The Politics of Corruption

Two Competing Definitions

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INTRODUCTION

In this paper I defend three hypotheses about corruption in South Africa, namely that:

1. the measure of corruption in South Africa is allied to a concept of the state – liberal and Leninist;
2. growing alarm about corruption suggests that on both liberal and Leninist accounts, corruption is increasing; and
3. growing corruption is evidence that the institutions of the state are weakening.

At the end of the paper I shall distinguish between three kinds of institutions: efficient, captured and weak ones.

- An efficient institution is one that works to achieve its formal policy mandates (irrespective of whether such policies are good or bad). Efficiency is not a normative term, here, merely an analytical one.
- A captured institution is one that works to achieve a purpose other than its formal mandate, one, moreover, that is likely to be at odds with its formal mandate and is frequently illegal.
- A weak institution is one that is not able to work towards any particular mandate (formal or otherwise) because it lacks sufficient cohesion as an organisation.

CORRUPTION AND NEUTRALITY

We tend to think of corruption as a historical constant or universal. In fact the term has a more varied conceptual history (Buchan and Hill, 2). Contemporary definitions of corruption 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. Jumping to the present and on these terms, we might say that a person or a party or a government is corrupt in South Africa to the extent that he/she/ it behaved in a way that undermined the principles of the Constitution. This sense finds its way into contemporary private and public conversations, though it remains at a distance to 'modern' definitions of the term.

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) (Ibid, 2). This is the sense in which it continues to be defined in, for example, international charters, national legislation and, in particular, South African law. Typically, definitions of corruption identify an act of private abuse or private misuse or private appropriation as lying 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". 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 referred not to 'abuse' but to "deviation from the formal duties of public role for private gain" (Nye, 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. I will return to this later. Brooks discussed 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, 46).

Burke and Smith would thus have no difficulty recognising the terms of the current debate about corruption; for in a fundamental way we remain, or are rather once again, within their conceptual universe – more than 200 years later. Central to their understanding of corruption was the distinction between *private* interests and *public* duties. This distinction would soon become the hallmark of liberal thinking. Buchan and Hill go so far as to suggest that it was Burke's campaign against the corruption of the East India Company in the late eighteenth century that laid the foundation of British nineteenth century *liberal* models of government (Buchan and Hill, *Op Cit*., 25). I will return to this shortly. For the moment, let us merely note an anomaly.

For all its apparent ubiquity in the twentieth century, corruption became a public policy concern only in its closing years. 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 and Theobold, 1). In the same year the United Nations adopted a declaration against international corruption and bribery, following this up with the United Nations Convention Against Corruption, adopted in Mexico in 2003 (Camerer, 4). Since then numerous non-governmental and inter-governmental organisations have taken up the issue, including the International Monetary Fund, World Economic Forum, World Trade Organization, International Chamber of Commerce, The Organizations of Latin American States, Organization of Economic Co-operation and Development, the G-7, European Union, African Union, Southern African Development Community, Transparency International and Global Integrity (Ibid, 4).

Hodgson and Jiang attribute the conflation of corruption with the public sector to the hold of libertarian and individualistic political ideologies that see the state as a restraint on individual freedom. In other words, they see the focus on corruption from the 1990's 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" (Hodgson and Jiang, 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 1980's? The renewed interest in corruption, coming as it did at the end of the Soviet period, reflects the ascendancy of liberalism as an economic ideology as much as it does liberalism 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 polity*.

THE LIBERAL 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, Galston, Raz). Kymlicka explains: '"The state does not justify its actions by reference to some public ranking of the intrinsic value of different ways of life, for there is no public ranking to refer to" (Ibid, 886). There has

been, especially since Rawls, an important debate about the limits of liberal neutrality. Joseph Raz, for example, distinguishes between "neutral political concern" and the "exclusion of ideals". In the first case, the state is neutral *viz*. the consequences of its policies. In other words, government actions should not benefit any particular idea of the good life over another. The second admits that government policies may, effectively, privilege some life-chances over others, but the state limits it from *choosing* to support certain life-chances over others. "The first," summarise Kymlicka, "requires neutrality in the consequences of government policy; the second requires neutrality in the justification of government policy" (Ibid, 884)[1].

Weber's distinctive contribution to the debate about the liberal model of the state is to distinguish precisely between government and state or government and bureaucracy. Governments, especially in a democracy, represent particular interests and do and should adjudicate between conceptions of the good life. That is their prerogative. Yet the state in the form of the bureaucracy does not adjudicate; it merely implements the policies and programmes of the government of the day. This is the sense in which the state is neutral. Yet Weber also worried about conditions of such neutrality. Writing in 1917 at the same time as Lenin, but from a very different perspective, he worried about the loss of neutrality that came when the bureaucracy developed its own interests.

Central to the liberal conception of the state is the idea that the bureaucracy can be organised in such a way that it:

1. operates neutrally vis-à-vis any social class or group of individuals and
2. that it can become a reliable instrument for whoever controls parliament (the legislature) and government (the executive).

[1]See the debate between Kymlicka and Raz. Joseph Raz, *Morality of Freedom*, Oxford: Oxford University Press, 1986 and Will Kymlicka, 'Liberal Individualism and Liberal Ethics' in *Ethics* 99, 1989, pp. 883-884. See also William Galston, *Liberal Purposes. Goods, Virtues and Diversity in the Liberal State*, Cambridge: Cambridge University Press, 1991 – especially Chapter 4.

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), and
- any deviation in the work of bureaucrats from the policies and programmes of the government of the day.

LENIN AND THE NATIONAL DEMOCRATIC REVOLUTION

For most of the twentieth century and for a good part of the nineteenth century too, the idea that the bureaucracy could or should be neutral relative to social interests was rejected out of hand. This was precisely the burning question in 1917 in Russia after the February Revolution and prior to the October coup. "Such a conjuncture," reports Erik Olin Wright, "sharply raised a central theoretical issue that has preoccupied much writing and political struggle on the Left for a century" (Olin Wright, 195)

"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?" (*Ibid*, 195).

Lenin, following Marx, insisted that all states were dictatorships and modern, liberal states were bourgeois dictatorships. In other words, the apparent neutrality of the bureaucrat was a ruse, obscuring his or her complicity in reproducing bourgeois economic domination. A genuinely democratic state, especially in the Aristotelian sense, would dispense with such deception and declare openly its partisan character (in favour of the poor and the working class). Marx called such a state a Dictatorship (of the Proletariat) precisely to emphasise that it had to take sides. In this sense, the state was never neutral, nor should it be. Right up until the 1970's the formula of the Dictatorship of the Proletariat (DOP) was a key platform of most communist parties, including Western European ones[2]. State partisanship was not thought of as simply a moral choice, akin, for example,

[2] In 1976, at its 22nd Congress, the French Communist Party (PCF) formally declared that the concept of the dictatorship of the proletariat was not applicable in the conditions of Western Europe. See Etienne Balibar, *On the Dictatorship of the Proletariat*, New Left Books, 1977.

to Christian concern for the poor. A proletarian dictatorship, in ways impossible for a liberal democracy, worked in the general interest. Bourgeois interests were by definition particular. Working class interests were universal (for work, for housing, for healthcare)[3].

HYPOTHESIS ONE

Here is my first assertion. Corruption in South Africa has been made possible by the fact that the ANC in government does not have a liberal conception of politics and of the state. This is not a normative claim, but an analytical one. In pursuit of its political programme of overcoming the legacy of apartheid and hence of working in the interests of "Blacks in general and Africans in particular" (ANC, Strategy and Tactics, 1999), the ANC has simultaneously sought to transform the structure of the state itself. The ANC's argument is not simply that successive Nationalist Party governments implemented racist laws and policies but that the very structure of the state itself worked in tandem with white interests. The apartheid state was, if you like, a white state. On these terms, democratising the state has been associated with numerous efforts to *blacken* it, where blacken in this context has referred not only to a project of demographic change but also to one of structural change. I have discussed this elsewhere (Chipkin:2011; Chipkin and Meny-Gibert:2012). For the moment let us note the following. The purpose of state transformation has not been to undo the social bias of the state, but to change its direction – from the white minority to the black majority, most notably to Africans. In other words, the purpose of state transformation in South Africa has not been to create a neutral state. To accuse the ANC government of failing in this respect is to miss the point. Consider the following extract from the ANC's *State, Transformation and Property Relations* document of 1998. In language reminiscent of Lenin's, the document declares:

"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

[3] It is not so much the critique of capitalism that Marxists have foregone, but rather their claims about the historical role of the working class. If no particular class can claim to represent the universal, then a State that works in favour of any particular groups is simply partisan, hence corrupt because it mistakes private interests for those of society as a whole.

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).

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. 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). In the second place the very organisation of the apartheid public service (authoritarian, hierarchical, inwardly-focused, rule-driven[4]) impeded mass participation in the workings of government and made it made it unlikely that it could be used to implement the policies of the new government. There is an irony in this. The new 'instruments' and designs introduced to the public sector to de-bureaucratise it, that is, make it more amenable to democratic control, were derived from the practices of avowedly liberal governments seeking to expand the role of the market and to introduce business principles into the workings of government. This irony was not always lost on those who introduced these measures[5].

Public sector reform in South Africa has often been beset by contradictory interventions. Even if some actions on the public service after 1994 have been informed by liberal conceptions of state neutrality[6] or impartiality, they have come up against others that have not. The ANC's policy of cadre deployment is a case in point. It is not enough that an ANC government has

[4] See McLennan, Anne and FitzGerald, Patrick, 'Administration Initiative and the Mount Grace Consultation' in (McLennan, A. FitzGerald, P eds.) *The Mount Grace papers: The new public administration initiative and the Mount Grace Consultation*, Johannesburg: Public and Development Management Programme (P & DM), University of the Witwatersrand Press, 1991.

[5] Geraldine Fraser-Moleketi was the Minister of Public Service and Administration at the time. She writes in her Masters dissertation, written when she was in office: "the minimalist, neo-liberal ideology of NPM [New Public Management] clashed with the democratic and radical approaches of the ANC especially with regard to the 'macro' sides of reform". "But such an appreciation," she continued, "could not detract from the potential these tools offered to result in greater efficiencies in state administration" (Moleketi, 14).

[6] The introduction of New Public Management principles in the organisation of the public service in the late 1990's was driven by concerns with 'efficiency' and 'innovation'.

embarked on programmes to undo the legacy of apartheid (legislative reforms, massive housing programmes, the implementation of Affirmative Action, the introduction of Black Economic Empowerment measures), members of the African National Congress are given strategic positions in the public service and in the state *qua* members of the African National Congress. In a similar vein, ministers, rather than senior public servants (director-generals, for example) control the appointment of departmental officers. In both cases the intention is to strengthen political control over the public service. In these situations the measure of public service is not the degree to which public servants deal impartially with the public, but the opposite. It is the degree to which the organisation and structures of the administration are tilted towards the service of blacks and Africans in particular.

Let us note the consequences of this politics for the notion of corruption. From the perspective of the National Democratic Revolution (NDR), corruption was evident in the structure of the country's political economy – gross racial and class inequality derived from South Africa's 'colonialism-of–a-special-kind' – and not in the partisan behaviour of government officials. Hence corruption on liberal terms was necessary to overcome corruption in Leninist terms (or those of the theory of NDR). Consider the case of Black Economic Empowerment.

Black Economic Empowerment

Let us follow the logic of the Mbeki presidency. I am drawing on *State, Transformation and Property Relations*, an important theoretical intervention from this period and likely written by Thabo Mbeki himself. One of the tasks of the National Democratic Revolution, 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 in "overwhelmingly white hands", limiting the influence of the ANC government in how and where it is invested. 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. By virtue of their dependence on the ANC, black capitalists would be amenable to influence from the National Liberation Movement. Patterns of investment could then be directed into sectors and initiatives that benefitted the black majority. "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).

Let us leave aside the political innovations in the argument above; especially how it departs from the conventional ANC-SACP-COSATU understanding of the relationship between capitalism and apartheid[7]. For our purposes it is interesting to note that an argument about corruption emerges at this point in the document, that is, after the discussion on the black capitalist class as a strategic goal of the NDR. Here is the sentence: "While these forces [the middle strata and black capitalists] are direct beneficiaries of the NDR and share an interest in its advancement in the current phase, they can easily be co-opted into the agendas of their white counter-parts; and they can easily also become a source of corruption within the state" (Ibid: no page number). What does corruption refer to here?

It is no longer corruption *qua* violence and racial inequality in the structure of South Africa's society and economy. Here corruption comes to resemble a Burkian definition. In other words, it refers to those who in the name of serving the public good, serve themselves or serve other private interests. Yet the resemblance is only superficial. Unlike Burke the ANC does not object in principle to the use of public goods for private gain. Corruption happens if the *wrong* individuals benefit or the private benefit does not further the public good. In the case of the Mbeki government, that is, there was a subtext. Not all black beneficiaries were the 'right' kind of beneficiaries, only those deemed so by the National Liberation Movement. Moreover, it was at the discretion of the NLM to decide whether a private benefit was simultaneously a public good. On this analysis, there was corruption to the extent that public resources were directed for *inappropriate* private gain, where the measure of 'appropriateness' was at the discretion of the NLM to decide[8].

[7] In the *State, Transformation and Property Relations*, Apartheid is deemed to have prevented Blacks from benefitting from capitalism such that capitalism developed in a "skewed" manner. The more traditional argument was that capitalist development was a condition (in a transcendental sense) of apartheid itself.

[8] I have discussed elsewhere how this measure of who was an 'appropriate' beneficiary was allied to a politics of black authenticity. See Ivor Chipkin, *Do South Africans Exist: Nationalism, Democracy and the Identity of 'the People'*, Johannesburg: Wits University Press, 2007.

While both liberal and NDR notions of corruption invoke a measure of 'misuse' of public funds any resemblance between them is only superficial. In the liberal definition, 'misuse' refers to a *legal or public service standard*. In the other, 'misuse' implies a standard determined in and by the *National Liberation Movement*.

Different Standards

Frequently the standards of the NLM and the standards of the public service are in conflict, if not antagonistic to each other[9].

In 2008 the Auditor General found, for example, that more than two thousand government employees or their spouses had been involved in government contracts to the value of approximately R600 million (PSC, 9). The practice is becoming more and more common. In 2012 the Auditor General reported, for example, that at local government level alone R814 million had been received by councillors, municipal officials and their family members through municipal tenders (The Sunday Independent, 1). The media jumped to the conclusion that this constitutes evidence of mass corruption. This may be the case, though not necessarily so. It is not illegal in South Africa for public servants and/or their families to do business with the very departments and agencies for which they work.

From the late 1990's in South Africa it became normal to define the role of the state in terms of 'facilitating' development rather than 'driving' it. Under the influence of New Public Management thinking many service delivery functions were 'outsourced' to private companies or state-owned agencies functioning as private businesses. The trouble, claims the Public Service Commission is that "while some of these contracts might have been awarded fairly, the scale of the revelations, as well as the fact that most of these employees did not declare their interests, suggests that there was much impropriety, and subsequently damage to the public trust" (PSC, 9). "This begs the question," the commission continues, "should public servants or their spouses be allowed to do business with government?" (PSC, 9). Their answer: yes. What matters for the Commission is that such contracts are awarded according to procedure. In other words such 'private benefit' is permissible when the officials in question declare their interests to an Ethics

[9] See the distinction between contradiction and antagonism in Laclau, Ernesto and Mouffe, Chantal, *Hegemony and Socialist Strategy*, London and New York: Verso, 1985.

Committee and that there is no conflict of interest between the parties (PSC, 9).

We saw earlier, however, that within the ANC the emergence of a class of black businessmen and women was regarded as a sign of economic and political progress. The fact, moreover, that the market economy is dominated by whites means that entrepreneurialism via state tenders is a legitimate and necessary route for Black Economic Empowerment. We can go one step further. Established white businesses are well positioned to respond to such tenders in terms of price and in terms of the quality of their products. Many have succeeded in appointing black people into strategic positions in the leadership while, nonetheless, controlling decision-making and securing the financial benefits ('fronting'). Even when businesses comply with legislation governing equity and Black Economic Empowerment the 'wrong' people may still benefit. Is this not what has happened *viz*. Affirmative Action? The main beneficiaries have been white women and Indian men, not Africans (Burger and Jafta, 2010, 11). In these circumstances, public service prescriptions may not deliver the desired outcome, black economic empowerment. Has this generated a 'situational logic' where, on these terms, less formal processes are brought into play, including drawing on and from personal and political networks? In other words, 'misuse' or 'deviation' from public sector processes might well be a condition of realising political and economic objectives in terms of the NLM. That is, corruption by the one standard may be necessary to obviate corruption by the other. Or again, corruption by the standards of the public service is justified to advance black middle and capitalist class formation. This situation likely explains the ANC's reticence, especially during the Thabo Mbeki presidency, to admit that 'corruption' was a problem.

HYPOTHESIS TWO

Growing concern about corruption in South Africa today from all quarters suggests something has changed since the early 2000's. In both liberal *and* NLM definitions of corruption there is evidence of widespread 'misuse' of public resources. It is not middle class taxpayers alone who are concerned about the phenomenon today. Today the cabinet and the ANC are also concerned (Nqgulunga: 2012). When the ANC speaks about corruption, what does it say? It is a way of talking about a project of class formation over which it has lost control.

The Auditor-General reported, for example, that for the financial year 2010/2011 municipalities alone had spent R10 billion "irregularly", a further R4,3 billion in expenditure was "unauthorised" and R263 million had been spent in a "fruitless and wasteful" manner (Auditor General, 50-57). This amounted to a nearly 30% increase in wasteful and irregular expenditure from the year before. The Auditor-General explained the deterioration as the result of incompetent municipal officials (The Times, 7 May 2012) deployed by political parties (City Press, 29 July 2012) and corruption (see pages 49 and 63 of the AG report). The report was met with widespread consternation in the media and by opposition parties. It was received with dismay by the African National Congress as well. The ANC "note[d] with disappointment that out of 283 municipalities only 13 manage to get clean audits", though it never described the situation as evidence of corruption (ANC: 2012b).

This was 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'" (Ibid: 2006).

What accounts for the new recognition, at least formally, that corruption constitutes a genuine problem? It is not likely the result of a repudiation of NDR in favour of liberalism. The ANC's recent document on organisational renewal is especially damning of what is described as 'neoliberalism'. "The central thesis of this paper," it asserts (rather awkwardly), "is that the subjective weaknesses of our movement are not unrelated to the influence of a neo-liberal ideological paradigm" (ANC:2012a, 7).

It is more likely that there is a growing realisation in the ANC that the 'wrong' people are 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, 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" (Ibid, 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, 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. 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 (Ibid: 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, 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” (Ibid: 2012).

“These 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 support. As a consequence, they have to rely on massive debt and/or patronage” (my emphasis) (Ibid: 2012).

Under these conditions many ANC cadres and black ‘middle elements’ became indebted and ultimately vulnerable to corruptible practices and people. Chinua Achebe’s novels ‘Things Fall Apart’ and especially ‘No Longer at Ease’ (1960) make the argument in narrative form. Even honest and idealistic individuals entering politics or the public service are drawn into corrupt practices arising from their unenviable position at the interface of two, contradictory worlds. The first, a governmental system that calls on individuals to pursue their work according to anonymous rules and regulations. The second, a system of patronage that binds its members to obligations and duties on the basis of family, kin or friendship. Corruption, on these terms, arises when the pulls of kin and ethnicity overrides the obligations and culture of public office. In a version of this argument Jean-Francois Bayart claims that corruption is especially severe in Africa because the state is the major force within the economy and political office is the principle route to personal wealth (Bayart 1993). Netshitenzhe’s innovation is to locate this argument in South Africa in the context of the country’s special history of colonialism[10]. Yet this also shows its limits. Why ANC cadres and others felt compelled to live by ‘white’ standards requires an explanation in its own right[11].

[10] I am reminded here of the discussion in *The Civilizing Process* of Norbert Elias’s discussion of the German bourgeoisie. With no hope of entry into the aristocracy, the German bourgeoisie, unlike the French, defined a culture of their own, in contradistinction to the Juncker class, emphasising honesty, frankness and technology. See Norbert Elias, *The Civilizing Process*, Vol.I. *The History of Manner*s, Oxford: Blackwell, 1969.

[11] In the Mass Democratic Movement of the 1980’s and 1990’s there was an often stinging critique of ‘white’ and/or ‘bourgeois’ living and an explicit rejection of its norms. This is

The pursuit of an 'artificially high standard of living' by ANC members and new public servants made the new political system vulnerable to what Galbraith calls "modern economic society" (Galbraith, 1). That is, modern economies are dominated by "management-controlled corporations" whose "unrestrained power of self-enrichment" (Ibid, 28|) drives them to "intrude" into the public sector. Writing of the United States in 2004, Galbraith depicts a scene which looks increasingly like the South African one. "Management having full authority in the modern great corporation, it was natural that it would extend its role to politics and to government. […] At this writing, corporate managers are in close alliance with the President, the Vice President and the Secretary of Defense" (Ibid, 32).

In South Africa this situation has emerged not only by chance. The reorganisation of the public service along New Public Management lines (see below) and the 'outsourcing' of many of government's functions to service providers has further blurred the distinction between public and private sector[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. We are witnessing the weakening of the state in both liberal and Leninist terms. On the one hand the bureaucracy has developed its own interests and is not neutral relative to government (liberal state). On the other hand, the bureaucracy is not neutral relative to the ANC (NDR).

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why suburbs like Yeoville in Johannesburg, for example, developed an iconic status. It was not simply that its racial mix 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.

[12]See also Jeremy Cronin's presentation 'Some reflections on the systemic underpinnings of corruption in contemporary South Africa', a presentation at the PARI-Princeton symposium on "Institutionalising Government. Comparative, International Perspectives on Corruption', Public Affairs Research Institute, 6-7 August 2012. The paper is available at http://www.pari.org.za

HYPOTHESIS THREE

On both liberal and Leninist terms the bureaucracy is supposed to be compliant; in the first case with the directives of the elected government, in the second case, with the directives of the party. Is growing non-compliance a sign of moral decay?

Netshitenzhe may be correct that the social economy of the political and bureaucratic elite goes a long way to explain current patterns of corruption. Though there is a subtle moral register in this argument – why do some cadres succumb to these pressures more than others – it does bring to the discussion about corruption something more than moral indignation. This is valuable because a) corruption is more serious a problem than moral decay and b) claims about moral rectitude cut both ways. They serve to condemn as well as justify corruption.

Consider the story of BS, a public servant that PARI researchers came across in the course of their work in a government agency. After 25 years as a diligent and unremarkable official in a provincial office, BS was arrested for diverting public moneys into a private account. She was subsequently found guilty of fraud. The amount was not substantial and the prosecuting agency offered her the following deal: "admit guilt for fraud and receive a sentence that does not involve jail time". BS refused and was consequently imprisoned, though ultimately she ended up in a mental asylum. Why did she not accept the offer? Here is the paradox: BS accepted that what she had done was *illegal*, but she would not accept that what she had done was fraudulent. In her mind fraud was not simply illegal, it was immoral as well. Yet she had stolen the money for precisely moral reasons: the family had fallen on hard times and she needed the extra cash to provide for her children, especially for their education. In other words, BS, on her own terns, was acting as any dedicated mother should, to protect her children – a decidedly moral cause. BS's story was not an isolated one. Corruption investigators report that such stories are widespread. People seldom steal or divert resources simply for themselves, but in the name of a social good: for the family, for others, for friends, for the political movement.

Public servants often accept that what they are doing is unprocedural; yet they can usually justify it on moral grounds. Typically, issues of *unfairness* are at the heart of their complaints. The payment of bonuses provides fertile grounds for a sense of grievance. PARI researchers have frequently heard

the following story. “According to my performance management agreement I am eligible for a bonus if I achieve certain targets. Last year I met all my targets, yet I did not receive a bonus. The system is corrupt. Only the manager’s friends get a bonus”. There are multiple versions of this narrative. We have met white staff who have been demoted or who have seen their prospects of career advancement dissolve in the face of Affirmative Action. “If I had been allowed to progress as I deserved,” they told us, “I would be earning X and my pension would be Y. Yet as it stands my pension will only be a fraction of Y. Hence I am owed the difference”. In still other versions, young black recruits complain of the difficulty of career advancement in public sector organisations. “You can’t get a promotion unless you are politically connected. And if you are a woman, you have to sleep with your manager”.

The idea that corrupt public servants are somehow morally deficient obscures that morality is frequently invoked to *legitimise* corruption itself. In other words, public servants often insist that they are corrupt in order to be moral or, at least, to restore the moral balance. Yet there is another reason that reducing corruption to a moral phenomenon is counter-productive. It obscures the relationship of corruption to compliance with laws, regulations, competencies and procedures.

Non-Compliance

The Auditor-General found, for example, that the “extent of [wasteful] expenditure and non-compliance by the accounting officers is indicative of an environment where incurring unauthorised and irregular expenditure has become the norm and not the exception” (AGSA, 51).

“Officials in key positions at more than 70% of the auditees,” he continued, “ do not have the *minimum competencies and skills* required to perform their jobs. […] At least 73% of the auditees showed signs of a general *lack of consequences* for poor performance. […] It is also disappointing that auditees often express the view that the *legislation is difficult to understand* and onerous to implement. The lack of improvement in areas such as SCM, which received much attention from the AGSA, both in the provinces and at national level, however, points to a *disregard for laws and regulations*(my emphasis) (AGSA, 13).

The introduction of New Public Management reforms in South Africa in the 1990’s was motivated by a fierce critique of bureaucracy; that is, with an

internally focused, rule-driven, hierarchically structured organisation. Instead, a post-apartheid service was to be led by autonomous and values-drive managers that focused on outcomes, unrestrained by bureaucratic rules and regulations. Whatever the merit of these innovations, they have been associated with a general neglect of administrative processes in government departments. The recent diagnostic of the Limpopo Provincial administration, conducted by the National Treasury, is informative in this regard. Administrators did not simply find evidence of mass looting. They found departments operating in the absence of basic administrative processes. Departmental records were chaotic; administrators frequently could not find contract documents, there was no asset registry in the province, provincial data, including the number of school children in the province, was unreliable or simply non-existent. In other words, even when public servants wanted to be compliant, there were seldom functioning processes and systems for them to be so. This situation is compounded by high turnover rates amongst senior staff, associated with a constantly changing world of work

In other departments, the pace of technological change, especially the introduction of new IT systems, has not been accompanied by sufficient training. Public servants could not operate the systems effectively and, hence, relied on earlier and now unauthorised processes to do their jobs. In the case of Companies and Intellectual Property Registration Office (CIPRO), now the Companies and Intellectual Property Commission (CIPC), the introduction of a new IT system exposed the organisation to fraud from skilled technicians able to hack into the agencies programmes. What is more, the Department of Public Service and Administration has pointed in the past to the vagueness in the way that job descriptions are defined. It leaves unclear about what the precise mandate of their job is and how it relates to other positions (Chipkin: 2011).

What is more, since the introduction of the senior management service in the late 1990's, government departments have struggled to fill positions. This has made it easy and attractive for public servants to move between departments, often negotiating a more senior position at each change. The result is very high staff-turnover rates at the senior management level. Not only has this resulted in the 'juniorisation' of the senior management function, it has also created high levels of instability. As long as senior managers are only in their positions for short periods (ranging from several months to, at most, a year or two) processes and systems do not have time to

stabilise before a new manager introduces his or her own management model (Chipkin: 2011, 49-58). Instability is sometimes compounded by 'management interventions' for 'turn-around' of distressed organisations, resulting in what the Technical Advisory Unit (TAU) in the National Treasury call the 'turn-around-about'.

THE INSTITUTIONAL FORM OF THE STATE

Corruption is not simply a problem for the discipline of the ANC and for the goals of National Democratic Revolution. Nor it is a problem simply because it increases transaction costs in the economy and furthers inequality. Corruption in the South African context weakens the *institutional character* of the state, that is, reduces its sovereignty.
To the extent that corruption is associated with deviation from accepted or regulated practice it is a form of non-compliance. There are many reasons, however, that bearers of official positions might be non-complaint. Self-interest and class formation are only two of them. More often, when a public servant is non-compliant with process, rules or laws in the performance of his or her role, it is evidence of a weak institution.

Here is my final hypothesis: corruption in South Africa is evidence of weak and weakening public sector institutions.

How should we understand weakness in this context?

The state is not a constellation of objects but a particular set of social relations (Das and Poole: 2004, Gillespie: 2008). The strength or weakness of the state is not measured by the presence or absence of certain objects – laws, constitutions, departments, buildings, people, moneys, materials. Its measure is the kinds of social relationships that emerge and the degree to which they do. Weber famously defined the state in terms of its ability to exercise a monopoly of force in a given territory (Weber, 156). Bourdieu, Wacquant and Farage add a further dimension. They discuss the genesis of the state, what they call the *bureaucratic field*, in terms of the emergence of a particular perspective (Bourdieu, Wacquant and Farage, 15). The 'bureaucratic field' materialises when:

"a set of individuals vested with a mission of general interest and invited to transcend their particular interests in order to produce universal propositions, officials constantly have to labour, if not to sacrifice their

particular point of view on behalf of the 'point of view of society', at least to constitute their point of view into a legitimate one, i.e. as universal, especially through use of the rhetoric of the official" (Ibid, 17)
Bourdieu *et al* call this perspective a universal one and the work of the bureaucrat is the labour of *universalisation*. The elaboration of such a field requires a universe of agents – they call them a "state nobility" – which institutes the state by producing the "effect of universality" (Ibid, 16). In other words, the state "comes into being" to the extent that these agents act in a neutral and disinterested manner vis-à-vis the public good. There is a further element to this process not discussed by Bourdieu *et al*. The labour of universalisation is supported in certain formal settings and made more difficult in others. In bureaucratic environments the work of the official is to follow rules and procedures (faithfully, blindly). Like the Tibetan prayer wheel that delivers divine blessings while it spins, irrespective of the thoughts or desires of its user, so the bureaucrat following processes and regulations acts in the public good regardless of his or her own prejudices and interests. Under such conditions it is easier for him/her to 'sacrifice' his or her own point of view and adopt the 'point of view of society'. When there is discretion for the official to interpret how to act, then the environment increases the risk of his or her particular view mattering.
On this basis we might introduce the following taxonomy (although others are also possible), between efficient, captured and weak institutions.

An **efficient institution** is one where public servants pursue the 'public good' by acting neutrally and in a disinterested manner vis-à-vis their own views and their own interests. These officials may be those of the bureaucracy or those of the party. The principle remains the same.

A **captured institution** is the opposite of an efficient institution. Its officials do not produce an 'effect of universality' but an effect of particularity. That is, they do not claim, nor do they try to work in the interests of the 'public good' but labour to service their own interests or those of particular constituencies and interests.

A **weak institution** is categorically distinct from these two above. When an organisation is weak it is incapable of producing an 'effect of universality', not because its staff refuses to adopt the perspective of society. In a weak institution, there are no common 'rules of the game' so that social relations in a department or agency do not crystallise into predictable conventions

and routines. In a weak institution, collections of individuals, equipment and resources behave and combine in unpredictable ways.

The difference between a liberal and Leninist/national democratic state does not reside in the *principle* of the public service or the bureaucratic field. The difference between them lies in who gets to define the content of the 'public good'. On liberal terms it lies ontologically in the individual. On Leninist terms, the 'public good' is defined in and through the party (constrained by the objective situation). On the terms of the theory of the National Democratic Revolution, the 'public good' is generated by blacks in and through the National Liberation Movement. Yet if liberal/Leninist/NDR states are states at all, they all depend on the *principle* of the public service: that there are institutions staffed, structured and resourced faithfully to act in the name of the 'public good'. This is why growing corruption in South Africa is a serious problem.

For the ANC, like for the government, corruption weakens its claim to represent and act in the interest of the public good. Corruption, in other words, degrades the very *stateness* of the South African state.

CONCLUSION

I want to conclude by making some observations about the relationship between weak institutions and the character of the state. In the first instance, it is necessary to move away from a perspective that treats governance as a set of techniques or methods; some of which are 'good' and produce efficient and effective organisations and some of which are 'bad' and produce their opposite. This super normative approach dehistoricises the state and obscures what is at stake in state-building.

Secondly, as long as we think of the state, not as an object, but as a set of social practices, then the state exists to the extent that certain kinds of relations and transactions occur. This is how I have used the term institution – to refer to a set of regular behaviours that occur according to pre-defined 'rules of the game'. Institutions are hence never fiats of laws or constitutions or proclamations.

Thirdly, institutions have histories that are not simply the biographies of their founders, records of their founding acts or descriptions of their formal powers and functions. In South Africa it is necessary to situate the outcomes

of public sector institutions within a broader history of the South African state and, in particular within a history of *state-building* in South Africa. This is seldom done. Yet the way that people and resources and assets are combined and organised to form institutions has differed between white and black areas, between town and country, between homeland and mainland, between core and periphery, between customary and common-law jurisdictions.

In these diverse locations the social relations that emerged and the way that people, resources and assets were combined speak of different kinds of institutions and different logics of combination. In most cases these histories still have to be researched and written. This is important not simply as an exercise in memory but as an exercise in analysis.

Finally, corruption in South Africa, as it is in many parts of the former third world, is a phenomenon of a weak state. Its remedy lies, not so much in policing or moral rejuvenation, as it does in state-building. Corruption in South Africa is evidence of a highly uneven state. It is sovereign and efficient in places, withering in others and failing to emerge in still others.

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