PARI Working Paper. The State, Capture and Revolution in Contemporary South Africa.

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Introduction:

The term 'state capture' is suddenly ubiquitous in political and social commentary in South Africa. It has become the description of choice in relation to reports that businessmen, the Gupta brothers, associated with the South African President, Jacob Zuma and his family, influenced the appointment of cabinet ministers and senior officials and also benefit from huge state tenders.(Thamm: 10 March 2016, 16 March 2016, 7 April 2016, 8 July 2016; Munusamy: 1 June 2016, 6 June 2016). 'State capture' is also invoked to discuss the influence of elements of 'white capital' on government in general and more particularly of certain families, notably the Kebble and Rupert families, amongst others (Cronin: 13 April 2016, Shivambu: 24 March 2016). Migrating from the field of economics, the expression describes an especially severe form of corruption. Whereas traditional definitions of corruption focus on acts of illegality and/or the breaking of rules by politicians or officials in order to subvert the public good in favour of private interests, 'state capture' occurs when the ruling-making process is itself 'captured'. The World Bank, for example, in a report that likely popularised the expression, defined it as occuring when state institutions, potentially including the executive, state ministries, agencies, the judiciary and the legislature, regulate their business to favour private interests. In this sense 'state capture' is different from traditional 'corruption' in that many of its activities may be legal. It is regarded as a form of corruption, nonetheless, because private influence is exercised illicitly in public affairs, subverting and even replacing transparent and legitimate forms of intermediation (World Bank, p.3)

What 'state capture' and 'corruption' have in common as analytical terms is a certain concept of the state. Frequently when corruption is discussed in this regard it is understood as an especially important vehicle for elite accumulation and class formation (Bayart, 1993). The purchase of this analysis is deemed very wide, explaining, *inter alia*, why relative to other parts of Europe, Italy and Spain are so much more corrupt (della Porta & Vannucci, 1999; Heywood, 1997), why corruption persists in Mexico, Brazil, Venezuela and Argentina (Weyland, 1998) and why there is corruption in the USA (Galbraith, 2005). In South Africa, such an approach informs studies of how the state has become a vehicle for 'class formation' (Von Holdt & Murphy, 2007, Von Holdt, 2010), for arguments about the emergence of political elites (Netshitenzhe, 2012) and about analyses of 'service delivery protests' (Von Holdt, 2011). In all these cases, the focus is on the struggles over who can get hold of the instruments and resources of the state and use them for their own purposes.

In the tradition of comparative, historical sociology, inspired by Theda Skcopol and Peter Hall, where the task is to understand why some economic or political practices takes root in certain environments and not in others, corruption is frequently given as an answer for the reason why some countries perform poorly economically. For example, more and more economists attribute economic failure or poor economic performance in countries to corruption. It is not so much that public officials do not know what the right policies or interventions are, the argument goes, but that policies are distorted to favour the personal interests of politicians, legislators and/or

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bureaucrats (Coolidge and Rose-Ackerman, 1997; Grossman and Helpman 1994; Krueger 1993a and 1993b). Corruption, on these terms, is said to happen when politicians and officials lose sight of the public interest or public good and serve their own narrow needs and desires.

Yet these perspectives are inadequate for elaborating the concept of the state that is implicit in the notion of corruption. For they are grounded in normative conceptions of individual morality, of how wealth is accumulated and economies developed and about the form of the state that obscure their theoretical debts. They fail, that is, to elaborate the way that such practices are *justified*. Corruption is not the sign simply of an absence, like ethics, in the conduct of government affairs or of 'good governance', but also of a presence of different ideologies (ideas and practices) of the state. In the words of Gertrude Stein, there is a there there: another conception of virtue in public affairs. This is what this paper sets out to demonstrate.

I will make this argument by considering the case of South Africa. We will see that the struggle against corruption in South Africa is really a struggle about the *form* of the state. In this sense the term shows a field of ideological contestation. On the one side are proponents of a liberal idea of the state. On the other are those who defend *patronage* in the name of 'state transformation' or the 'theory of national democratic revolution'. We will see that it is difficult to appreciate the tenacity of corruption in South Africa and elsewhere unless we appreciate that corrupt practices are also discursive practices, that is, that they express political-ideological commitments.

1. The State of Corruption in South Africa

In 2015 civil society organisations and trade unions launched a "Unite Against Corruption' campaign, which organised under the slogan that R700 billion (roughly $46 billion at current exchange rates) had been lost to corruption since 1994. Apparently this represented 20% of the country's GDP over 20 years. The figure has a tortuous history but likely originates in a 2006 handbook by Transparency International that estimated that "between 10% and 25%, and in come cases as high as 40 to 50%" of a country's procurement budget is lost to corruption (Africa Check: 30 September 2015). Africa Check, a non-government organisation that promotes accuracy in journalism, notes that the report never mentioned South Africa specifically, nor did the statistic refer to corruption as a percentage of GDP. Nonetheless, the figure of R700 billion, or R25 billion per annum) stuck in the public discourse. It has been mentioned by officials from the National Treasury and even by officials from one of South Africa's anti-corruption agencies, the Special Investigating Unit (SIU). Yet there is no empirical basis for the figure other than generalised speculation about what middlemen demand of a contract's value. Africa Check concluded that the figure was a 'thumbsuck', an arbitrary guess (Ibid).

The idea that between R25 and R30 billion has been lost to corruption each year since 1994 more likely reflects public sentiment than actual loss. Transparency International, in its global Corruption Perception Index (CPI) for 2013, revealed that South Africa had dropped 29 places since 2001. South Africa is currently ranked number 61 out of 168 countries[1]. A number of local surveys also show that public perception of corruption is high. The Human Sciences Research Council (HSRC, 2012) found in 2012 that the vast majority of those surveyed (91%) believed that corruption was a serious problem in South Africa. Whereas only 9% of respondents in 2003 believed that corruption was in the top three of South Africa's most serious challenges, by 2011, this number had grown to 26%.

Attempts in South Africa to arrive at hard numbers for corruption usually draw on reports of the Auditor-General South Africa (AGSA), an independent constitutional entity tasked with monitoring and reporting on the proper management of public money. Between 2010/11 and 2014/15 the AG found that 'irregular' expenditure in national and provincial departments had increased from over R16.5 billion to R25.7 billion, a jump of 36% in 4 years. Unauthorised expenditure had come down as had fruitless and wasteful expenditure. Irregular expenditure in local governments reached R11.4 billion in 2014/2015. In the whole of government (excluding state owned enterprises) the total figure for irregular expenditure in 2014/2015 stood at over R37 billion.

The category of irregular expenditure is frequently treated as a proxy category for corruption because it indicates non-compliance with government processes or regulations, where the assumption is that deviations are for corrupt purposes. So a dramatic increase in this area is reported as corruption out-of-control. This is not necessarily the case, however. As the work of the Public Affairs Research Institute (PARI) frequently shows, non-compliance has many causes, including operational processes, which are poorly designed and/or that personnel are not adequately trained to know how to follow them (PARI: 2012). Nonetheless, it is fair to assume that some of this represents abuse of office for private gain – though it is difficult to know to what extent.

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[1] Transparency International: https://www.transparency.org/cpi2014/results (accessed April 2014).

One of South Africa's largest law firms reports that on the basis of documented fraud and malfeasance cases presented to parliament and those reported by the Public Service Commission, over R1 billion was lost in 2011/12, an increase from R130 million in 2006/07. It is impossible to generalize from these figures because they are only based on reported cases (Tamukamoyo and Mofana, 2013). Even if the figure is 1000% higher, it would still mean that less than a third of irregular expenditure is for corrupt purposes. If it is difficult to gauge accurately the scale of corruption in South Africa, it is likely that the problem is smaller than is often reported. We will see, however, that the discourse on corruption betrays a real concern about the loss of autonomy of public administrations.

2. The Definition of Corruption

As an idea 'corruption' has a varied conceptual history. Contemporary definitions of the term are a late eighteenth century innovation. If we use Montesquieu to stand in for the 'classical' period, then corruption, on his terms, is a feature of any polity (democratic, aristocratic, monarchic or despotic) when its leaders fail to act on the basis of its core or foundational principles (Buchan & Hill, 2007). This sense finds its way into contemporary private and public conversations, though it remains at a distance to 'modern' definitions of the term[2].

It is in the late eighteenth century work of Edmund Burke and Adam Smith that corruption came to be associated with specific activities that threatened to subvert the *integrity of public office* (especially bribery, graft and electoral fraud) (Buchan & Hill, 2007). This is the sense in which it continues to be defined, for example, international charters, national legislations and, in particular, South African law (see, for example, the UNDP's Corruption and Good Governance report of 1997, the various Corruption Barometers by Transparency International and the South Africa's Prevention and Combating of Corrupt Activities Act, 2004). Typically, definitions of corruption identify an act of private abuse or private misuse or private appropriation at the heart of the phenomenon of corruption. Drawing on J. S. Nye's formative work, the World Bank, for example, defines corruption as the 'abuse of public office for private gain' (World Bank, 2006). This phraseology carries with it a sense of misuse of office with violent or injurious intent (think of spousal abuse, abuse of alcohol). Nye's own phraseology was more subtle, allowing a broader range of activities to be included in the notion of corruption. He refers not to 'abuse' but to 'deviation from the formal duties of public role for private gain' (Nye, 1967, p. 419). The subtlety is important because it brings into play practices of non-compliance with internal rules and procedures where malicious intent may be absent. Brooks discusses it in similar terms: the 'misperformance or neglect of a recognised duty or the unwarranted exercise of power, with the motive of gaining some advantage, more or less personal' (Brooks, p.46).

Burke and Smith would have no difficulty recognising the terms of the current debate about corruption; for in a basic sense we remain, or are rather once again, within their conceptual universe – more than 200 years later. Central to their understanding of corruption was a distinction between *private* interests and *public* duties. This

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[2] Discussions about apartheid corruption are frequently cast in these 'classical' terms, where the reference point is a norm of univeral and egalitarian citizenship. In this sense the apartheid government was corrupt because it refused political, civic and social equality on the grounds of race and actively pursued measures to produce racial inequality, with the attendant violence that this required.

distinction would soon become the hallmark of liberal thinking[3]. The renewed interest in corruption, coming as it does at the end of the Soviet period[4], reflects the ascendancy of liberalism as an economic ideology as much as a *constitutional framework*. Indeed, this last aspect, though often overlooked, is more important. Modern definitions of corruption are not necessarily tied to liberal or neoliberal economic policy prescriptions; but they are closely tied to a *liberal conception of the state*.

3. The Neutral State

A distinctive feature of the liberal idea of the state is its emphasis on *neutrality* – that the state should provide a neutral framework within which different conceptions of the good life can be pursued (Rawls & Kymlicka, 1989; Galston, 1991, Raz, 1986). Weber's (1966) distinctive contribution to liberalism was to conceptualise it as a form of state and not simply as a political ideology or political system. We should see the distinction between government and bureaucracy as an important theoretical development in this regard. It makes it possible, that is, to distinguish heremeneutically between the political system and the administrative system, so that governments that are not liberal politically (including monarchies and dictatorships) may have liberal elements at the level of their administrations.

Governments, especially in a liberal democracy, represent particular interests and make claims about the content and the conditions of the good life. That is their prerogative. Yet the state in the form of the bureaucracy does not make such claims. It is supposed to implement the policies and programmes of the government of the day. This is the sense in which the state is neutral.

Weber understood that such neutrality was always an ideal and that in practice bureaucrats had a tendency to develop their own interests. On these terms corruption refers to:
- any kind of bias or partisanship that bureaucrats practice either towards themselves (Weber's major concern) or to a social class or group (Burke's objection),
- any deviation in the work of bureaucrats from the policies and programmes of the government of the day.

Nonetheless, central to the Weber's conception of bureaucracy is that the state can be organised in such a way that it 1) more or less operates neutrally *vis-à-vis* any social class or group of individuals and 2) that it can become a reliable instrument for whoever is in government. Neutrality, on Weber's terms, depended on the the following design elements: loyalty to rules/office, a rule-bound and routine decision-

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[3] It is not unreasonable to see in Burke's campaign against the corruption of the East India Company in the late eighteenth century the foundation of British, nineteenth century *liberal* ideas of government.

[4] For all its apparent ubiquity in the twentieth century, corruption rose to prominence on the international policy agenda only in the late 20th century. In 1996, the World Bank, then under the leadership of James Wolfensohn, put the issue firmly on the agenda as part of a broader focus on 'good governance' (see Doig & Theobold, 2000, p. 1). Hodgson & Jiang (2007) attribute the conflation of corruption with the public sector to the hold of libertarian and individualistic political ideologies that see state as a restraint on individual freedom. In other words, they see the focus on corruption from the 1990s as the handmaiden of a liberal politics of rolling back the State. 'From this individualistic and libertarian perspective […] the solution to the problem of corruption [is] the reduction of the State' (2007, p. 1047). Was this not the intention of structural adjustment exercises undertaken by the World Bank and the International Monetary Fund in many African countries in the 1980s?

making structure, recruitment of officials through a universal entrance exam and training and incentives in the forms of career development, salaries and status, and a professional *esprit de corps*.

What we call bureaucracy today can, therefore, be understood as a set of techniques of government to reduce the opportunities for officials to pursue their own interests. They substituted for practices that were based on biopower or what Foucault called *biopouvoir*. In the Ottoman Empire, for example, civil servants were often European slaves, captured in war. Their lack of pedigree in Ottoman society made it near impossible for them to pursue wealth and status by marriage into powerful dynasties. Similarly, across Asia, from China, to Korea to Vietnam various dynasties used eunuchs in the royal household as officials. So too did Indian sultanates. (Finer, Samuel: *The History of Government from the Earliest Times*, 1997).

Therein lies the 'secret' of meritocratic recruitment (and other bureaucratic measures). It goes some way to attract smart and qualified officials for their posts in government, but that is not its primary function. The universal entrance exam disrupts recruitment through personalistic networks (of class, of kinship, of political party). In this regard its purpose is transcendental: to create the conditions for a neutral civil service.

The adoption of measures in European states in the late nineteenth century transformed their public administrations. Napoleon disrupted *ancien regime* practices by throwing appointments to the civil administration 'open to the talents'. Drawing on Jesuit translations of Confucian texts, Prussian jurisprudential scholars like Johann Heinrich Justi introduced such principles into the design of the German administrative practice of Cameralism (Lee: 2013). After the Trevelyan reforms of the 1850s Britain, similarly, made the holding of public office dependent on suitable merit, rather than on aristocratic breeding. Rubenstein discusses this as the slow shift from what he calls the 'Old Corruption' to modern bureaucracy in Great Britain (Rubenstein: 1983). As these measures were introduced in England through the nineteenth century the proportion of the rich owing their revenue to state offices dropped dramatically (Ibid., pp. 73-74). We will see shortly that the twentieth century 'developmental states' too, have incorporated some of these features in their administrative designs.

4. A Partisan State

For most of the twentieth century, however, the idea that the bureaucracy could be neutral relative to dominant social groups or classes was rejected out of hand. The neutrality of the civil service relative to political authority was tackled head-on in the months after the February Revolution in 1917. Lenin's pamphlet, *State and Revolution* set the terms for much writing and political activity on the Left for more than a century (Wright, 1983, p. 195). Erik-Olin Wright summarises the debate thus:

> Should the state be considered an essentially neutral apparatus that merely needs to be 'captured' by a working-class socialist political party for it to serve the interests of the working class, or is the apparatus of the state in a capitalist society a distinctively capitalist apparatus that cannot possibly be 'used' by the working class, and as a result, must be destroyed and replaced by a radically different form of the state? (Wright, 1983, p. 195).

Lenin provided an emphatic answer. The state must be smashed and a new kind of apparatus built. A similar question was raised in anti-colonial movements. Could liberation groups seize power and use the colonial-era civil administration to serve

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the interests of formerly colonised populations? In South Africa, a Leninist view of the state prevailed in the anti-apartheid movement. The African National Congress argued that not only had successive National Party governments implemented racist laws and policies but that the very structure of the state itself worked to advance white interests. In language reminiscent of Lenin's, the ANC declared in *The State, Property Relations and Social Transformation* document of 1998 that:

> We [the National Liberation Movement] have inherited a state which was illegitimate and structured to serve the interests of a white minority. […] To attain all these and other objectives, it became the seedbed of corruption and criminal activity both within the country and abroad. […] The NLM cannot therefore lay hands on the apartheid state machinery and hope to use it to realise its aims. The apartheid state has to be destroyed in a process of fundamental transformation. The new state should be, by definition, the antithesis of the apartheid state (ANC, 1998).

Underpinning this Leninist discourse was a nationalist politics that, especially under the influence of Thabo Mbeki, conflated the general interest with the policies of the ANC. Election majorities since 1994 served merely to confirm what was believed to be true *a priori*, that the organisation was the authentic representative of the 'people' (see Chipkin: 1997, 2015). As we will see shortly, the purpose of state transfromation has not been to create a *neutral* state. The purpose has been to bring the state under the political direction of the party. What is striking is just how far the ANC government went in order to politicise the public administration.

5. Public Sector Reform in South Africa: 1994 – 2000.

The apartheid era bureaucracy was regarded as unfit to carry out the orders of the democratic government. In the first place it was staffed at senior levels by largely white, Afrikaans-speaking men – the very people responsible for implementing the racist programmes of the former government (Picard, 2005, p. 302). Transformation of the State thus required "extending the power of the NLM over all levers of power: the army, the police, the bureaucracy, intelligence structures, the judiciary, parastatals, and agencies such as regulatory bodies, the public broadcaster, the Central Bank and so on" (ANC, 1998). At stake was a massive effort to change the racial profile of the post-apartheid administration.

In 1994, senior personnel in state departments were overwhelmingly white and male, 94% and 95% respectively. However, by September 2011, the racial composition of the administration had almost been reversed. According to the most recent report of the Department of Public Service and Administration (DPSA), of the 1 327 548 officials in national and provincial departments (excluding local government), 760 501 (57.29%) were female, while 567 047 (42.71%) were males. Amazingly, Africans now make up 1 050 692 (79.15%) of positions, Coloureds count for 110 929 people (8.35%) and Asians a further 43 187 (3.25%). White officials now represent less than 10% of public servants (122 740) (DPSA, 2013: 32). These figures do not include municipalities, where the changes are no less dramatic.

Affirmative action and demographic change in the public service were accompanied by only rudimentary measures to recruit on the basis of merit. Indeed, the African National Congress has gone very far in the other direction. The idea of introducing a universal entrance exam for would-be public servants was mooted shortly after 1994 but only in the context of dismissing it. The 1997 Green Paper on Employment, for

example, in comparing 'best practice' recruitment practices concluded that 'foreign countries' were 'flexible' in their recruitment instruments, preferring principles of fairness, reliability and objectivity to those of merit or experience (Green Paper: 1997, 14.2.1, 14.3.1) [5]. In a *coup de grace* for the idea of an entrance exam, the DPSA argued that "equality of opportunity [does] not give recognition to the inequalities of South Africa's educational system nor does it take into account past racial barriers to employment opportunities" (DPSA, Op Cit., 14.3.2).

In the end South Africa opted for an 'open career system' where appointments and promotions were advertised inside and, especially, outside the public service. The drift to a political mode of recruitment did not stop there, however. Responsibility for recruitment was taken away from statutory bodies (the Public Service Commission, for example) and/or from the Human Resource units in government departments. Instead it was handed over to ministers and their provincial government equivalents. It is worth pausing here to consider this more closely. It constitutes a dramatic choice that does not simply follow from the desire to expedite affirmative action in the post-apartheid public service.

South Africa has a system of government with strong federal features. In addition to the national government, the country's nine provinces have their own elected governments made up of a Premier and an Executive Committee – the name of the provincial cabinet. Section 3(7) of the Public Service Act assigns to ministers at the national level and Members of the Executive Committee (MECs) – provincial cabinet ministers - the *power of appointment* (Public Service Commission, p.29)[6]. This responsibility is sometimes delegated by ministers or MECs to senior officials in their departments but frequently it is not, creating what the Presidential Review Commission and later the National Development Plan called tensions in the 'political-administrative interface'. The PRC meant by this a conflictual situation arising from the fact that senior officials, especially director-generals and superintendent generals and heads of departments who were responsible for operationalising policy could not recruit staff in terms of their plans – unless this power was delegated to them by the responsible minister or MEC. This is not always forthcoming. This arrangement is, actually, a structural constraint on bureaucratisation in government, by privileging political calculations in the making of appointments and granting promotions over professional and administrative considerations.

Consider the recruitment process itself. The process starts with the creation of a post. Each post or group of posts must include a job description and a job title that explains its main objectives, what skills are required to perform it and what the holder of such a post will need to achieve in order to be promoted (PSC: 2014, p.27). These are technical tasks that were performed historically by the Public Service Commission together with the administrative heads of the relevant departments and in line with the needs and mandate of the department itself. Yet in post-apartheid

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[5] It privileged those countries, especially New Zealand, at the forefront of what became known as the New Public Management, a new reform credo heavily critical of 'bureaucratic' modes of organization.

[6] Section 9 of the Public Service Act of 1994 gives the power of appointment to the executive authority subject to certain conditions. These include that the person is a South African citizen or a permanent resident and is 'fit and proper'. Evaluation of persons based on 'training, skills, competence, knowledge' needs to be balanced with the need "to achieve a public service broadly representative of the South African people, including representation according to race, gender and disability". In 1997 this Act was amended, inter alia, to allow the Executive Authority to delegate the right of appointment to other officials, within the same limits as mentioned above.

South Africa "discretion for setting the job specifications rests with the relevant minister" (PSC, *Op Cit.*, p.27). The job is then advertised and a selection panel is assembled to evaluate shortlisted candidates. Candidates do not sit for an exam, though for senior appointments they have to undertake a 'competency assessment'. Instead, a selection committee interviews them. The 1998 report of the Presidential Review Commission into the public service described the process in the following unflattering terms:

> "The overall impression […] was that hardly any good practice guidelines exist to assist selection panel members with the shortlisting and interviewing processes. […] Similarly no guidelines exist for the selection of panel members in any of the departments that were surveyed. In many cases panel members seem to be selected at the last minute without being given much information about the nature of the job. […] Scoring systems are generally vague and unclear and it is not clear how decisions are reached. Similarly, guidelines on the use of referees are vague. […] Selection decisions often seem to be made on the basis of the interview alone and *without a clear linkage to the requirements of the job*" (Presidential Review Commission, 4.4.6.3) (emphasis added).

There are literally thousands of selection committees across the public service (PSC: 2014, pp. 12-13). Furthermore, given that such committees are designed to maximise political discretion in appointments and that they rely on subjective considerations, they have resulted in tremendous unevenness in the quality of appointments. Frequently, the Public Service Commission notes, people are appointed without the skills, knowledge or experience to do their jobs (PSC, *Op. Cit.,* p.13).

Political discretion, not simply in the recruitment process but in the very design of posts, coupled with the absence of an entrance examination, or career advancement on the basis of subject-related tests, means that the public service after 1994 has been organised with a view to reducing, as much as possible, its administrative autonomy.

In 2014 the Public Service Commission made a very gentle bid to reclaim some of its former glory. As the Presidential Review Commission of 1998 noted, bodies like the PSC exist essentially to "protect and advance the principle of merit" (PRC: 1998, 2.5.5). That such a principle had become "politically and emotionally loaded" after 1994, meant that the PSC in South Africa had lost its *raison d'etre*. Indeed, the Presidential Review was at pains to determine what role it could play in the new system. The PSC itself made a savvy bid for relevance. It compared South Africa's recruitment process with those of other 'developmental' states to affirm the value of meritocratic selection. The ANC government has since the late 1990s described itself as a 'developmental state' both in terms of its economic policies and also in terms of its international relations. The PSC highlighted four major differences:

- "Appointments are not made on the basis of political and other primordial considerations" (PSC, Op. Cit, p.22).
- "Top managers are technocrats appointed from within the public service" (PSC, *Op Cit.,* p. 23). Even in countries like China and Singapore where civil servants are 'cadres', that is, members of the ruling party, the PSC insists that they are nonetheless appointed on the basis of qualification and the ability to do the job (*Ibid*, p.22).

- "Educational qualification is a crucial factor for entrance into the bureaucracy" (PSC, Op. Cit., p. 24). It notes that 92% of public servants in China had a four-year degree and most (60%) had a Master's degree. Even in Brazil, 50% of officials were university graduates. In South Africa, the PSC lamented, only 3% of officials had a basic degree or diploma.
- "Merit is achieved through open, transparent and competitive examinations" (*Ibid*, p. 24).

Noting that the public service was today largely representative, the Commission wondered aloud if it was not time to return to a 'career system' where appointments were made largely from within the public service in and through a process run by the PSC itself. It was not so much that political appointments in civil administrations are uncommon – they are. Elsewhere, including the USA or even China and Singapore, they are restricted to specific positions[7] and are still subject to competitive and meritocratic evaluations. What the PSC was pointing to was that in South Africa, a political, as opposed to a bureaucratic logic, permeated the entire system indiscriminately.

In particular, the PSC recommended that responsibility for advertising jobs should be taken back from what it termed the Executive Authority (ministers and MECs) and be lodged with Heads of Departments and that internal candidates be considered before advertising the job externally. It also proposed that candidates be considered for promotion only after they had served an adequate amount of time at their current level and that their suitability be assessed through a grade exam. Most dramatically, the PSC raised the possibility of recruiting middle managers (feeders in senior positions) via an entrance examination. As a sign of just how controversial such an idea was, the PSC immediately offered all sorts of caveats, including that there were instances when a political appointment process was advisable. The commission's gentle attempt to nudge South Africa away from an 'open bureaucracy' was like a cry in the wilderness (PARI: 2014, p.47)[8].

6. Battalions of Revolutionaries

In 1997 Nelson Mandela gave the final address to the ANC's 50th National Conference in Mafikeng. He had just stepped down as president of the ANC in favour of Thabo Mbeki. In addition, Jacob Zuma was elected Deputy President. They would both, soon after, go on to become President and Deputy President of the country respectively. In 2005 Mbeki fired Zuma for corruption, triggering a storm of events that would ultimately destroy his presidency all the while propelling his nemesis into the seat of power. Still, in December of 1997 it was too soon to anticipate how terribly this arrangement would fall apart.

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[7] In the USA, most civil servants 'except' from the standard recruitment practices administered by the Office of Personal Management of the Federal Government, the equivalent of South Africa's Public Service Commission, are employed in intelligence or national security departments or agencies.

[8] PARI defines an 'open bureaucracy' as such: "Open bureaucracies are those where politicians retain substantial lawful discretion over the appointment, promotion and, in extreme cases dismissal, of public servants. This can enable politicians to go beyond formal and impartial rules in imposing their will upon public administrations. Politicians with power over appointments and promotion can place close associates into key positions and collude with them in non-compliant behavior" (PARI: 2014, p.47).

These events have tended to overshadow the significance of that conference for another reason. It marked the formal launch of the ANC's policy of 'cadre deployment'.

The expression had been part of the ANC's vocabulary at least since 1985, when it was used to refer to the discipline of members in relation to the struggle against apartheid. In 1996 Joel Netshitenzhe, a key advisor to Mbeki who would soon after head-up the policy and advisory unit in the Presidency, recast it in relation to the exercise of state power. Writing in the ANC's internal journal, *Umrabulo*, Netshitenzhe suggested that 'deployment' of ANC cadres to all 'centres of power', including the economy, education, sports, arts and the media, be carried out so as to secure ANC control and hegemony. The document urged the ANC to set up a database of cadres and their skills so that their deployment could be more organised. It also suggested that the first accountability of ANC members should be to the party. Further, the document stated: 'We must have a clear understanding of the system of supervision and decision-direction [...] to ensure that our army of cadres discharge their responsibilities in accordance with decisions which the movement has made' (Netshitenzhe 1996: 4-6).

The final report to the 50th National Conference explained why this was necessary.

> "We have experienced serious resistance to the transformation of the public service, with *representatives of the old order* using all means in their power to ensure that they remain in dominant positions. Some among these owe no loyalty to the new constitutional and political order nor to the government of the day, and have *no intention to implement our government's programmes* aimed at reconstruction and development" (ANC, Report of the 50th Conference) (emphasis added).

This "counter-revolutionary network" it continued, was based in the public administration and was engaged in "disruptive actions", including the "weakening and incapacitation of state machinery" and the "theft of public assets, arms and ammunitions". In this context, the ANC proposed deploying "battalions of revolutionaries" to "local, provincial and national legislatures and governments, [to] ANC structures at all these levels, [to] the public service and the economy" (ANC, 1997: Report of the 50th Conference).

This *political logic* goes some way to explain features of the South African public service as discussed above. In particular, a model of recruitment that priviliged political considerations over administrative ones in the selection process served, as Geraldine Fraser-Moloketi, the Minister of Public Service and Administration in the Mbeki cabinet put it, to "establish control over the bureaucracy and to inculcate a new value system and philosophy, in tune with the agenda of the ruling party" (Fraser-Moloketi, p. 20).

Such an explanation does not go all the way in explaining the rejection of bureaucratic modes of government, however. Another logic imposed itself at this time, whose origin and vocabulary came not from within the ANC but from the emerging field of 'public management'.

7. Neoliberalism and Neutrality

Within only a few years of the first democratic election there was growing concern in parts of government that something was terribly wrong in the public service. The

1998 Presidential Review of the Public Service, for example, begins awkwardly that "to a considerable extent […]the essential ingredients of good governance are still missing, including the development of an effective culture of democratic governance" (PRC: 1.5)[9]. The report itself is a wide-ranging document that considers structures and functions within the public service, human resources management and development, financial management and planning and information management, systems and technology. Its first recommendation was that "radical change" was needed in respect of "creating a professional public service, under professional leadership and within a professional ethos" (PRC: 7.2.1.1).

In particular, the commission worried about what it called 'confusion' at the 'political-administrative interface'. The problem was that the relative responsibilities of ministers and MECs on the one hand, and senior officials on the other was not clearly defined or delineated. "If ministers and MECs act as managers, involving themselves in details of administration, and if senior officials act as politicians, involving themselves in political processes outside their departments, this is to the detriment of their proper and necessary roles," the Commission suggested somewhat soberly (PRC: 2.1.6). The report is noticeably vague about what it means by political overstretch and, unlike what the Public Service Commission will later recommend, says nothing about political control of the recruitment process. The implication is that there currently exists a misunderstanding between politicians and officials about the limits of their respective roles. Yet as we have seen earlier, there was no such 'misunderstanding' in the ANC or in the administration of Thabo Mbeki. With the exception of the economic institutions (the Reserve Bank, the National Treasury and the South African Revenue Service (SARS)), the intention was to politicise the administration through 'cadre deployment'. It is hardly surprising, therefore, that the same concern about the 'political-administrative interface' was raised 15 years later in the National Development Plan.

The Presidential review came up with numerous recommendations about how to improve the performance of the public service, including establishing a 'centre of government' to monitor and coordinate between departments and to ensure that they were following through on cabinet decisions (PRC: 7.2.1.4). It further recommended a dramatic 'rightsizing' of the public service, noting that it was unnecessarily large and risked consuming more and more of government revenue (PRC: 7.2.1.3)[10]. The centre-piece of the review's proposals, at least as it was interpreted by the Department of Public Service and Administration (DPSA), was for what it called a 'Professional Management Corps" (PRC: 7.2.1.10). The proposal was to:
• move away from the traditional career-based model of the public service in favour of contract-based employment for the entire management echelon,
• to develop all-round managers with experience in a range of portfolios, by creating opportunities for greater mobility and
• to develop a managerial *esprit de corps* through joint workshops and training opportunities.

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[9] The Presidential Report that is available online does not have page numbers. I have referred to the section number instead.

[10] During the Thabo Mbeki period there were moves to reduce the size of the public service but after 2009, the election of Jacob Zuma as President, the size of government grew dramatically. There were 28 ministers in Thabo Mbeki's cabinet. This rose 35 ministers and 37 deputies in the current administration. Moreover, between 2005 and 2012 the public service wage bill grew by 145.6% and the number of government employees climbed by 27.3% (Africa Check: 2014). The public sector wage bill is today the second largest item in the budget after debt servicing today.

It is possible that the PRC intended that such a *corps* would act neutrally in relation to executive authority, though the term is not used once in the whole document. What it definitely did intend was a reform away from bureaucratic practices. Therein lay part of its appeal.

The DPSA acted quickly to implement the PRC's recommendations. It established the Baskin commission in 2000 to determine what might be involved and then in 2001 launched the Senior Management Service (SMS) – its name for the 'professional management corps'. The move to *public management* in South Africa has an uncanny history, which I have explored elsewhere (Chipkin and Lipietz: 2012). For the moment it is only necessary to say that it has its origin in the Thatcherite and post-Thatcherite (Tony Blair's Third-Way) critique of the welfare state. By the time of South Africa's transition to democracy a cluster of metaphors had come to dominate the field of public administration. Patrick FitzGerald and Anne McClennan, both influential at the time, give a sense of the mood in South Africa:

> Public administration teaching and theory in South Africa is experiencing a paradigm shift. There is an attempt to move away from a descriptive, academic approach which emphasises processes and procedures to a *value-oriented public management approach* (emphasis added) (FitzGerald and McLennan, 1995, p.8)

At stake was a critique of 'bureaucracy' as an organisational form. Geraldine Fraser-Moleketi, finished her degree whilst in political office. There, bureaucracies are said to be wasteful and inefficient. Ultimately, they are 'out-of-date' – a term used frequently in the academic and policy literature at the time as well. In contrast, 'public managers' are freed-up from 'red tape'. They are innovative and enterprising. They are focused on outputs and outcomes, rather than on following rules. In summary, public management is 'modern' (Fraser-Moleketi: 2006).

Ultimately, the creation of the senior management service was associated with a host of measures to remove senior officials from routine and rule-based practices and to give them discretion over as wide-ranging a set of activities as possible, strategising how best to discharge the department's function (in South African parlance, the design of the 'service delivery model'), in determining the structure of their own departments and financial management. The Public Finance Management Act (PFMA), passed in 1999 to regulate financial affairs in the national government and in provincial governments, wanted for example, to 'let managers manage' by giving heads of departments wide discretion over spending (PFMA: Chapter 5, S36(a), S38). Senior managers were also to be highly paid. Indeed, the International Monetary Fund reports that today South African public servants are amongst the best remunerated in the developing world (IMF, p.76). Yet the crucial element in this mix, recruitment of staff, remained a political prerogative, creating, as we have heard above, conflict in the 'political-administrative' interface.

It is not hard to see why the idea of a senior management service was approved quickly in cabinet. It was an attractive vehicle through which the ANC government could drive political control of the administration. What is more, it resonated with international 'best practice'. Political control, in other words, did not have to come at the expense of efficiency and effectiveness, or so it seemed, anyway. Originally intended to have no more than 3000 members, it already had 7 283 people by 2005, most of them in national departments (DPSA: 2006, p.37). Although there are no published figures about 'cadre deployment' in South Africa, it is likely that most ANC officials are placed at this level.

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8. Decentralisation

If public management was the vehicle through which regions of the public service were politicised, decentralisation, especially in the procuremen space, provided a way of using the state to take forward the project of economic transformation.

At least since 1998, the South African government has been interested in using government resources to create a class of black capitalists. Let us follow the logic of the Mbeki presidency. I am drawing on the *State, Property Relations and Social Transformation*, an important theoretical intervention from this period. One of the tasks of the ANC, it argues, is to change property relations in South Africa, including patterns of ownership, investment and of procurement. How can this be done when capital is held overwhelmingly in white hands? The solution is deemed to lie in the creation of a black capitalist class; one created essentially through government procurement practices and regulatory interventions requiring minimum quota for black equity in private (white) firms.

> In a systematic way, the NDR has to ensure that ownership of private capital at all […] levels […] is not defined in racial terms. Thus the new state – in its procurement policy, its programme of restructuring state assets, utilisation of instruments of empowerment, pressure and other measures – promotes the emergence of *a black capitalist class* (emphasis added) (ANC, 1998).

In this way a government that worked by contracting out its tasks to private companies could leverage its procurement budget to advance the project of economic transformation.

The Public Affairs Research Institute (PARI) has done the leading work on procurement in South Africa and I will draw here on its research[11].

Historically, PARI notes, the system of procurement in South Africa was highly centralized. Prior to 1994 various South African governments followed the international norm in establishing and running a State Tender Board. In addition the then four provinces had their own provincial tender boards. The process of decentralisation would proceed in earnest after 2003. The various tender boards were abolished and a Framework for Supply Chain Management, was published as part of the regulations for the PFMA. Responsibility for procurement was devolved down to departmental level. We have already seen that in terms of the PFMA departmental heads became 'accounting officers' with wide financial discretion, including responsibility for the procurement of goods and services. The implementation of the new system has been associated with two major developments:

Firstly, notes the PARI report, "procurement has become one of the largest tasks, arguably the single largest function, of government departments" (PARI, p.34). Today the estimated expenditure by government departments on goods and services is about R500 billion ($34 billion), more than half of national expenditure (after debt repayments). In other words, the lion's share of government's day-to-day responsibilities are outsourced to third-party service providers, usually private companies.

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[11] The lead researcher in this study was Ryan Brunette.

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Secondly, "the procurement of goods and services takes place through a system that is highly fragmented and decentralised. In some cases, the very outsourcing function is itself outsourced" (Ibid, p.34). The result is that in South Africa today "there are literally tens of thousands of sites and locations where tenders are issued and awarded and where contracts are managed for the performance of all manner of services and functions" (Ibid., p.34).

The extent of decentralisation is extraordinary relative to South Africa's past. Furthermore, the procurement system is widely believed to be responsibe for massive unevenness in the performance of government units – so much depends on how well departments can select and manage contractors - and for corruption in government. Until recently, for example, public servants could themselves tender for government contracts. The trouble, claimed the Public Service Commission in 2010, was that "while some of these contracts might have been awarded fairly, the scale of the revelations […] suggests that there was much impropriety, and subsequently damage to 'the public trust'" (PSC: 2010, p. 9). "This begs the question," the commission continued, "should public servants or their spouses be allowed to do business with government?" (PSC: 2010, p. 9). Their answer: yes. What mattered for the Commission was that contracts were awarded according to procedure.

This surprising answer reflected the political mood. As much as the move to Supply Chain Management followed from the supposed efficiency gains of decentralisation, this major concession to the market in the performance of government affairs had another *raison d'etre* as well. It was an opportunity to engineer the government to serve the political project of the day, Black Economic Empowerment.

9. Things Fall Apart

What we have seen is the coincidence of two reform logics, the first political and the second administrative, coming together, sometimes by chance and sometimes by design, to weaken and to block the bureaucratic organisation of the post-Apartheid state. That is, the combination of the ANC's ideology of the state, coupled with briefly hegemonic public management discourses in the 1990s have served to weaken administrative procedures and mechanisms to discipline public officials and to reduce the likelihood of them pursuing their own interests.

Let us recall that in the bureaucratic model officials are subject to the disciplinary regime of the administration, from organs responsible for meritocratic appointment, to rules and routines of work. In South Africa since 1994 such mechanisms have been forsaken by choice or deliberately weakened. The current organisation of the public service is not, however, without its own measure of neutrality. Officials are still expected to be subject to the discipline of the party. Therein lies the bitter twist in the current model.

Today reports of corruption are met with the usual consternation from opposition parties and from civil-society and the media. What is new is that the ANC expresses deep concern too. This is a far cry from the way that former president Thabo Mbeki reacted to claims of corruption in the arms deal in 2006. 'Some in our country,' he warned in a column published on the ANC website "have appointed themselves as 'fishers of corrupt men'" (Mbeki, 2006). Those who made such claims, he argued, sought to entrench the stereotype that 'Africans as a people […] are corrupt, given to telling lies, prone to theft and self-enrichment by immoral means, a people that are otherwise contemptible in the eyes of the "civilised"' (Mbeki, 2006).

What has changed? It does not reflect an ideological concession to liberalism. What it reflects is that 'wrong' people are seen to be benefitting from tenders and public expenditure. The organisational renewal document notes, for example, that within the ANC there has been "a silent retreat from the mass line to palace politics of factionalism and perpetual in-fighting" (ANC, 2012a, p. 9).

> The internal strife revolves around contestation for power and state resources, rather than differences on how to implement the policies of the movement. This situation has shifted the focus of the cadres and members of the movement away from societal concerns and people's aspirations. These circumstances have produced a new type of ANC leader and member who sees ill-discipline, divisions, factionalism and in-fighting as normal practices and necessary forms of political survival (ANC, 2012a, p. 9).

On the ANC's terms when this 'new type of cadre', self-interested and prone to pursue their self-interest through divisive alliances, benefits from government and party interventions, there has been a 'misuse' of public resources, that is, there has been corruption. Note the deviation here is relative to the ANC's own culture, that is, to its norms and traditions. That is why for the ANC, the solution to corruption lies in *internal organisational renewal*: to reinforce the organisation's own culture and to attract members invested in the broader vision of the organisation (ANC, 2012a, p. 34). The ANC thus proposes the following internal reforms:

- building a new corps of cadres with political, ethical as well as academic and technical acumen;
- strengthening Luthuli House to be able to manage not only the exercise of political power and constitutional statecraft as well as the multitudes of members and supporters; but also how to relate to civil society - including intellectuals, artists and media - not as victim and protestor, but as leader;
- operationalis[ing] the decision on the Integrity Commission: a commission that will have the legitimacy and authority to call members who stray to order;
- a radical shift in the management of leadership contestation so we can dispense with the current pretence that everyone is waiting for October when nominations will start, while people are actually organising factional meetings about slates in the middle of the night (Netshitenzhe, 2012).

Joel Netshitenzhe goes even further suggesting that ANC members wanting to stand for positions should be 'vetted' by branches and regions (Netshitenzhe, 2012). He describes the current problems with ANC membership as a "sin of incumbency" resulting from the transition. South Africa's peculiar character as a colonial society of a special type meant that coloniser and colonised inhabited the same territory. As a result, argues Netshitenzhe (2012), black South Africans, especially those returning from exile and/or those from the "middle strata" had to contend with lifestyles of the erstwhile metropolis (essentially the white community) that are profoundly pervasive. Such lifestyles, moreover, "are based on a standard of living that is artificially high compared to today's global 'middle class', in terms for instance of assets, number of cars per household, domestic assistants, swimming pools, emulation of the European 'gentry' and so on".

> This mainly First Generation middle and upper strata quite legitimately aspire and pursue the *artificially high standard of living* of the metropolis. […] Yet, unlike their white counterparts, these emergent middle strata do not have historical assets, and they have large nuclear and extended families to

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support. As a consequence, they have to rely on massive debt and/or patronage (my emphasis) (Netshitenzhe, 2012).

Under these conditions, many ANC cadres and black 'middle elements' became indebted and ultimately vulnerable to corruptible practices and people. Why ANC cadres and others felt compelled to live by 'white' standards requires an explanation in its own right[12].

In summary, talk of 'corruption' in South Africa increasingly refers to members of the ANC acting in ways contrary to what is expected of them, either by the standards of the ANC as a political organisation or by the standards of the public service. In having displaced responsibility for discipline officials from the public service to the ANC itself, the organisation has lost control of the process.

Conclusion:

The definition of corruption in South African law, as well as that used by most international bodies, from Transparency International to the World Bank rests, this paper has argued, on a liberal conception of the State, distinguishing sharply between private interests and the public good. On these terms state power is an 'empty place' that is temporarily filled when a political party wins an election and forms a government to give expression to its idea of the public good. The role of the civil service is to implement the government of the day's policies faithfully and not to develop its own interests. To secure such neutrality a variety of techniques have been developed – from meritocratic recruitment, to rule-based routines. These techniques are what Weber called bureaucracy. Corruption happens, on these terms, when civil servants depart from these administrative standards and rules to pursue actions that benefit themselves personally, their families and/or the private associations and/or political parties that they support.

In South Africa since 1994, however, we have seen that this conception of the state has been explicitly rejected in favour of another. The ANC has long believed that as the authentic representative of the 'people' it has a privileged right to define the public good (Chipkin: 2007, 2015). This is why concrete steps have been taken to reduce the autonomy of public administrations in relation to executive authority. When officials break the law or violate departmental rules in response to a political commandment, we see not so much a moral or ethical failure, as an act of political discipline. Hence, what is corruption in liberal terms is public virtue in the ANC's terms. The system would potentially work if the ANC was able to hold its officials to account and to discipline them.

After 2009 the ability of the ANC to control its own government, officials and cadres in government has declined remarkably. There is growing contestation about who has legitimate authority in the organisation and where, moreover, power lies. It is not simply that the party leadership is sometimes in conflict with the government – the

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[12] In the Mass Democratic Movement of the 1980s and 1990s there was an often stinging critique of 'white' and/or 'bourgeois' living and an explicit rejection of its norms. This is why suburbs like Yeoville in Johannesburg, for example, developed an iconic status. It was not simply that its racial mixity offered a preview of what non-racialism after apartheid might look like. No less important was that its residents often explicitly rejected 'white' norms – sometimes expressed as a rejection of middle-class values (about family, about sexuality, about consumption), sometimes as a rejection of racism and racialism, sometimes as a combination of both.

situation during Thabo Mbeki's Presidency – but that there are today multiple and fluid 'kitchen cabinets' in the government, the movement itself and outside. There are accusations, moreover, that President Jacob Zuma has allowed his family and their business associates (the Gupta family) to 'capture' key institutions. The unexpected dismissal of the Finance Minister in December 2015 has been widely interpreted as an attempt by factional interests to seize control of the National Treasury (Pearson, Pillay and Chipkin: 2016).

What all these intrigues have in common is that they centre on reducing the autonomy of state institutions and/or displacing those who currently control them in favour of a new configuration of forces. This politics of purge and displacement has wracked the law and order departments (the police, the directorate for specialised crimes (the "Hawks")), the National Prosecutions Authority, the South African Revenue Services (SARS) and some of the state-owned enterprises, most recently Denel, a state arms company.

In a context where state power is seen to be personal and in some cases has become so, these efforts are seen as legitimate attempts to break the hold of existing groups and alliances to make way for new interests. In particular, Jacob Zuma gives expression to the aspirations of rural and traditional elites, regional forces outisde the big cities and those who have not benefitted from english-medium schools and/or tertiary education – precisely those largely excluded from the patronage that began under Thabo Mbeki.

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