigating the Vrede Dairy Project (JCISC, 2022). Members of the opposition party, the DA, Mr Jankielsohn and Radebe, also testified that they received threats after openly opposing and criticising the project (JCISC, 2022). The threats even reached an official from the Free State government. The JCISC (2022; 91) stated, "That the climate of fear and death threats around VDP is a fact and not fiction, confronted the National Treasury investigator, Mr Dumisani Cele, in August 2013". Even Ms Rockman, a member of the patronage network responsible for this project, was not safe from violence. The findings displayed that some individuals had robbed her house. The JCISC (2022; 94) stated, "The robbers held had two sons at gunpoint and stole her laptop and two small safes, ignoring other valuables in the house". This robbery may have likely been a related incident of the project.

Even individuals in positions within the Municipality, Free State government, and even within the patronage network itself were not safe from the wrath of the patronage network. The patronage network was willing to put the life of their fellow member, Ms Rockman, in danger for its protection. It contradicts the Marxist perspective of the state as a tool of oppression and domination of the lower class by the elites. It shows that within the elite class, there is a hierarchy, and the most powerful there can exercise their power to dominate others within their

class. There is no loyalty among the elites, which shows a more complex perspective of the elite class.

#### **7.4. Political Consequences**

The capture of the Vrede Dairy Project also had political consequences. The Guptas created a shadow state to control the actions of the Free State provincial government. Madonsela (2019; 116) stated, "A shadow state refers to a network of relationships that bind together a group of people that secretly work together in activities that contradict their formal role in a constitutional state". The entry of Mr Thabethe and Ms Rockman, members of the gupta patronage network, is a testament to this. The JCISC (2022) displays the appointment of Mr Thabethe to the Department of Agriculture on the 1st of August 2011. His presence was emphasised when he remained the HOD when the Department of Agriculture merged with the Department of Rural Development. Ms Rockman was also essential as she was inserted into the Free State government, and her impact on the project was immediately felt even though she joined at a later stage. Both of these individuals were placed within the provincial government to perform duties that contradict the constitutional mandate of the provincial government.

#### **7.5. Conclusion**

This chapter discussed economic, cultural and political consequences of state capture. Economically, state capture drained resources from the state to the coffers of Gupta affiliated companies. Culturally, state capture created an environment of fear as those who opposed it were persecuted. Politically, state capture resulted in the creation of a shadow state that controlled the provincial government. The following chapter will provide a conclusion of the study along with recommendations.

## **Chapter 8: CONCLUSION**

### **8.1. Introduction.**

The previous chapter dealt with the interpretation and analysis of the evidence provided by the *Judicial Commission of Inquiry into State Capture Report: Part VI Vol I - Estina, Vrede*, focusing on the consequences of state capture. Therefore, this chapter will give an overview of the chapters of the dissertation and a broader view of the interpretation of the report, summarising the findings related to the research objectives/questions. It will also provide the study's contributions to the broader understanding of corruption and state capture and expose the limitations that affected the study's progress. The chapter will also provide recommendations for future endeavours regarding corruption and state capture.

### **8.2. Overview of Chapters**

The first chapter of the dissertation introduced the issues of state capture and corruption, giving the background of the two phenomena and showing the related events. The chapter followed up by providing the research statement, and research questions and objectives. The objectives were to examine and understand what a state is and the concepts and theories of the state and state capture that guided the Judicial Commission of Inquiry into Allegations of State Capture. The two final objectives were to examine and understand the manifestation of state capture in the Judicial Commission of Inquiry into Allegations of State Capture and to examine the consequences of state capture. It also provided the significance of the study and definitions of key terms and concepts.

The second chapter provided the literature on state capture and corruption, displaying research and understanding of the two phenomena that preceded the study. Chapter two displayed literature that contained the definition of state capture and corruption, giving greater depth on how researchers and academics understand state capture and corruption in South Africa. The chapter discussed the history of the two issues in the country, from the inception of the roots, connecting them to the era where the two phenomena dominated the political space of South Africa. The literature displayed events associated with state capture and how those events led to the creation of the Judicial Commission of Inquiry. According to the literature, the second chapter also discussed the causes of state capture and corruption in South Africa and the consequences of the two phenomena. It then finally reveals the gaps in the literature.

The third chapter focused on the theoretical framework of the dissertation and the theories that the study relied on. The chapter defines the state, displaying and discussing the four essential elements that define a state: population, defined territory, a recognised government and the ability to enter relations with other states. Sovereignty was also discussed. The chapter displayed the perspective that the study would apply when looking at a state, the liberal perspective, and the perspective of viewing state capture, the neo-liberal perspective. It also displays two other perspectives that could be applicable to state capture: the Marxist and the new institutional economic perspectives—focusing on the issue of the patronage network in the latter approach.

The fourth chapter displays this study's research methods for collecting and analysing data. The chapter delves into the concept of qualitative research methods as the study leaned more towards the subjectivity (human perspective) of the collected and analysed data. It defined the case study method used to collect data, showing that the reports showcased are a case study of corruption and state capture in South Africa. The chapter also stated that the case study method was employed when analysing and interpreting the collected evidence, employing the direct interpretation method (type of case study method). The chapter closed by touching on ethical considerations and the study's limitations.

The fifth, sixth and seventh chapters displayed evidence from the report, Judicial Commission of Inquiry into State Capture Report: Part VI Vol I - Estina, Vrede. The Judicial Commission of Inquiry into State Capture Report: Part VI Vol 2 provided supporting evidence. Theories were used based on the evidence provided by the reports, including the liberal perspective, to analyse the concept of the state. The neo-liberal, Marxist, and new institutional economic approaches were applied to state capture.

### **8.3. Summary of Findings**

The findings discussed and interpreted were collected from the report Judicial Commission of Inquiry into State Capture Report: Part VI Vol I - Estina, Vrede, produced by the Zondo Commission. Judicial Commission of Inquiry into State Capture Report: Part VI Vol 2 provided supplementary evidence. The evidence was collected to satisfy the research objectives/questions.

### 8.3.1. The concepts of state and state capture in Judicial Commission of Inquiry into Allegations of State Capture Reports

The first research question was: What is a state according to the Judicial Commission of Inquiry into Allegations of State Capture reports? When tackling the question, the evidence displayed an understanding of a state aligned to the liberal and neo-institutional perspectives. The evidence painted the state as having a mutual agreement with the public, an agreement to serve their interests. The evidence shows that the state achieves this by utilising different levels of government and state institutions. It is achieved with the help of the Constitution.

The second research question was: What are the concepts and theories of state capture that guided the Judicial Commission of Inquiry into Allegations of State Capture? The findings displayed that the Commission constructed the concept of state capture by first understanding "capture". The Commission understood "capture" as obtaining something through illegal means. Alternatively, in the case of governmental affairs, capture is presented as when state institutions are influenced for objectives that contradict their initial purpose, influence obtained illegally. The findings show how the Terms of Reference expose how the Commission approaches the phenomenon of state capture, focusing on individuals within the patronage network and how their actions influence events. The evidence differentiates state capture from other terms that might refer to illegal activities. However, the literature is divided on this issue, with some also emphasising the distinction and others viewing the terms interchangeably. The Zondo Commission champions the idea of a patronage network for the success of state capture.

### 8.3.2. The manifestation of state capture: The Vrede Dairy Farm Project

The third research question was: How does state capture manifest itself in the Judicial Commission of Inquiry into Allegations of State Capture? The findings show that the Vrede Integrated Dairy Project, conceived by Mr Zwane, was initially presented as rents that would be redistributed to benefit the black population. The project was an opportunity for the Free State province to be a crucial player in the dairy production industry. Estina was the entity selected to partner with the department. State capture within the project was detected when it was understood that Estina did not compete for the contract. Furthermore, they did not have any experience in the field of agriculture. The findings display the mishandling of the project, resulting in unfavourable results.

The notion of the patronage network model was applied to the Vrede Integrated Dairy Project, mainly occupied by individuals who were members of the Free State Government. The Guptas were the patrons of this patronage network, with their vast resources and influence relating to the former President, Jacob Zuma. The elites within this patronage all had influential positions in the Free State Government that assisted in capturing the project. Mr. Ace Magashule was the Premier of the Free State Province. Mr. Mosebenzi Zwane was the MEC of Agriculture. Mr. Thabethe was the HOD of the Department of Agriculture and Rural Development. The last of the elites, Ms. Elizabeth Rockman, was the MEC of Finance. The evidence identified Mr Narayana as the broker; he was not part of the government but was always close to the project. The dealer was the Indian company VRS Foods t/a Paras, as they had the transnational ability to move funds.

The goal of the patronage network was to move funds from the department into their hands. The evidence shows that the funds that moved into the Estina account were a total of R280 million, and the funds were later moved out of the Estina account into Gupta-related accounts. The report displays that the money moved from Estina into Gupta-related accounts.

### 8.3.3. Consequences of State Capture

The Vrede Integrated Dairy Project failed when considering the program's presented objective. The project did not benefit black people economically. Evidence displays how this came to fruition. The studied also discussed the economic, cultural and political consequences of state capture. In general, state capture results in draining of resources from the state to private hands. Culturally, state capture created an environment of fear. Politically, state capture created a shadow state.

## **8.4. Recommendations**

An understanding of the state is essential when investigating the issue of state capture. The Commission recognised this when the evidence provided the concept of the state. When considering the role of the Public Protector and the Zondo Commission, it is easy to digest that the state carries a certain amount of responsibility for the public. The liberal view of the state stresses the state's mutual agreement with the people. It is essential to grasp the public's understanding of a state, mainly if the Commission bases it on how the people are governed. The Commission should have gathered testimony from a member of the public regarding the state. They had individuals who were part of the project's beneficiaries at their disposal; they

should have utilised that opportunity. It is important to see if the public comprehends what a state is or at least has a perspective of what governs it. The Commission wasted no time identifying possible perpetrators of state capture regarding the project, naming the likes of the Gupta family, Mr. Mosebenzi Zwane, Mr. Ace Magashule, etc. As some of them provided testimonies of what they did regarding the project, they also should have provided a perspective on the phenomenon of state capture. It is best for the individuals accused of something to understand what they are painted as guilty of. It could assist in understanding the mindset they had when they carried out those unlawful actions. In addition, this can assist in setting the appropriate punishment for them if they are guilty of the crimes. It could provide the Commission with an opportunity to analyse what happened critically.

As mentioned earlier, some individuals suspected of being involved in state capture had the opportunity to give testimonies. As the suspected individuals were allowed to defend themselves by providing testimonies, they should have also been allowed to bring their witnesses, who would corroborate their evidence. The idea of the investigations by the Zondo Commission was to find out if there was state capture, not necessarily to validate the allegations of state capture. The Commission showed bias during the investigation. It might result from how state capture was reported in the media and presented in the literature. How the evidence and conclusions were presented in the report sealed the verdict of the suspected individuals. The Commission should be able to focus on what is presented in front of them and construct proper conclusions. They should be able to set up a system that will give them information from all sides involved, information that will provide the facts instead of opinions that are skewed towards a side. The goal must not be to validate highlighted opinions that can demonise individuals. Although Mr Narayana's involvement is highlighted, the evidence did not define his role, leaving room for doubt about his participation. The reports should have focused on everyone's role to grasp a profound understanding.

## **8.5. Chapter Conclusion**

One can argue that every aspect of present-day South Africa is affected by the Apartheid era, especially the political arena; the phenomena of state capture and corruption are no exception. While the two issues were recognised as relevant during Zuma's tenure as President, their roots in the ANC and the political sphere were found in the socialist ideas that the soon-to-be liberators championed during oppression. The idea of cadre deployment also helped further activities of state capture and corruption. Literature painted the two phenomena as relevant and

dominant in South Africa while also painting two significant figures as responsible or involved, Jacob Zuma and the Gupta family. The former public protector and the Judicial Commission set out to prove or disprove the allegations that the two phenomena are occurring under Zuma's watch, with his associates involved. The betrayal performed by state officials is displayed in the report produced by the Judicial Commission, where the evidence shows state officials used the ideas of liberation to benefit the Guptas.

The Vrede Dairy Project was intended for the benefit of the black population and the economy, but the individuals responsible for it were connected to the Guptas. The NDR plan is an idea that was developed during Apartheid, championing the economic and social liberation of the oppressed population, and it resulted in projects like the Vrede Dairy project. The individuals who proposed and introduced this project intended for it to be captured, showing that state capture is inevitable when state officials are naturally corrupt. The Judicial Commission's report shows that the Guptas captured the economy to a large extent; literature suggests that they also captured SOEs like Transnet and placed their associates inside these enterprises. The Guptas benefitted from institutions meant for the benefit of the public, with the help of political individuals associated with the ANC and then President Jacob Zuma. The Guptas, Zuma and their associates took advantage of the country's position post-Apartheid, with the public looking to the state for the remedy of the oppressive era, benefiting from the public's resources.

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