



IMPLEMENTING STATE CAPTURE COMMISSION RECOMMENDATIONS

CONFERENCE

A follow-up conference on the Zondo Commission
and steps taken to address state capture

25 & 26 October 2023

CONFERENCE REPORT

About the Conference

The Judicial Commission of Inquiry into Allegations of State Capture (State Capture Commission) concluded its work just over 18 months ago, with Chief Justice Raymond Zondo handing the final report of the Commission to the President on 22 June 2022. The work of the Commission provides strong evidence of state capture and detailed insight into how state capture was organised, facilitated and executed. The Commission's report contained several recommendations about how to hold the perpetrators of state capture accountable as well as broader recommendations on how to reform state institutions and processes to prevent the recurrence of state capture in future.

Shortly after the submission of the Commission's report to the President, PARI and CASAC hosted a two-day conference in September 2022 to review and assess the Commission's findings and recommendations. Titled *Understanding the findings and recommendations of the Zondo Commission*, the conference was attended primarily by civil society representatives and also included participants from academia, government and media. The conference generated lively debate and some strong recommendations to support the fight against state capture.

In October 2023, PARI and CASAC hosted a follow-up conference, *Implementing the State Capture Commission Recommendations* — in Johannesburg and online — with the University of Johannesburg and News24 as partners.

The aim of the conference was to keep the Commission's work alive in the public imagination, to review how reforms or interventions might be progressing, to discuss how civil society might support these initiatives and to discuss strategies for holding the Executive, Parliament, other state institutions and the private sector accountable to the commitments they have made to tackle corruption and state capture. In October 2022, the President submitted his response to the State Capture Commission to the National Assembly and in November 2022, the National Assembly adopted an implementation plan to respond to the *State Capture Report*.

Conference sessions covered the following themes:

- Parliament and the State Capture Commission Recommendations
- Criminal Justice and Policing: Responding to state capture and organised crime
- Protected and Encouraged Whistleblowing: What needs to be done?
- Corporate Capture and Private Sector Accountability
- Making SOEs Work for the Public Interest: Governance reform
- Guardrails and Infrastructures for Integrity in Public Procurement
- Politics, Mobilisation and Change: Does civil society need to change its strategies to make a meaningful impact on state capture?

The conference brought together speakers and participants from civil society, academia, business and government. There was a notably strong presence of representatives of state institutions in contrast to conference held in 2022.

This report is a summary of discussion, recommendations and next steps that emerged at the conference. An outline of the programme is attached as Annexure 1. A full recording of the conference can be found on [PARI's website](#). A number of articles written about the conference panels can also be found [online](#) and are listed here in Annexure 2. A discussion document produced to support discussion at the conference, which sets out the progress on the commitments made in the President's response and implementation plan, is also available on the [PARI website](#).



IMPLEMENTING
STATE CAPTURE COMMISSION
RECOMMENDATIONS
CONFERENCE

CONFERENCE REPORT

Contents

About the Conference	1
Contents	2
Abbreviations	2
Keynote address by Chief Justice Raymond Zondo	3
Address by Jonathan Timm, Office of the Director-General in the Presidency	4
Parliament and the State Capture Commission recommendations	5
Criminal Justice and Policing: Responding to State Capture and Organised Crime	8
Corporate Capture and Private Sector Accountability	11
Address by Professor Firoz Cachalia, Chair of the National Anti-Corruption Advisory Council (NACAC)	13
Guardrails and infrastructures for integrity in public procurement	15
Making SOEs Work for the Public Interest: Governance Reform	18
Protected and Encouraged Whistleblowing: What needs to be done?	21
Panel discussion: Politics, Mobilisation and Change: Does Civil Society need to Change its Strategies to Make a Meaningful Impact on State Capture?	23
Annexure 1: Conference Programme	25
Annexure 2: News Articles	26

Abbreviations

ANC	African National Congress
BLSA	Business Leadership South Africa
BUSA	Business Unity South Africa
CASAC	Council for the Advancement of the South African Constitution
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CV	Curriculum vitae
IDC	Industrial Development Corporation
MP	Member of Parliament
NACS	National Anti-corruption Strategy
NACAC	National Anti-corruption Advisory Council
NCOP	National Council of Provinces
NEDLAC	National Economic Development and Labour Council
NPA	National Prosecuting Authority
PARI	Public Affairs Research Institute
PRASA	Passenger Rail Agency of South Africa
SCOPA	Standing Committee on Public Accounts
SIU	Special Investigating Unit
SOE	State-owned enterprise
UIF	Unemployment Insurance Fund



IMPLEMENTING STATE CAPTURE COMMISSION RECOMMENDATIONS CONFERENCE

CONFERENCE REPORT



Keynote Address by Chief Justice Raymond Zondo

Speaking live from Tanzania at the beginning of the second day of the conference, Chief Justice Zondo spoke positively of civil society organisations' work in putting pressure on government and Parliament to implement the State Capture Commission recommendations and to hold them accountable to South Africa's citizens.

Chief Justice Zondo focused on government and Parliament's responses to several key recommendations in the *State*

Capture Report. In addition to investigating state capture, the Commission was tasked to suggest measures that would prevent it from happening again. Parliament should have moved decisively against state capture from the beginning, but it did not. This was because the majority party voted against any censure of President Zuma who was central to the state capture network. Allegations against the President or ministers were blocked and party discipline was perceived as paramount.

Zondo said that he was not aware that the Presidency had accepted this interpretation of Parliament's record. There has been little apparent reflection by Parliament on its failures and little action to remedy these.

The Commission recommended that whistleblowers receive a percentage of the money recovered through their actions. This recommendation has not been reflected in the current whistleblowing reforms. Incentives linked to amounts recovered are necessary to encourage whistleblowing, Zondo said. It is beside the point if this is seen as mercenary provided that relevant information emerges. There has been some, but not enough, movement in this direction.

The Commission also recommended the establishment of a National Assembly Portfolio Committee to oversee the Presidency. Zondo was not aware of any decision to implement this, although Parliament has been considering the recommendation.

Most corruption, Zondo said, hinges on the public procurement system, with tenders being a particular problem. The Commission made extensive recommendations in this area including, centrally, an anti-corruption agency specifically focused on public procurement. The President said that this would be considered along with the other recommendations, but little seems to have happened. This, Zondo felt, was the Commission's most important recommendation. However, although the Presidency has not rejected it and has said that most of the recommendations in this area would be implemented, the 2023 Public Procurement Bill does not refer to it.

On the reaction of the private sector to the Commission's findings, Zondo was impressed by the role of Business Unity South Africa (BUSA) and Business Leadership South Africa (BLSA). They have produced an anti-corruption guide which, if companies embrace it, will make a big dent in the problem.

Zondo praised PARI and CASAC and others in civil society for their role in fighting corruption. He urged them to continue. 'One day, South Africa will thank you,' he concluded. ■



IMPLEMENTING STATE CAPTURE COMMISSION RECOMMENDATIONS CONFERENCE

CONFERENCE REPORT

DAY ONE: October 25, 2023

Address by Jonathan Timm, Office of the Director-General in the Presidency

Jonathan Timm, speaking on behalf of the Director-General in the Presidency, Phindile Baleni, said that acting on the *State Capture Report* was, for South Africa, 'existential in many ways'. He gave an overview of the President's response plan, noting that the government's responses were 'fundamentally about building state capacity'. He outlined how they were developed and integrated. Most responses – 60 per cent – concerned specific people and events; the rest were proposals for reform.

The Presidency is now monitoring progress with implementation. It is moving legislative reforms into Parliament, implementing specific actions and tracking each action. All this will necessarily take time.

There is a view that nothing is happening, but this is not the case, according to the Presidency. Thirty-eight of the 193 recommendations for criminal investigation are in court. The Asset Forfeiture Unit is moving ahead in dealing with 'state capture-type crimes'. Other state agencies are actively pursuing cases; for example, SARS is recovering money and SOEs are being investigated.

Taken together, the legislative reforms are 'a significant basis for change to tighten up on some of the mischief'. Procurement laws, legislation to augment transparency, search and seizure legislation, the NPA Amendment Bill and others are all being advanced. Whistleblower protection is being reviewed and the various recommendations will 'shift the dial' in this area.

Timm emphasised the 'emergent nature of this work' and the fragility of capacity building. It is vital to avoid a 'fiction' of progress, he said, and to focus on reality. However, there is a 'sea-change beyond what is on the surface' although this is in the context of formal and informal 'vicious cycles' that are easily exploited.

He concluded by foregrounding two projects to build new administrative capabilities: how to track the thousands of recommendations; and the need to build a central register of public servants. Currently it is not possible at local government level, for instance, to track whose CV is with national government or to identify malefactors who attempt to move between levels of government. The register is being developed to address this.

The President recognises, Timm said, the personal costs to people who have fought and continue to fight corruption including those at the previous PARI-CASAC state capture conference.

Responses to the Presidency's address pointed out a weak political reaction to the *State Capture Report*, perhaps because those high in the political hierarchy are themselves implicated. Why, for instance, had political action not been taken against Chinese companies involved with corruption, to the extent even of expelling the Chinese ambassador? How can we break the continuing cycle of corruption? What impact do fiscal constraints have on the planned response? How can we take reform seriously when implicated people remain in Cabinet?

Noting that he was unable to answer some questions on leadership which were outside his remit, Timm emphasised that not everything takes place in full view, especially when the subject is delicate, as with South China Rail. Government is dealing with 'subterranean networks'. There are fiscal constraints and limited budgets; nonetheless there is a shift to finding savings and it is no longer a question of repeatedly starting over. There has been real progress with prosecutions; judgments and convictions have been finalised in three cases and judgment is forthcoming in bigger cases which are under way. It is necessary to adjust continually to the environment and to have a coherent response to emerging challenges. ■





IMPLEMENTING STATE CAPTURE COMMISSION RECOMMENDATIONS CONFERENCE

CONFERENCE REPORT

DAY ONE SESSION 1

Parliament and the State Capture Commission Recommendations

Advocate Modibedi Phindela (Secretary to the National Council of Provinces), Dr Sithembile Mbete (Director of Programmes: Futurelect, University of Pretoria), Lawson Naidoo (CASAC)

KEY POINTS

- Parliament has not acted with sufficient urgency to address the weaknesses and deficiencies exposed in the *State Capture Report*.
- Changes to the committee system are needed to improve oversight and accountability.
- Chairing parliamentary committees should not be an ANC monopoly.
- Technical solutions, though, are not sufficient: what is needed is 'a bigger discussion about our political culture'.
- Parliament is central to South Africa's democracy.

That Parliament has failed to act on corruption and other aspects of state capture is not disputed. Discussion in this session revolved around the powers and capacity of Parliament. Some speakers emphasised the structural limitations to action and others the ways in which Parliament has unquestioningly followed lines dictated by the executive and has not therefore responded adequately to the State Capture Commission recommendations. There was, in short, tension between the ideas that individuals should be held responsible and that there are structural reasons for these failures.

Advocate Phindela stressed the importance of the doctrine of the separation of powers. He welcomed the *State Capture Report*, outlining Parliament's responses to the various recommendations, listing what had been accepted or rejected by Parliament. He itemised areas where Parliament was and is responding positively to the Commission's recommendations, focusing particularly on process issues such as the need for speedier reporting by the executive and better tracking and reporting on resolutions taken by committees, and the National Assembly and NCOP.

The Commission said that parliamentary responses to state capture had been inadequate. However, some recommendations were not helpful, such as the suggested appointment of a committee to oversee the Presidency, which, he argued, already reports to a range of parliamentary committees. Some recommendations, such as insisting that those summoned must appear before parliamentary committees, were covered by existing legislation.

Dr Mbete also surveyed the structures behind South African administration and politics but with a different emphasis. She said that rethinking the role of Parliament involves a 'bigger discussion about our political culture'. The State Capture Commission recommendations relating to Parliament were based on its centrality to the South African political system, which is where voters interact with it: citizens do not directly elect the President.

Nonetheless, the South African system has evolved to give 'extraordinary pre-eminence to the executive', although this is not inherent in the Constitution. This, in turn, has led to the overwhelming prominence of the majority party. However, given the party's relative decline, political structures should no longer be seen solely through the lens of its assumed dominance.





IMPLEMENTING STATE CAPTURE COMMISSION RECOMMENDATIONS CONFERENCE

CONFERENCE REPORT



It follows that parliamentarians must take their jobs seriously. It is solely Parliament that writes electoral law; it has 'complete power to send a budget back' and it should do so when necessary. There is often a lengthy wait for laws to be passed and there have been hardly any private members' bills in South Africa. There needs to be a shift in the political discourse from speaking of the system as though it was a presidential to one that acknowledges the central role of Parliament. The increasing move to coalitions is 'a feature, not a glitch'. This has many consequences, among them that there will have to be a sharing of committee chair responsibilities, which up to now have been almost entirely monopolised by the ANC.

Citizens should demand to see parties' lists before they submit them. There is no point in complaining about bad ministers and other functionaries if the pool from which they are drawn lacks talented and qualified people.

Lawson Naidoo agreed that there is an 'accountability deficit' and that a culture of debate is required. Parliament has the tools to hold the executive to account but has failed to utilise them. The Constitution envisages Parliament as a multi-party forum but is not being run in that way. For example, nearly all chairs of the parliamentary committees are from the governing party, although this is not pre-ordained. As Parliament itself noted in a press statement on 29 June 2022, the committees are expected to provide quarterly reports on progress in implementing the recommendations of the State Capture Commission. However, a year later, no quarterly reports have been forthcoming.

The discussion following the presentations raised the following points:

- Although there are rules governing the conduct of MPs, penalties are not proportionate to infractions and people are not easily fired for not doing their job.
- Parliamentary processes related to the State Capture Commission recommendations should be prioritised and reported on by the media and civil society organisations, as people may not understand what is involved unless the issues are clearly articulated and publicised. That the quarterly reports on progress with implementing the Commission recommendations have not appeared shows insufficient respect for the recommendations.
- The chairs of the Standing Committee on Public Accounts (SCOPA) have all been from opposition parties, including the current chair from the Inkatha Freedom Party. They have generally been very effective. It is not clear why the ANC has not enabled MPs from opposition parties to chair other parliamentary committees. Is there a way of overseeing the work of the committees so that they can be made more effective?
- Can Parliament work more quickly?
- Can the conduct of political parties be regulated as is the case with other voluntary organisations? Countries such as Germany and Mexico have some regulation of political parties.
- The Constitution does not prescribe a specific electoral system and it can be changed. However, there should be no smuggling in of electoral reform under the state capture umbrella; this is an issue that should be decided on its own merits.
- Although current MPs seem to take their responsibilities more seriously than in the previous parliament, the record is not excellent. This may stem from the 'perverse incentives' for people to go into politics. The strength of a parliamentary system depends on the quality of MPs.



IMPLEMENTING
STATE CAPTURE COMMISSION
RECOMMENDATIONS
CONFERENCE

CONFERENCE REPORT

- Private members or citizens' bills could help to reinvigorate Parliament: so far there has been an ACDP bill passed, i.e. to get fathers to support their children better, and Parliament passed Mario Ambrosini's bill to legalise medicinal uses of cannabis.
- The State Capture Commission suggested the passing of a whistleblowers' bill. The Department of Justice has incorporated into its own discussion document most of the provisions suggested by the Commission.
- There is an accountability deficit. Dealing with state capture ought to be a primary matter for Parliament. Can a permanent structure to oversee such issues be created? Is a revitalised parliamentary system the answer?
- The legislative system must be seen in relation to South African history, with the ruling party behaving as it does because it has benefitted from the legacy of being freedom-fighters. It has used this history to protect those in the organisation from accountability. It is not the system that is the problem; voters must reject those who are not carrying out their obligations.

Advocate Phindela reiterated that the Constitution provides for a specific electoral system. This can be changed, as in the case of the legislation enabling independent MPs. Central, however, is the nature of the existing party list system. For instance, the election of opposition committee chairs may evolve as a practice over time, but the current system is based on the rules and institutional architecture of Parliament.

There is currently public involvement in parliamentary processes, although it takes time, and the courts can strike down laws if they find that there has not been sufficient and meaningful consultation.

On the question of recalling members of Parliament, Advocate Phindela stated that, in the current system, only a political party can do this. There are no other mechanisms to oblige a person to withdraw.

Dr Mbete concluded that public debate on the electoral system is overdue. It is not a technical solution that is required but a fundamental conversation about the nature and role of Parliament and a debate and about the people in the system. ■

There is no point in complaining about bad ministers and other functionaries if the pool from which they are drawn lacks talented and qualified people.



IMPLEMENTING
STATE CAPTURE COMMISSION
RECOMMENDATIONS
CONFERENCE

CONFERENCE REPORT

DAY 1 SESSION 2

Criminal Justice and Policing: Responding to state capture and organised crime

Advocate Andy Mothibi (Special Investigating Unit), Advocate Andrea Johnson (National Prosecuting Authority, Investigating Directorate), Lizette Lancaster (Institute for Security Studies)

KEY POINTS

- Our anti-corruption architecture must include prevention as a main aim. We cannot prosecute our way out of systemic corruption.
- The independence of criminal justice agencies is vital, especially institutions such as the NPA.
- Law enforcement agencies must be properly resourced. There is a lack of vital skills and capabilities that is hampering the investigation and prosecution of complex corruption cases.
- A 'fast lane' or special courts could be considered to increase the efficiency of prosecutions.

There are almost no recommendations on the law enforcement system in the *State Capture Report*, Advocate Mothibi said. However, the report does show how the institutions in the criminal justice system are not fit for purpose.

Advocate Mothibi outlined the mandate and functions of the SIU. There has not been a single instance of a President failing to sign a SIU proclamation for an investigation. However, proclamations depend on the President issuing them. There has been a significant increase in their number and in submissions from many sources about issues needing investigation.

The SIU is founded on the corporate idea of creating value for shareholders (the public), and collaborates with the NPA and other law enforcement bodies. It has the resources needed to do its work and competes well with private sector investigative organisations. Almost 90 per cent of the SIU's work relates to issues in procurement. When it investigates irregular contracts, it moves in to preserve assets. It then proceeds to disciplinary measures such as blacklisting companies.

With its focus mainly on prevention, the SIU is tasked with developing an anti-corruption framework, taking a 'whole of society' approach, with specialised fora in sectors such as health and immigration and working with stakeholders in these sectors. This approach has already had a number of positive outcomes.

When the *State Capture Report* was released, the SIU formed an internal committee to consider the implications of the report for itself, identifying matters where it would proceed with civil litigation. Many proclamations have been approved, including for investigations into corruption in ESKOM, Denel, other SOEs, and provincial and local government entities such as the Free State asbestos case.

Transnet with, for instance, the China South Rail agreement, accounts for the largest misappropriated sums that the SIU is investigating. The SIU will soon announce settlements arrived with banks, corporates and others involved, as advised by the State Capture Commission.

While continuing to investigate and refer cases for prosecutions to the NPA, the way forward requires a focus on prevention, and to this end the SIU is developing 'a comprehensive corruption, maladministration and malpractice prevention framework'. This requires assessment of the causes of corruption; risk assessment; data analytics to identify exposures and trends; and the like.

In terms of how this programme can be put into operation, the role of accounting authorities and officers is particularly important, as was demonstrated with holding the SABC board to account.

Procurement is central: 90 per cent of the SIU's investigations are in this area.

In her presentation, Advocate Johnson said that it is not possible for the country to prosecute itself out of the present situation, not least because the criminal justice system is not properly functional. Nevertheless, structures such as the NPA should act faster and there should be speedier trial dates. The locus of challenges in the system should be identified and addressed. In fighting crime, private-public partnerships are essential, as is police reform, which must go beyond simply recruiting additional members. Critically, the NPA



IMPLEMENTING STATE CAPTURE COMMISSION RECOMMENDATIONS CONFERENCE

CONFERENCE REPORT



Investigating Directorate should be made permanent, as recommended by the State Capture Commission, to deal with issues such as the strong link between organised crime and organised corruption.

The criminal justice system needs to be properly resourced, not only with budgets but with the right skills, including data analytics and other technical support capabilities. The oversight role of National Treasury and related bodies needs to be clear.

The NPA cannot prosecute all state capture cases. It will prosecute those that have most impact and that have wrought the most damage to the country's democracy.

Asked by Ms Lancaster what reforms are needed to deal with corruption and malpractice, Advocate Mothibi focused on the need for the right skills such as those of forensic accountants. The corrupt activities of coal syndicates exposed in Andre de Ruyter's book *Truth to Power: My Three Years Inside Eskom*, for example, indicate the scale of the challenges and of the changes required to investigate and prosecute them. Also essential are police reform; professionalisation of the public sector including SOEs and all levels of government; and procurement reform.

The discussion following the presentations raised the following points:

- Is there a case to be made for specialised courts to deal with state capture?
- How would the SIU address cadre deployment?
- How should preferential procurement and black economic empowerment be managed, without forgoing black participation in the economy?
- Why have there been no arrests or prosecutions in relation to the irregular contracts at PRASA?
- What is the conversion rate from referrals to prosecutions?
- Is the criminal justice system sufficiently focused on private *and* public sector corruption?
- Is the NPA focusing on glamorous cases rather than simple ones such as the matter of President Zuma's perjury?
- It should not be acceptable simply to state that cases before the courts cannot be commented on.
- Can the courts accept a lower burden of proof in cases of unexplained wealth which strongly suggests corruption?

Advocate Johnson stated that the NPA would like a 'fast lane' to deal with state capture-related prosecutions, possibly involving dedicated courts.

The benefits of a special tribunal in civil cases are unarguable, Advocate Mothibi said. Procedural delays allow assets to continue to be dissipated. The roles and appointment of senior officials in the public and legal domains have to be reviewed to ensure minimal political involvement. The intent, but not the implementation, of preferential procurement is good. Overall, the public sector needs to be depoliticised.

In the case of PRASA, Advocate Mothibi said, the SIU has made ten referrals to the NPA but those who are meant to implement reforms are being questioned as to why they have not done so. However, there is a continuous uptick in the overall rate of conversions from referrals to prosecutions: for example, at senior level in Eskom. Appointing in-house forensic accountants within the SIU has proved to be a very good decision. Reports such as that commissioned within Eskom contain information that cannot be ignored and give a basis for prosecutors to proceed. They may have some inadequacies but the investigative authorities should not be seen as 'shooting the messenger'.



IMPLEMENTING
STATE CAPTURE COMMISSION
RECOMMENDATIONS
CONFERENCE

CONFERENCE REPORT



Advocate Johnson added that the amount of red tape surrounding officials does not help effectiveness. Nevertheless, the NPA is investigating various bodies and these investigations are well underway; it does not only prosecute glamorous cases. The organisation is funded from the Department of Justice budget and does not have a digital forensics laboratory. While due process must be followed, it would accept private resources to help in this area. Due process must also be followed in relation to cases before the courts; they cannot be commented on. The burden of proof in prosecutions is vital but there is scope for the judiciary to look at 'best evidence' rather than adopting a rigid evidentiary approach which may make successful prosecutions more unlikely.

The whole of society must be mobilised in the fight against corruption, Advocate Mothibi concluded.

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The whole of society must be mobilised in the fight against corruption, Advocate Mothibi concluded. ■

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IMPLEMENTING STATE CAPTURE COMMISSION RECOMMENDATIONS CONFERENCE

CONFERENCE REPORT

DAY 1 SESSION 3

Corporate Capture and Private Sector Accountability

Clare Ballard (Open Secrets), Dr Iraj Abedian (Pan-African Investment and Research Services), Khaya Sithole (Corusca Advisory Group)

KEY POINTS

- Accountability for what has been stolen should be 'first and foremost': it is inadequate for corporate malefactors to merely pay back fees that they have earned. We need a different approach beyond the framework of criminal prosecution.
- There should be action on cases that are easy to prosecute: 'we are too slow'.
- Legislation is required to facilitate dealing with international malefactors who operate in South Africa.

Clare Ballard highlighted the importance of successful criminal prosecutions for deterring corporate crime. She referred to McKinsey and Co., charged for its role in state capture, as an example of a private sector organisation which did not seem to recognise the scale of the damage it had caused and which defined in the narrowest possible way the State Capture Commission's expectations about the reparations it should make. Top executives and management structures of implicated companies need to be held accountable for their involvement in state capture and not be allowed to hide behind 'corporate accountability rhetoric' that enables them to continue with impunity.

There is no need to formulate new criminal offences, she said, such as the criminalisation of the public abuse of power. The criminal justice system already has in place what it needs for effective prosecutions in terms of legislation, although there is clear dysfunction within law enforcement institutions. Structural, financial and operational autonomy for the prosecuting authorities is critical and there is a need to reform the appointment processes for heads of law enforcement and anti-corruption institutions. The NPA and SIU should be properly resourced and capacitated to fulfil their mandates. Where there are 'low-hanging fruit', there should be action on these cases.

Dr Abedian took an economic approach. The South African economy is in deep trouble and state capture has been a major contributor to the country being reduced to junk status and greylisted by the Financial Action Task Force (FATF). That it has destroyed the underpinnings of a successful modern state is evident, for instance, in the constant requests for subventions by SOEs. The magnitude of the problems has not yet been grasped, nor is there a full picture of what has been stolen and of the damage to state institutions and our constitutional democracy. Government is set to fail for the next twenty years because of this scenario, Dr Abedian said. There must be accountability in proportion to what has been stolen. The accountability architecture of regulations, institutional capacity and enforcement currently in place is not sufficient to hold the private sector accountable. Where illicit gains are huge, even large fines are not a deterrent.

Corporate and political leadership have combined to rob the country and to undermine the state's capability and legitimacy. To address this and to minimise the chance of recurrence, three actions are needed simultaneously. The NPA must be capacitated and made optimally effective; existing legislation must be used and enforced without delay; and immediate action must be taken against those in the private sector who are 'stealing the future'.





IMPLEMENTING
STATE CAPTURE COMMISSION
RECOMMENDATIONS
CONFERENCE

CONFERENCE REPORT



Dr Abedian noted that private sector corruption continues to grow and mutate as corrupt actors have seen no consequences for their actions and have made substantial profits. The NPA has the power to prosecute but, said Dr Abedian, does not have the skills or infrastructure to do so. The organisation should be expected to do what it can do now, with capacity being built for the long term. In addition, legislation needs to be revised so that evident criminals cannot escape the legal net. The private sector is not deterred by legal action as they can afford to hire expensive legal representation and put enormous pressure on the NPA. Private resources can be used to combat crime, he said, although this in effect means that the 'good guys are being taxed to deal with the bad guys'.

There is therefore a need to rethink our approach to corporate accountability and think beyond the legal-criminal framework. Those admitting involvement in the looting should be required to pay back not only fees but extensive damages, and this should be done with urgency. At present, 'we are too slow', Dr Abedian said. This requires a different kind of public campaign and leadership.

The discussion following the presentations raised the following points:

- Where there is illegal activity by corporates, there needs to be a clearer understanding of exactly what this involves and the chances of successful prosecutions. Not all relate to state capture.
- Most of the corporates implicated in the *State Capture Report* were international companies with local offices, not domestic companies (with some exceptions such as Bosasa).
- Consultancy companies which partnered with the state and which derived their power and status from their supposed legitimacy and ability to mobilise foreign capital not only proved adept at corruption, but displaced smaller South African firms.
- When corporates are prosecuted, the individual executives and directors involved have evaded responsibility by leaving the country.
- Penalties imposed on corporates are not paid in South Africa, where the damage is caused, but in London or New York. Legislation and international agreements are needed to deal with this.
- There are weaknesses in our financial architecture and international regulatory environment. There has been a blurring of the private and public spheres, with regulation by people who are themselves implicated.
- The current model for financing politics encourages corruption.
- Lawsuits are important but a coordinated approach must include the political.
- Class actions are difficult but can be made to work.
- It is vital that legislation keeps up with illicit financial flows. ■



IMPLEMENTING
STATE CAPTURE COMMISSION
RECOMMENDATIONS
CONFERENCE

CONFERENCE REPORT

DAY TWO: October 26, 2023

Address by Professor Firoz Cachalia, Chair of the National Anti-Corruption Advisory Council (NACAC)

KEY POINTS

- Caution is required in implementing institutional change in response to the State Capture Commission recommendations: 'we must not behave like a wrecking-ball'.
- A broad approach should be adopted in fighting corruption, one which recognises the diverse forms of corruption and its systemic nature – not all of which can be addressed through developing more effective investigation and prosecution capacity. This approach must include clear strategies for prevention, including in the area of corruption in public procurement.

The adoption of the National Anti-corruption Strategy (NACS) some two years ago and the appointment of the Council affords us an opportunity to tackle corruption effectively by adopting a comprehensive multi-disciplinary approach. NACAC is currently constrained by a lack of resources, but is not preoccupied with this. The Commission's work is a foundation to build on, while recognising that the recommendations need to be engaged with carefully and constructively, as PARI has done, for example, in its recent report summarising progress on implementing the Commission's recommendations. We need a response to state capture and the 'Zupta' phenomenon, but also a response to other kinds of corruption not investigated by the State Capture Commission. It is also essential to strategically consider future corruption risks, rather than taking a 'snapshot approach' that only focuses on the present.

The NACS was not developed top-down by government; the best brains available in the country were mobilised. There are six pillars of the 'all of government; all of society' strategy. NACAC focuses on all six. The Council has organised itself into six workstreams: whistleblowing; public procurement; legislation reform especially in relation to enhancing transparency; anti-corruption architecture; monitoring and evaluation; and communications. All have reference groups and many present in this conference are involved in supporting those workstreams.

It is important to design interventions that are likely to work. This is an iterative process. NACAC has been appointed as an independent body but works with government departments and other official bodies. There is a need for regular dialogue: for instance, with the Department of Justice. This is all being taken seriously by government.

Remedies depend on how corruption is conceptualised. A narrow definition — which dominates public discourse — focuses on a juridical approach, with the proposed remedies being correspondingly legalistic. This punitive model equates corruption with legal infringements. Prosecution of individual malfeasance



We need a response to state capture, and the 'zupta' phenomenon, but also a response to other kinds of corruption not investigated by the Zondo Commission.



IMPLEMENTING
STATE CAPTURE COMMISSION
RECOMMENDATIONS
CONFERENCE

CONFERENCE REPORT

is therefore primary, with the envisaged solution being to appoint a single anti-corruption agency with prosecutorial powers. More effective prosecution is of course important, but is not enough.

A broader approach recognises the diverse forms of corruption — not all of which are illegal — and it includes nepotism, collusion, price-fixing, conflicts of interest, capture of public policy making processes, private funding of political parties and institutional corruption (including public procurement fraud of the kind the Commission uncovered). The latter, institutional corruption, cannot simply be addressed by dealing with particular individuals.

Corruption is about ‘acting for private purposes’ through the improper use of public and private power. Within NACAC, there is thus an ongoing debate about systemic corruption. The *State Capture Report* took insufficient account of ‘influence markets’: the intersections between the public and private sectors, or the actions of large companies such as banks and consultancies. However the Commission was constrained by its terms of reference.

Informal norms are difficult to reach by means of law but often underpin corruption practices in organisations. Understanding the ‘normative framework’ shaping corruption is vital.

There have been, and are, various prosecutorial and prevention bodies, which have not proved sufficient for addressing corruption. The Anti-corruption Task Team, for example, was not effective. There are also intelligence-gathering bodies, and discipline and ethics bodies. Zondo recommends three new institutions but with insufficient evidence to support these recommendations.

While proceeding carefully, a redesign of the anti-corruption architecture requires a proper analysis of what is needed. For example, Zondo recommended a directly elected President; however there is considerable literature which suggests that this is not an appropriate solution.

NACAC is close to consensus on the parameters of a new institution but want to be certain that it is fit for purpose before submitting it to the President or going public. Any new agency will have to be able to focus on prevention, including in procurement. There is still debate about whether it should be a statutory or a constitutional body, and there are also issues of its scope, architecture and institutional culture. It must not behave like a wrecking ball and must, for example, be able to recognise that not all conflicts of interest are illegal. Critically, its remit must not combine prevention and punishment nor should it draw uncritically on international norms. It must link anti-corruption with citizen welfare and the principle of fundamental justice which will enable public interest and involvement. ■

“Informal norms” are difficult to reach by means of law, but often underpin corruption practices in organisations. Understanding the “normative framework” shaping corruption is vital.





IMPLEMENTING STATE CAPTURE COMMISSION RECOMMENDATIONS CONFERENCE

CONFERENCE REPORT

DAY 2 SESSION 1

Guardrails and Infrastructures for Integrity in Public Procurement

Motlatsi Komote (Corruption Watch, Budget Justice Coalition), Simon Eppel (Southern African Clothing and Textile Workers' Union), Caroline James (amaBhungane)

KEY POINTS

- The Public Procurement Bill currently being considered in Parliament is a step forward but contains some critical weaknesses: the Public Procurement Office should be independent; incentivised whistleblowing for procurement corruption should be included; and greater provisions for transparency should be incorporated in the Bill. The Bill should provide an appropriate framework for preferential procurement.
- The nexus between corruption in public procurement and party political funding should be addressed.
- Activists in the procurement reform space, and more widely, should recognise the limited capacities of the state and think about strategies that acknowledge this.

The Public Procurement Bill, introduced in Parliament in June 2023, does not address the issues identified in the *State Capture Report*, James said. To hear Zondo emphasising this was very welcome.

The Bill had been ten years in the making, Komote said. However, less than a month was allocated for public consultation on the Bill. The State Capture Commission recommended an independent anti-corruption agency focused specifically on procurement, and a national charter against corruption. In terms of the Bill, a tribunal is to be established, legislation harmonised and appropriate technology used — these are positive steps. As is the fact that a range of individuals and entities will be excluded from participation in public procurement processes, such as leaders of political parties. The Bill should do more though — for example, it should further exclude politically exposed persons from public procurement processes.

The Bill provides for the creation of a Public Procurement Office – still located within National Treasury. This is an area of concern, Komote said; the office should be independent. Too much power is centralised in the minister (of finance). A missed opportunity is the fact that the Bill does not speak about incentivised whistleblowing. The Bill proposes (i) a Code of Conduct, but with no detail about who will take responsibility for it, and (ii) a tribunal, although it does not specify the minimum or maximum number of people who will serve on it. If the tribunal is meant to act without fear or favour, issues of transparency must be resolved. An adequate framework for Preferential Procurement is also not provided in the Bill.

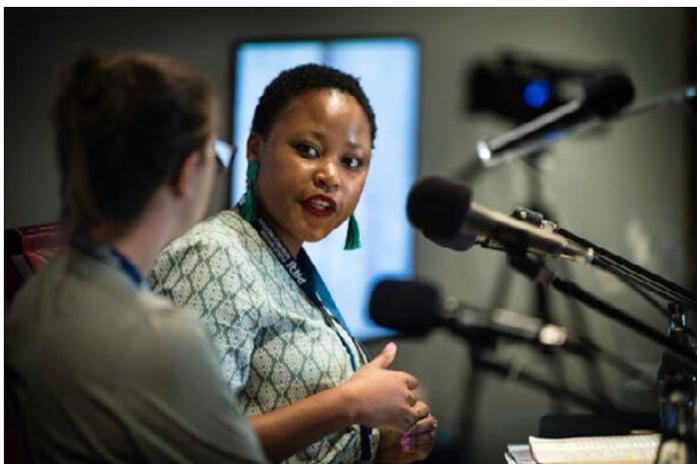
It is of great concern that the proposals on the Bill by civil society and other actors outside government have not been sufficiently engaged with by Parliament, Komote said.





IMPLEMENTING
STATE CAPTURE COMMISSION
RECOMMENDATIONS
CONFERENCE

CONFERENCE REPORT



It is of great concern that the recommendations on the Bill by civil society and other actors outside government have not been sufficiently engaged with by government.

There are some positives in the Bill, Eppel said, but many problems remain. Among the positives, there is support for the idea of a central, online portal that provides tender information free of charge. There should be more enabling support for public monitoring of procurement by civil society and media; and while there is provision for each public entity to keep a record of who gets tenders, their family members and related parties, there is no provision for disclosing this information publicly, nor for a national database of this information to be kept. A range of categories of political office bearers, state employees and so forth are now excluded from public procurement — this is good, but there is some concern that these provision will be taken out or changed by Parliament. There are some good clauses regarding debarment; there is no definite provision for lifestyle audits (Treasury may make provision for this, but does not have to); and the Bill does not deal with the question of incentives for whistleblowers in public procurement.

Government does not use the public procurement process as a mechanism to ensure compliance with other laws — for example, ensuring that companies that undertake illegal labour practices are excluded from winning tenders.

Specialised courts might aid government in dealing with corruption in procurement corruption.

The Bill doesn't provide a proper framework for public procurement and for preferential procurement. It makes provision for twenty preference categories and then leaves it up to the country's large number of public bodies to interpret how to apply these categories and to design their own procurement policies. This will be unmanageable and 'complete madness', Eppel said. The Bill needs to be far more prescriptive to keep this potential 'wild west' at bay. National legislation should provide this guidance, as per the Constitution. And the Bill doesn't sufficiently support broad-based empowerment, local content and so forth.

The question is how to mobilise the maximum number of people to take forward the public interest in this area; it has been proposed that there should be a public review of the legislation within 18 months.

Drawing on Firoz Cachalia's presentation, James asked if the *State Capture Report's* proposals have tied us into focusing on specific types of corruption, thus weakening a broader approach. The capacity of the state and adequate enforcement mechanisms are vital, she said. Is it, however, naïve to think that the state has the capacity and expertise to effectively ensure implementation of more and more controls? Or to investigate sophisticated financial crime?

James noted that labour and business's input on the Bill in NEDLAC was fairly effective. How effective have trade union submissions to Parliament been, and how can civil society engage with the process of drafting regulations, she asked.

Eppel pointed out that there is a material logic to corruption. It can be a response to obstacles in a system, for example queue-jumping for visas in the Department of Home Affairs. It is not simply a moral question. In some contexts, there can be social sanctions against infractions (rather than legal remedies). He recalled



IMPLEMENTING
STATE CAPTURE COMMISSION
RECOMMENDATIONS
CONFERENCE

CONFERENCE REPORT

a meeting with the ambassador of an Asian country whose fellow countrymen were abusing workers in their factories in South Africa. The ambassador said he would go to the industrialists' villages and shame the owners.

NEDLAC, as a forum for engagement on key issues, should continue to be seen as important. Political interests in Parliament constrain what is possible in influencing legislation via public participation. But to the extent you can make gains here it is necessary to focus on a few important areas.

Regarding state capacity, a good deal of policy making is divorced from reality and state capacity to effectively implement policy is weak. We shouldn't demand less of the state, but recognise that the state cannot do what we need it to do — and we need to find strategies of our own to address this. Can you diversify the number of actors who can do what you need?

Motlatse Komote noted the doubts that exist about the capacity of the state and the limited controls that it can mobilise. Holding professionals to account through professional bodies is important; access to information is crucial; and there should not be over-dependence, as provided for in the Bill, on regulations, the making of which are less accessible to public scrutiny and discussion than the primary legislation is. MPs must engage on these matters.

The discussion following the presentations raised the following points:

- Organisational culture determines what happens; training, however good, will not change this. There is a need to think about deeper behaviour change interventions.
- Why does the National Treasury blacklist not work?
- The question of donations to political party structures needs to be discussed. Those who donate to political parties should not be allowed to contract with the state.
- How can procurement problems be addressed without a central focus on technology? Technology is important, but there is limited capacity here and poor governance policy to support it.
- There needs to be clarity about where and how data held by the state is located and how accurate it is. This requires continuity and permanent, rather than acting, appointments at senior management level.
- Technical competence and skills are crucial in key organisations such as National Treasury, and this capacity has reduced. And public servants who are good at their jobs are often too busy to meaningfully address all that they should. There have also been too many people leading public procurement in an acting capacity i.e. not permanent appointments.
- Sufficient time must be allocated to public discussion and education on the technical matters of the positions we as civil society are taking, including for example on the Procurement Bill.
- Trade union investment vehicles — are unions doing enough to check their own behaviour and integrity in procurement and investment?
- The wider political economy shapes the issues we see in public procurement, including the way neoliberal policies have shaped this and the limits this has placed on our vision for the country.
- Rebuilding institutions must become the major focus — to do that we need to move to being activist engineers who understand the technical details of state building and policy, and can develop ideas on how to fix things. We need to claim our agency and take charge of this change. ■

The question is how to mobilise the maximum number of people to take forward the public interest in this area.



IMPLEMENTING STATE CAPTURE COMMISSION RECOMMENDATIONS CONFERENCE

CONFERENCE REPORT

DAY 2 SESSION 2

Making SOEs Work for the Public Interest: Governance Reform

Dr Lumkile Mondi (University of the Witwatersrand), Prof Michael Sachs (University of the Witwatersrand), Carol Paton (News24)

KEY POINTS

- The causes of the collapse of SOEs are much deeper than corruption and state capture. The way in which they are structured is fundamentally problematic i.e. assuming public companies can be run in the same way as private companies (including their governance arrangements).
- The 'holding company' model proposed in the new SOE bill is not appropriate for the SA context and will not address these foundational problems.
- There is a need to address the structural problems in SOEs, as well as corruption and governance issues, and how these intersect.
- Appointment and governance reform will be critically important.

SOEs are at the heart of the economy and of state capture, Carol Paton said. State capture was easy for the Guptas. However, even after their departure and in spite of efforts to prevent this, SOE collapse has accelerated.

Describing their foundation and the manner in which their history prefigured their current difficulties, Dr Lumkile Mondi took a historical approach to SOEs, many of which are capital intensive and require specific expertise and leadership of a far higher calibre than is presently the case. Funding was originally sourced directly from Parliament. After 1994, to lower debt, there was a push to corporatise these bodies: their relationship to government thus changed and they were now required to pay dividends. However, government had access to the SOEs' balance sheets, which could be 'raided' by National Treasury; and ministers had power over how directors were appointed to the boards of SOEs. SOEs have not been set up in a way that delivers public value.

At the same time, Carol Paton said, the companies have a public service mandate and their management requires high levels of skill and knowledge. In the case of Transnet, for example, people with expertise were removed and others, seen as the 'right people', were brought in. They were seen as people of integrity, but lacked experience in rail and transport. Since the *State Capture Report*, little has been done other than to set up a council to advise government on the restructure of SOEs.





IMPLEMENTING STATE CAPTURE COMMISSION RECOMMENDATIONS CONFERENCE

CONFERENCE REPORT



Sachs noted that there is a perception that the problems with SOEs began with state capture. But this is not the case — there are deep structural problems and state capture is a symptom of these problems. State capture has not had a major impact on the countries collapse in state revenue; the main cause is the declining economy.

The origins of the problems lay in the fact that public enterprises were run as though they were private companies, the idea being to solve their problems with capitalistic efficiency. This is a form of 'isomorphic mimicry' with the appearance of a private sector structure. However, the shareholder in the case of a public company had no 'skin in the game' in the way a private shareholder does and it was tax-payers' money that was on the table (not Ramaphosa, or Gordhan's). The model that SOEs can be run like private companies has failed; state capture, with its opaque appointments under Zuma, was an effect more than a cause.

The draft National State Enterprises Bill proposes increasing the level of private participation and separating policy from the shareholder functions — this model has worked in China, Malaysia and elsewhere. The conceptualisation contained in the Bill — recently released for comment by the Department of Public Enterprises — visualises directors being appointed by the President. In these other countries, Michael Sachs said, the holding companies own actual resources, which are traded. However, in Eskom for example, there is no tradeable equity and inaugurating so this would be very difficult. Instead, the proposal is for a holding company with no reform of the underlying assets. It is in effect a privatisation of the Department of Public Enterprises, whose relationship with the companies does not change in any way.

The *State Capture Report* raised the question of the membership of SOE boards and suggested that there should be a standing oversight committee drawn from various bodies. No information has been forthcoming as to why this idea has not been entertained by government. Nor is the minister brought to account before Parliament. There is a need to develop a transparent process for appointing board members. We should implement the substance of *State Capture Report's* proposals, not necessarily the detail.

In the case of Eskom, for example, Michael Sachs said that an additional problem is that it is a vertically structured organisation based on coal. Appointing a 'white knight' CEO is not the answer. The solution to 'the disaster that is PRASA' is to break it up and merge the Gauteng rail system with the Gautrain. The same idea in some form should be implemented in Cape Town, possibly under the provincial or local government.

In fields such as public transport, South Africa needs institutions of public value, Lumkile Mondi said. Dividends do not speak to this and especially do not provide value for the poor. Lumkile Mondi believed that no lessons have been learned. It is important not to go back to old, inefficient, conglomerates of which investors will want to buy only certain parts.

The discussion following the presentations raised the following points:

- Nobody has talked about 'pure theft' from the SOEs — the structure of the SOEs is not the cause of this. That problem must be addressed.
- The situation in the past has been different. Under Trevor Manuel, appointees to the Industrial Development Corporation 'knew about money' and were committed to looking after the public interest. The board was independent and rejected some ministerial ideas. When ministers appoint officials such as CFOs, the situation becomes disastrous. The solution is not complex: appoint boards on merit.



IMPLEMENTING STATE CAPTURE COMMISSION RECOMMENDATIONS CONFERENCE

CONFERENCE REPORT

- It is incorrect to imagine that 'going back to the 1990s' would rectify the situation as this is complex and varied. The IDC is not in effect a company; the problems in Eskom and other SOEs do not centrally have to do with their boards but with the fact that government has constituencies which it has to deal with. Fundamental problems in the supply and distribution of electricity are holding back companies; theft as such is not the main problem. The 'bad people' argument underestimates the structural problems. The *State Capture Report* overestimates the importance of ethics in comparison to these problems.
- The relationship between private enterprise and the state is complex. Because black entrepreneurs have historically been excluded, it is logical that they are attracted to and survive through the relatively accessible state system. In this context, factors such as relationships entered into with foreign enterprises can provide openings for opportunists and rent-seekers.
- Should Transnet, for example, be handed over to big exporters, with the state in a regulatory role only?
- The state is currently attempting to stabilise the SEOs at a time when the economy is weak and lacks financial resources and when the international context is unpredictable.
- South Africa depends fundamentally on commodity exports. If it reaches the point where it cannot export, the problem will be vast; this reinforces the idea that, for example, it is the mining companies that should get the coal to the ports.
- There is a need for a more 21st century debate about the relationship between the state and the private sector; it should not be a matter of private versus public.
- The King Report on Corporate Governance is clear that government must ensure that oversight bodies are not hampered from doing their work. Ministers should be held responsible for inappropriate appointments.
- We need to acknowledge that the structure of SOEs is a problem, and we also have a governance problem that isn't only a result of the corporatisation of SOEs. We need to address both problems; these intersect, but need slightly different solutions. We need to think through them in ways that enable us to address both problems— not one or the other. ■





IMPLEMENTING STATE CAPTURE COMMISSION RECOMMENDATIONS CONFERENCE

CONFERENCE REPORT

DAY 2 SESSION 3

Protected and Encouraged Whistleblowing: What needs to be done?

Jeff Wicks (News24), Prof Rehana Cassim (Law Department, University of South Africa), Cherese Thakur (GIZ Transparency, Integrity and Accountability Programme)

KEY POINTS

- The proposed reforms as outlined in the Department of Justice's recent discussion document, are too narrow and do not fully address the State Capture Commission's recommendations. Whistleblowers, as the Commission said, should be rewarded from monies recovered by their disclosures.
- Consolidated legislation is required in this area. Current legislation in this area is complex, confusing and offers little real protection.
- Security and confidentiality for whistleblowers is vital. Pending specific legislation, the Witness Protection Act should be used to protect whistleblowers. Hotlines are not always confidential, and they must be.
- Human Resources departments must play their proper role which is not to act merely as the mouthpiece of management but to speak for and protect employees, including whistleblowers.

Protecting whistleblowers, Cherese Thakur said, is literally a life and death issue. To make protected disclosures and to encourage whistleblowing a reality, a battery of legislation is required.

Jeff Wicks illustrated the dangers of whistleblowing by detailing their investigations into the murder of Babita Deokoran, an employee of the Gauteng Department of Health who reported on corruption at Tembisa Hospital, that led to her assassination. She had blown the whistle previously and had been demoted but was returned to her original position when her superiors were fired. Her new bosses, however, were as corrupt as the previous ones. Ms Deokoran moved to stop some payments and requested an investigation; unknown to her, this was blocked. It was a situation in which all checks and balances in the department 'amounted to nought', with the whole system captured.

Legislation is needed to both protect and reward people like Ms Deokoran. The state does not currently offer such protection; civil society has to, and is, doing so. The need for whistleblowers, and their protection, should be negated by an honest civil service.

Professor Cassim gave a history of proposed whistleblowing reforms, asking if the proposals fully address the State Capture Commission recommendations. Current legislation in this area is complex, confusing and offers little real protection; it is likely that this inhibits whistleblowing. Consolidated legislation is needed. The Department of Justice's *Discussion Document on Whistleblower Protection* makes some good recommendations. However, these do not fully address what is set out in the *State Capture Report* which recommended that whistleblowers be rewarded for their activities from the money that they cause to be recovered. The view of the discussion document, however, is that rather than using a whistleblower incentive





IMPLEMENTING
STATE CAPTURE COMMISSION
RECOMMENDATIONS
CONFERENCE

CONFERENCE REPORT



The benefits of encouraging whistleblowing outweigh any possible disadvantages related to the ethics of doing so.

mechanism, there should be a dedicated fund for this. A reward system, argued Cassim, can be effective, as shown from experience in the United States, and is of value even if no money is recovered. The amounts of the rewards should not be too low. The Commission advocates immunity from prosecution if the information revealed is full and accurate, a point with which she agrees, although immunity should be determined on a case-by-case basis. Whistleblowers are often in extremely difficult situations where they appear to connive in the corruption around them. The benefits of encouraging whistleblowing outweigh any possible disadvantages related to the ethics of doing so.

The discussion following the presentations raised the following points:

- While legislation is being prepared, a range of organisations are working to support whistleblowers.
- Does the term *whistleblower* need to be more precisely defined so that it offers as much protection as possible? There are no definitions of whistleblowing as such in legislation, but there are hints of it in the Companies Act.
- Trust in the confidentiality of hotlines is essential. They must not result in whistleblowers being reported to their superiors.
- To short-circuit the lengthy legislative process, the Witness Protection Act could be amended to include whistleblowers; this should be done urgently.
- Whistleblowers are often seen as traitors and not heroes. Their revelations must be disconnected from the idea of the *impimpi*.
- Many companies do not have mechanisms to facilitate whistleblowers; they must be insisted upon, enforced and able to protect the whistleblowers.
- Accountability is essential. Those who organised the murder of Babita Deokoran have not been brought to book; this decreases the likelihood that others will endanger their lives.
- Why are people who are fired for corruption replaced by the equally corrupt? The public service needs to be thoroughly professionalised.
- Is there a need for a witness safety or protection agency?
- What is the responsibility of the media for protecting or shielding whistleblowers that they interview?
- It can take time for whistleblowers to detect and assemble all the information needed to expose corruption.
- Human Resources departments are often passive and unwilling to protect whistleblowing employees. Whistleblower House provides as much as it can through legal and psychological assistance, provision of physical safety and financial support.
- Anonymity for whistleblowers is necessary and they do not have to give evidence in open court. ■



IMPLEMENTING STATE CAPTURE COMMISSION RECOMMENDATIONS CONFERENCE

CONFERENCE REPORT

DAY 2 SESSION 4

Panel discussion Politics, Mobilisation and Change: Does civil society need to change its strategies to make a meaningful impact on state capture?

Neeshan Balton (Ahmed Kathrada Foundation), Tessa Dooms (Rivonia Circle), Prof Themba Maseko (School of Governance, University of the Witwatersrand), Thandi Matthews (University of the Witwatersrand), Prof Mbongiseni Buthelezi (PARI)

'So what now?' asked Mbongiseni Buthelezi, 'How do we go forward from here?'

Neeshan Balton replied that civil society needs to regain its anger. That state-capture-accused Des van Rooyen has been appointed to the Gauteng Enterprise Propeller should be a matter of public outrage, for example. There was a missed opportunity at the conference to interrogate the report from the Presidency and its overly-narrow scope. State capture and corruption affect every government structure in the country.

Civil society and the media have played a vital role in the fight against corruption, Professor Maseko said; the concern is that the state is dragging its feet, including in its response to the *State Capture Report*. Many of those responsible for implementing the recommendations of the report have themselves been implicated. Civil society must continue to mobilise and bring our people with us by keeping them informed about corruption, how it impacts ordinary citizens, and what government is and is not doing about it. Ways must be found to bring pressure on the state and to influence policy; and professional bodies must both act against members involved in state capture and provide their members with ethical guidance.

Tessa Dooms said that 'professional civil society' is having very different conversations to local groups and community activists. Ordinary people feel the consequences very strongly, but need more detailed information about the state of government institutions. People feel isolated and helpless, and are demobilised. There is a need for 'a radical solidarity' and more cross-pollinated conversations. There is a veneer of democracy and we have not realised that we are, in fact, in a major crisis. The communities that are hardest hit are having important and courageous conversations and are willing to organise themselves politically. But professional civil society and business are afraid to have the needed political conversations, even though they are closer to power.





IMPLEMENTING STATE CAPTURE COMMISSION RECOMMENDATIONS CONFERENCE

CONFERENCE REPORT



Thandi Matthews saw a need to better define what state capture is, to look at its implications for social policy and equality. We need to focus more on studying the nature of the state and understand the state as a social entity. We cannot be selective in terms of how we monitor corruption in our country and who we hold to account. We also need to focus more on governance itself. What will people do once they take up positions of power? Fixing the state cannot be done overnight. There needs to be awareness of the importance of the global context, including the influence of international institutions, the global economy and global North/South dynamics. We need intergenerational collaboration.

The general discussion raised the following points:

- What does the decline of the ANC's electoral share mean for how we mobilise and engage politically?
- Members of 'professional civil society' are not the representatives of the people as was the case in the 1980s. Where is the active citizenry? Civil society has been doing a lot of work but there is no mass mobilisation. Successful organising in the 1980s was due to courageous leadership by people with resources and networks who could call for a political plan of action.
- We operate in silos and strategies tend to focus on the issues of the middle class. The extent of the crisis is becoming more intense and is beginning to affect the middle classes severely. Is there a possibility of their coming together with people in the townships? There is a 'convergence of discontent' among the working and middle classes.
- We are in a 'polycrisis' — various crises (for example, environmental destruction and climate change) are compounding the serious issues we are facing.
- The state capture debate is not over and leadership that can link it with day-to-day experiences is missing. State capture principals are 'treated as celebrities'.
- Can the forthcoming election begin to force change? Civil society should be involved in voter registration; if not, the result will simply be government by the existing political parties. It is no longer possible to rely on the integrity of election; they can be stolen.
- There seems to be an unwillingness to talk politically, even among those close to power.
- The State Capture Commission's recommendation of a more constituency-based system has been completely ignored. ■





IMPLEMENTING
STATE CAPTURE COMMISSION
RECOMMENDATIONS
CONFERENCE

CONFERENCE REPORT

Annexure 1: Conference Programme

Dates: 25 and 26 October 2023 **Venue:** Johannesburg, and online (via Zoom)

DAY 1: WEDNESDAY 25 OCTOBER 2023

Time	Description
08h15 – 09h00	Registration of participants attending in person
09h00 – 09h30	Welcome remarks: Lawson Naidoo, CASAC
09h30 – 09h45	Conference programme: Lindiwe Ndlela, PARI
09h45 – 10h15	Address by Jonathan Timm on behalf of Phindile Baleni, Director-General in the Presidency
10h15 – 10h30	Comfort/tea break
10h30 – 12h00	Session 1: Parliament and the State Capture Commission recommendations ME Phindela (Secretary to the NCOP) Sithembile Mbete (Futurelect, UP) Lawson Naidoo (CASAC)
12h00 – 13h30	Session 2: Criminal Justice and Policing: Responding to State Capture and Organised Crime Andy Mothibi (SIU) Andrea Johnson (NPA ID) Lizette Lancaster (Institute for Security Studies)
13h30 to 14h15	Lunch
14h15 – 15h45	Session 3: Corporate Capture and Private Sector Accountability Clare Ballard (Open Secrets) Iraj Abedian (Pan-African Investment and Research Services) Khaya Sithole (Corusca Advisory Group)
15h45 – 16h00	Closing remarks: Mbongiseni Buthelezi, PARI
16h00	Tea and coffee
16h30 – 18h30	EU Enhancing Accountability launch event

DAY 2: THURSDAY 26 OCTOBER 2023

Time	Description
08h15 – 09h00	Registration of participants attending in person
09h00 – 09h30	Virtual address by Chief Justice Raymond Zondo
09h30 – 10h00	Address by Firoz Cachalia, chair of the National Anti-Corruption Advisory Council (NACAC)
10h00 – 11h30	Session 4: Guardrails and infrastructures for integrity in public procurement Motlatsi Komote (Corruption Watch, Budget Justice Coalition) Simon Eppel (SACTWU) Caroline James (amaBhungane)
10h15 – 10h30	Comfort/tea break
11h45 – 13h15	Session 5: Making SOEs Work for the Public Interest: Governance Reform Lumkile Mondi (Wits) Michael Sachs (Wits) Carol Paton (News24)
13h15 – 14h00	Lunch
14h00 – 15h30	Session 6: Protected and Encouraged Whistleblowing: What needs to be done? Jeff Wicks (News24) Rehana Cassim (Unisa Law Department) Cherese Thakur (GIZ Transparency, Integrity and Accountability Programme)
15h30 – 16h30	Panel discussion: Politics, Mobilisation, and Change: Does Civil Society need to Change its Strategies to Make a Meaningful Impact on State Capture? Neeshan Balton (Ahmed Kathrada Foundation) Tessa Doods (Rivonia Circle) Themba Maseko (Wits School of Governance) Thandi Matthews (Wits) Mbongiseni Buthelezi (PARI)
16h30	Closing remarks



IMPLEMENTING
STATE CAPTURE COMMISSION
RECOMMENDATIONS
CONFERENCE

CONFERENCE REPORT

Annexure 2: News Articles

News24, ["Change how managers in government, SOEs are appointed to avoid corruption" – SIU boss Andy Mothibi](#) by Zintle Matlati, 25 October 2023.

Daily Maverick, ["Reimagining of Parliament" thwarted by patchy application of State Capture report proposals](#) by Marianne Merten, 26 October 2023.

Daily Maverick, [Zondo concerned by no sign of public procurement anti-corruption agency 16 months after State Capture report](#) by Nonkululeko Njilo, 26 October 2023.

News24, ['State capture: Zondo fears Public Procurement Bill is not tight enough to prevent corruption'](#) by Zintle Matlati, 26 October 2023.

Business Day, ['LETTER: NPA Amendment Bill "falls far short of what is required in law"'](#) by Paul Hoffman, 27 October 2023.

Daily Maverick, ['Investigating Directorate boss says they will prioritise State Capture cases with most impact'](#) by Nkululeko Njilo, 27 October 2023.

Daily Maverick, ['MIA — President Ramaphosa and his promise to decisively act against the ANC and state corruption'](#) by Stephen Grootes, 30 October 2023.