ANATOMY OF STATE CAPTURE

An abstract sculpture of a lion's head, constructed from numerous dark grey, three-dimensional triangular blocks. The blocks are arranged to form the contours of the head, mane, and facial features. The lighting is dramatic, coming from the upper left, which creates sharp highlights on the surfaces facing the light and deep shadows on the opposite sides, emphasizing the geometric form and texture of the sculpture. The background is a dark, gradient grey.

Nina Callaghan, Robyn Foley and Mark Swilling (Editors)

10

BOSASA'S MONOPOLY MONEY

Robyn Foley

In January 2019, the country was glued to the daily live stream of the testimony of Angelo Agrizzi, the former Chief Operations Officer for Bosasa, at the Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State, chaired by Deputy Chief Justice Raymond Zondo (hereinafter referred to as 'the Commission' or 'the Zondo Commission'). On the second day of Agrizzi's testimony, a video was shown of CEO Gavin Watson counting out R1m that was to be distributed as bribes to government employees and political comrades. This was the first time the country heard from someone inside the shadow state and Agrizzi did not appear to hold back, recounting in shocking detail all of what had transpired at the company for more than a decade with Watson at the helm of Bosasa (Agrizzi, 2019a).

FIGURE 10.1 Gavin Watson counting out cash for paying bribes

Source: Video played at Commission of Inquiry into State Capture hearing on 17 January 2019 (State Capture Commission, 2019)

Agrizzi's account and the details that emerged through the testimony are fantastic fodder for sequels of Godfather-type movies. At the time of writing, two books had already been published, namely James-Brent Styan and Paul Vecchiatto's (2019) *Bosasa Billions, How the ANC sold its soul* and Adriaan Basson's (2019) *Blessed by Bosasa: Inside Gavin Watson's State Capture Cult*. It is not possible to traverse all the details that spilt into the public domain during those few weeks in early 2019. This chapter seeks instead to focus on the much broader and less visible aspects of the Bosasa story and how they relate to the conceptualisation of state capture as outlined in the Introduction to this book.

Unlike the Guptas who came from India and were able to establish themselves without any real roots in South Africa's struggle past, the Watsons are emblematic of the type of dependent, clandestine, patrimonial practices that were crucial to the ultimate success of the transition from liberation movement to the democratic dispensation.

10.1 THE CAVEAT: STORIES YET TOLD AND SOME THAT WILL NEVER BE HEARD

Valence and Jared Watson, through various interviews with *BizNews*, have put forward a different version of the Bosasa saga, a narrative of corporate espionage to counter the allegations that have been detailed in the Zondo Commission (Hogg, 2019b, 2019a, 2019d, 2019c, 2019e). The Watsons contend that the entire story of the Bosasa bribes were fabricated by Agrizzi, alleging he wanted to take over Bosasa or would tear it down and then take over the lucrative government contracts.

There is some degree of truth to this narrative, as evidenced in the testimony Agrizzi gave before the Zondo Commission. Following his hospitalisation in December 2016 and his supposed 'come to Jesus moment', Agrizzi spent two years trying to push Gavin Watson and the directors out of Bosasa. He set up his own company, with the same people he conspired with to become 'whistle-blowers' Andries van Tonder (former Bosasa Chief Financial Officer) and Peter Venter (former Bosasa auditor). Together, they indeed went to extraordinary lengths to gather evidence of what was happening at Bosasa, particularly to show Gavin Watson's involvement. Jared and Valence Watson contend that Agrizzi and Andries van Tonder were the ones stealing money from Bosasa (Mavuso, 2019; Shange, 2019). Bosasa liquidators sought to recover approximately R91m directly from Agrizzi (Cowan, 2020a). That may well have been the case, but then why, if Gavin knew about the thievery, did he not remove them from the company?

The testimony from Agrizzi was weakened on at least three occasions thus far (at the time of writing the Commission was ongoing and not all the evidence had been

tested). Most striking was the testimony of Peter Venter, which seems to confirm Jared Watson's claim that Agrizzi was aggressively and coercively try to get more 'whistle-blowers' to join his side. Venter testified that Agrizzi altered his affidavit that was provided to the Commission as part of Agrizzi's submission, without Venter's permission (Venter, 2019). Agrizzi also incorrectly named Lindiwe Sisulu as being one of the founding members of Dyambu Holdings, the company formed in the late 1990s by a group of influential women from the ANC. That company was later taken over by Gavin Watson and renamed Bosasa (Department of International Relations and Cooperation, 2019). In March 2020, Agrizzi returned to the Commission to publicly apologise to Ms Jabu Sishuba for his allegation in 2019 that she had been paid a bribe (Zondo Commission, 2020).

The narrative driven by the Watsons would appear to be in line with what unfolded since Agrizzi's first appearance. The banks closed Bosasa's accounts; the various companies are in the process of being liquidated (though there is currently a legal dispute); government contacts have been cancelled (which are estimated to make up almost 93% of the organisations business); and there have been a tax inquiry and ongoing investigations. It is estimated that R849m in taxes have been fraudulently withheld from the state (Cowan, 2020c).

The challenge to the Watson's reasoning is that it is difficult to see how Agrizzi, with his own culpability in the activities exposed, benefits from the collapse of Bosasa. Agrizzi, Andries van Tonder, Patrick Gillingham and Linda Mti have been arrested and charged, based on a Special Investigations Unit (SIU) investigation dating back to 2009.

Perhaps the most shocking and saddest development was the tragic passing of Gavin Watson in August 2019. In the early hours of a Monday morning, a day before he was due to testify in the tax inquiry, Gavin Watson was involved in a head-on collision with a concrete column along the road entering OR Tambo International Airport. There has been much speculation and several questions raised around Watson's passing, but at the time of writing there were no conclusive findings to any of the investigations that have been undertaken (Hogg, 2019e). His passing means that South Africa will not get to hear his side of the story. There are many questions which will now be left unanswered and the call for justice – be it for Gavin Watson or the people of South Africa – will yet again be denied.

There are, however, still a significant number of other individuals and organisations that have been implicated in the Bosasa story and they should be held to account. Many of those accused of wrongdoing have provided blanket denials, but to date few have actually disputed the allegations of corruption by Agrizzi and the details

contained in supporting physical evidence and corroborating witnesses testimony that has been laid out at the Zondo Commission. At the time of writing this chapter, the Commission is still underway and those implicated may still be compelled to testify before Judge Zondo.

10.2 STRUGGLE HERO TO SYNDICATE KINGPIN: STATE CAPTURE FROM THE BOTTOM UP

Unlike the state capture that took place in state-owned companies, driven by the Guptas, the Bosasa case shows how bribery and “petty” corruption evolves to become state capture. It further shows that state capture extends beyond the mere manipulation of procurement processes, requiring the subversion of multiple government functions and the undermining of accountability for those placed in positions of power.

10.2.1 Airing Dirty Laundry: Contracts, Bribes and Flows of Monopoly Money

In his testimony, Agrizzi outlined in granular detail how money was laundered, the financial books manipulated, the fixing of contracts and the physical paying off of people (with cash money, goods and/or services) were carried out at Bosasa. The Bosasa saga spans almost two decades, is dispersed through several of the group companies and joint ventures and entails several different service offerings. As such, quantifying the number of contracts and associated bribes that are alleged to have been paid is a mammoth task that is yet to fully materialise. In his supplementary affidavit, Agrizzi compiled a breakdown of what seems to be the major Bosasa contracts that were tainted by corruption (see Table 10.1 below).

TABLE 10.1 Agrizzi’s breakdown of estimated Contract Values and Bribes Paid

Contract Name Company	Description	Annual Value or Contract Value	Estimated Annual Bribes paid in Cash
Sibanye Mines Bosasa Operations	Catering	R71 000 000	R3 000 000
Correctional Services Bosasa Operations	Catering	R580 000 000	R15 000 000
Department of Transport Kgwerano	Fleet	R122 000 000	R3 600 000
Department of Justice Sondolo IT	Security Systems	R700 000 000	R16 500 000
Correctional Services Sondolo IT	Access Control	R241 000 000	R4 200 000

Contract Name Company	Description	Annual Value or Contract Value	Estimated Annual Bribes paid in Cash
Correctional Services Sondolo IT	Television Systems	R300 000 000	R5 000 000
Correctional Services Phezulu Fencing	Fencing of Various Facilities	R800 000 000	R10 000 000
North West Youth Bosasa Youth	Youth Services	R32 000 000	R4 500 000
Mogale Youth Centre Bosasa Youth	Youth Services	R14 000 000	R2 300 000
Airports Company South Africa Bosasa Security	Physical Guarding Security	R32 000 000	R2 200 000
North West Youth Development Centres	Pre-Opening Expense Fencing and Software	R4 500 000	R2 200 000
Eskom Sondolo IT	Access Control	Unknown – left when it started	Unknown – left when it started
Department of Home Affairs Lindela	Accommodation of undocumented migrants	R85 000 000	R7 200 000
PRASA Sondolo IT	Access Control	Unknown – left when it started	Unknown – left when it started
TOTAL		R2 981 500 000	R75 700 000

Source: Agrizzi (2019c)

These figures are illuminating in terms of understanding the volume of money that was passing through Bosasa, however, they are by no means comprehensive. For instance, Agrizzi indicates that the amounts estimated for bribes does not include other gifts and services that Bosasa provided to government officials (hereinafter referred to as ‘in-kind’ contributions). It is also unclear if the amounts indicated are only the bribes assigned to individuals for specific contracts or if they include the long term ‘commissions’ that were paid to the politically powerful, such as the supposed R300 000 a month paid to the Jacob Zuma Foundation. Agrizzi estimated that by the time he left Bosasa in 2016 the amount of cash bribes distributed per month ranged from R4-R6m (Agrizzi, 2019a).

Investigative reporters from the *Mail & Guardian* (M&G) have managed to analyse some 10 000 invoices verified by National Treasury (Saba, 2019). They indicate that between mid 2003 to beginning of 2019, Bosasa and its affiliated companies had received contracts from at least 40 different government departments and entities,

with an estimate value of over R12bn. They note that the data source is not extensive and there are likely more accounts and contracts that are still to be determined.¹

Services provided by Bosasa range from catering services at prisons and security installation to supplying of stationary. It would appear that Agrizzi's testimony was focused only on the contracts and departments associated with the 'big moneys'. He made no mention of contracts with departments such as "Limpopo's department of social development, Gauteng's education department, the Northern Cape arts and culture department and the national department of agriculture, forestry and fisheries" (M&G Data Desk, Smit, Jika & Skiti, 2019) which accounted for 'smaller' amounts. Adriaan Basson (2019), in his book *Blessed by Bosasa*, also provides a similar account indicating that an estimated R12.2bn had been spent by 18 different national and provincial government departments, between 2003 to 2018.

What Agrizzi, Basson and M&G all indicate is that the largest contracts in terms of value are from the Department of Correctional Services (R7.2bn), Department of Home Affairs (R1.8bn) and Department of Justice (R650-800m). It should, however, be noted that the combined contracts for the different provincial departments makes Social Development (R2.3bn) the second largest target sector for the Bosasa group. The figure below provides a rough breakdown of the monies Bosasa received from various government departments.

FIGURE 10.2 Estimated Value of Bosasa Contracts with Government: 2003-2018
Source: Mail & Guardian (2019), Adriaan Basson (2019) and Angelo Agrizzi (Agrizzi, 2019c)

1 City Press' quoting Advocate Hermione Cronje, the head of the National Prosecuting Authority's Investigative Directorate, indicate that the "company and its subsidiaries and affiliates went on to secure in excess of R34bn in government contracts from a range of government departments at all levels of government" (News24 Wire, 2020).

There are several government and private entities Agrizzi discussed in his initial testimony that were not included in Agrizzi's breakdown, such as the contracts with Sasol and South African Postal Office (SAPO). Accruing in the early days of Bosasa, these may have been excluded due to having being paid through 'in-kind' contributions (Agrizzi, 2019a).

These 'in-kind' contributions may be the most visible confirmations of corruption, as they can often be verified physically, but they are also perhaps the hardest to quantify. Richard le Roux was responsible for undertaking security installations at Bosasa and aided the Commission's investigation team in pointing out said installations at the residencies of several high-profile politicians. These include Nomvula Mokonyane, Dudu Myeni, Gwede Mantashe and Vincent Smith amongst others (Le Roux, 2019). Agrizzi testified to arranging for meat and alcohol to be delivered annually to Christmas events for Nomvula Mokonyane and had to arrange for a last-minute birthday cake for then President Zuma. The bribes for the SAPO contract included the purchasing of Mont Blanc pens and Cartier cufflinks (Agrizzi, 2019a). Long-time employee Frans Vorster, Bosasa's former fleet manager, also testified to arranging car rentals for Mokonyane's daughter (Vorster, 2019).

Agrizzi's testimony went beyond just spouting figures and naming names of those that benefited from Bosasa's corrupt dealings. He described in detail how contracts were manipulated, and money was laundered.

Bid specifications would either be drafted by or supplied to Bosasa before going out to tender, giving the company an extreme advantage over any competitors that may be hoping to win the lucrative contracts. A prime example of this was the fence contract for correctional services. Bosasa, with no previous experience, bought a company Phezulu Fencing (Pty) Ltd. Once awarded the contract, it then subcontracted with Beta Fence (Pty) Ltd, SA Fence and Gate (Pty) Ltd,² Live Wire (Pty) Ltd and several others. According to Agrizzi, these subcontracts submitted bids for the same tender, but the prices were fixed to ensure Phezulu won the contract. This was over and above the assertion that the bid specifications were drafted by Bosasa (Agrizzi, 2019a).

Gregory Lawrence, connected to a company called Equal Trade was subpoenaed to testify before the Commission. He provided video evidence of how he would deliver millions in cash to Bosasa based on surreptitious invoices generated to cover any auditing tracks (Lawrence, 2019). Petrus Venter testified how Consilium was set up

2 See Chapter 15 on SARS regarding one of the owners of SA Fence and Gate, Mr Patrick Moneyki, and how he is implicated in other cases of state capture.

to be a labour broking firm that was used to pay Gavin, Agrizzi and Andries van Tonder, as well as several members of the Watson family (though this is something they have denied). Shell companies would be set up to internally transfer funds to skew reported profits and evade tax (Venter, 2019). Agrizzi also testified as to how fake companies would be established not only to reflect non-existent purchases, but also to manipulate and improve the BEE scoring of Bosasa (Agrizzi, 2019a).

At least 38 individuals have been implicated in Agrizzi's testimony (served Rule 3.3 notices by the Commission) and many companies and organisations have been named as being part of the Bosasa corruption network. Many of these firms and individuals are linked to other cases of state capture and political corruption. As it is not possible to provide a detailed account of each of these in this chapter, Figure 10.3 (pp. 200 and 201) provides an outline of the various connections within this network.

10.2.2 Paying for Protection from Prosecution and Parliament

Most of the activities detailed in the previous section outline the general *modus operandi* relating to corruption for government tenders and extraction of rents. Though there were a significant number of these corrupt contracts, I would argue that on their own this does not rise to the level of state capture, as has been described in the Introduction chapter to this book. The turning point, when Bosasa went from being just a corruption beneficiary to a full member of the shadow state, came in 2007, when the SIU began investigating corruption at the Department of Correctional Services (DCS) (President of Republic of South Africa, 2007).

In February 2019, shortly after Agrizzi finished his initial testimony at the Zondo Commission, the Hawks laid formal charges against him and three other co-accused namely: Andries van Tonder, former Bosasa CFO; Patrick Gillingham, former Correctional Services CFO and "Richmond" Linda Mti, the former Commissioner of Correctional Services. The group face multiple counts of corruption, money laundering and contravening the Public Finance Management Act (PFM), relating to four specific tenders that were the focus of the 2007 SIU investigation. The SIU had completed its investigations and submitted a report to the various authorities in late 2009 (Smit, 2019a). How and why it took almost 10 years before they were arrested, was revealed during Agrizzi's testimony.

One of the many startling revelations from Agrizzi was that Bosasa had been tipped off about the intention for the SIU to undertake a search of Bosasa's premises. Pre-emptively Bosasa filed a court interdict against the SIU investigation. The SIU agreed to delay their search and limit the individuals they would engage, for reasons

that not even the lead SIU investigator on the Bosasa case, Clint Oellermann, could surmise (Zondo Commission, 2019h). Agrizzi indicated that at least one of the tip-offs had come from Sesinyi Seopela, one of several alleged fixers and handlers that distributed bribes for Bosasa (Agrizzi, 2019a).

Agrizzi, Andries and Leon van Tonder testified to destroying potential incriminating evidence and Oellermann confirmed the SIU's findings that a specialised software, called "Eraser", was used to delete some 40 000 files from Bosasa's servers before the SIU raid (A. van Tonder, 2019; Agrizzi, 2019a; L. van Tonder, 2019; Oellermann, 2019; Zondo Commission, 2019h). At the time, there was also evidence emerging in the public domain regarding the various travel arrangements, made through Blake Travel agents, for implicated political elites, paid for by Bosasa. Documentation from Blake Travel was also allegedly destroyed and false replacement documents created to mislead the SIU investigators (A. van Tonder, 2019).

The tip-offs about the SIU's investigations was only the start of the processes to manipulate and subvert the criminal justice system from bringing Bosasa to book. Later in 2009, the SIU finished its investigation into four specific contracts Bosasa had with the Department of Correctional Services, namely: for catering, access control, fencing and the installations of televisions. The report provided damning details of how the contracts were awarded and that rewards were received by two high level government officials Gillingham and Mti (Agrizzi, 2019a; Oellermann, 2019). A copy of the report managed to find its way (allegedly via Bosasa's attorney Brian Biebuyck) into the hands of Agrizzi. Oellermann confirmed that the report in Agrizzi's position was the same as the one he had compiled, however, he highlighted that the front page, containing the distribution list for the report, was not included in Agrizzi's copy. Only five names were included in the list, namely: the Minister of Correctional Services (Nosiviwe Mapisa-Nqakula); the Acting National Commissioner of Correctional Services (Ms J Schreiner); the Head of the SIU (Mr Willey Hofmeyr); SIU Programme Manager (Adv. S. Jacobs) and SIU Archive (Oellermann, 2019).

By December 2009, the SIU report had been sent to the NPA, which then turned the case over to the Serious Economic Offences Unit of the South African Police Service (SAPS) for further investigations (NPA, 2009). Since then, based on the documentary evidence supplied by Agrizzi to the Commission, it appears that Bosasa was regularly receiving sensitive confidential documents from the NPA about the case and its developments. These documents were confirmed in the Commission to be identical to those compiled by the primary case office for the NPA, Adv. Marijke de Kock (De Kock, 2019).

NETWORK OF INDIVIDUALS AND BOSASA WEB

ENTITIES CAUGHT UP IN THE OF CORRUPTION

The case has been ongoing since then and De Kock has committed to provide the Commission with further details surrounding the inexplicable delays in getting the case to the courts. It was, however, revealed by Agrizzi that there appeared to be three individuals from the NPA that were receiving monthly payments from Bosasa to keep the case from seeing the light of day. Agrizzi alleges that each month Mti, at that stage no longer with Correctional Services but still being paid by Bosasa, would distribute bags of cash to Nomgcobo Jiba (R100 000); Lawrence Mrwebi (R10 000) and Jackie Lepinka (R20 000) (Agrizzi, 2019a). Lepinka was previously Mti's assistant when he was at Correctional Services and both Jiba and Mrwebi have been linked to other cases of alleged state capture (see Chapter 13). Both have denied receiving any money from Bosasa while testifying before Justice Yvonne Mokgoro in an inquiry, which found they were unfit to hold office in the NPA (Mokgoro, Moroka & Vilakazi, 2019; Ndaba, 2019; Phakgadi, 2019).

It would seem it was not just those in the NPA that provided information about the case to Bosasa. Agrizzi also implicated Dudu Myeni, the former Chair of South African Airways and Chair of the Jacob Zuma Foundation, as being a source for confidential government documents. She allegedly arranged for Agrizzi and Gavin Watson to view the police case docket, related to the Correctional Services contracts, in a private meeting room at the Sheraton Hotel (Agrizzi, 2019a).

10.2.3 Rolling the Dice and (Re)moving the Players

Like many cases of state capture, there appears to be evidence that individuals who posed as potential obstacles to Bosasa's continued accessing of lucrative contracts from the state were removed. In November 2006, Mti left Correctional Services to serve on the committee tasked with address the security for the FIFA 2010 world cup (Department of Correctional Services, 2006). Vernie Peterson's appointment as National Commissioner of Correctional Services, in May 2007, was meant to serve as a turning point in DCS's fight against corruption (Department of Correctional Services, 2007). Dennis Bloem and several others attest to Peterson's pursuit to rid the department of corruption and, as Agrizzi highlighted in his testimony, this posed a major threat to Bosasa's ambitions (Agrizzi, 2019a; Basson, 2019; Bloem, 2019).

Presumably aware of the allegations of corruption and the investigation by SIU, Peterson suspended Patrick Gillingham in September 2008. This occurred shortly before Gillingham's house was raided by the SIU where they found a business card with Gillingham's name on it, with the title of consultant for Consilium Business Consultants (Pty) Ltd (Agrizzi, 2019a). Agrizzi testified that Bosasa made several failed attempts to meet Peterson, but having exhausted the soft approach, Bosasa allegedly arranged for Khulekani Sithole (former Commissioner of DCS), and senior

member (Agrizzi only recalled his name as Sbu) of Union Police and Prisons Civil Rights Union (Popcru) to put pressure on Peterson (Agrizzi, 2019a; Smit, 2019b).

At the time, still under the Mbeki administration, the Minister of Correctional Services was Ngconde Balfour. The Minister and Commissioner publicly butted heads, with “Peterson reporting Balfour to the then minister of public service and administration ... and the parliamentary ethics committee for receiving a discount on his Touareg 4x4 from a company with links to Bosasa [and] Balfour had Petersen investigated for an allegedly drunken outburst at an official departmental function” (Barron, 2011). The deterioration of the relationship between Balfour and Peterson was undoubtedly a favourable turn of events for Bosasa, however, Agrizzi was at pains to highlight that he had no knowledge of Balfour receiving any form of benefit from Bosasa (Agrizzi, 2019a).³

In late 2008, Peterson was redeployed to the Department of Sports and Recreation and Xoliswa Sibeko was appointed Commissioner of Correctional Services. According to Agrizzi, Sibeko was also a perceived threat to Bosasa, as she “was adamant that she did not want the Bosasa group involved with the Department of Correctional Services” (Agrizzi, 2019a, pp. 64-65). Sibeko withdrew DCS from a court case that was brought against it by a rival company, challenging the awarding of the catering contracts to Bosasa. With DSC no longer opposing the litigation a major revenue stream of Bosasa's was under threat (Smit, 2019b). Sibeko was later controversially fired by Zuma's Minister Nosiviwe Mapisa-Nqakula (one of the ANC women that originally established Dyambu Holdings) and replaced by Tom Moyane in May 2010.

Agrizzi again testified that he could not state definitively if Moyane was receiving any cash or other financial benefits from Bosasa. He did, however, highlight that during Moyane's tenure as National Commissioner, the payments of bribes to Correctional Service officials increased by R250 000, to an estimated R750 000 per month. Under Moyane, there was an about-turn on the department's involvement in the litigation regarding the awarding of the catering contract (Basson, 2010) and according to reports he “ignored” the request from National Treasury to have Bosasa blacklisted from government's supplier database (Jika, Skiti & Smit, 2019). Moyane would continue to play an active role in the state capture project when he was later appointed Commissioner of SARS (see Chapter 15). Zach Modise, a long time Correctional Services employee and an individual highly implicated by Agrizzi, would become Commissioner after Moyane, with Bosasa continuing to receive the lucrative government contracts (Agrizzi, 2019a).

3 Suggest reading Adriaan Basson's *Blessed by Bosasa* for more details on Peterson's time as National Commissioner of Correctional Services.

BOSASA: FROM GOOD, HOW A CAUSE IS CORRUPTED

TO BAD, TO UGLY TO BECOME STATE CAPTURE

Bloem leaves Parliament after the 2009 Zuma elections and moves to COPE.

To minimise the extent of PCCS probing into contracts, BOSASA pays monthly bribes to National Assembly House Chair, **Cedric Frolick** (R40k) & 3 MPs on the PCCS: **Vincent Smith** (R45k), **Winnie Ngwenya** (R20k) and **Vuseselo Magagula** (R30k).

Minister of Correctional Services
Nosiviwe Mapisa-Nqakula

**OVER R12 BILLION
IN CONTRACTS ARE AWARDED
TO BOSASA FROM 2003 TO 2018**

Following clashes in management, Balfour and Petersen's relationship sours. Ultimately Petersen is redeployed to the Department of Sports and Recreation.

Nosiviwe Mapisa-Nqakula controversially fires Xoliswa Sibeko.

Xoliswa Sibeko

Sibeko is considered a threat to BOSASA as she is "adamant that she does not want the BOSASA group involved in the DCS".

Tom Moyane

During Moyane's tenure bribe payments to Correctional Service officials increased monthly to R750k.

Zach Modise

While Modise is in office, BOSASA continues to receive lucrative government contracts.

Sep 2008 - Petersen suspends Patrick Gillingham due to allegations of corruption and the ongoing SIU investigation.

2008

2009

2010

2011

2014

2015

2017

2019

Dec - Angelo Agrizzi and Leon & Andries van Tonder delete 40 000 potentially incriminating files from BOSASA server before SIU raid.

BOSASA regularly receive confidential documents from NPA about developments in the case.

BOSASA provides ANC with election command centre.

Agrizzi leaves BOSASA.

Aug - Gavin Watson dies in car crash near OR Tambo Airport.

Angelo Agrizzi obtains unreleased SIU report via BOSASA's attorney Brian Biebuyck.

Agrizzi alleges 3 individuals from NPA received monthly payments from BOSASA to prevent the case from surfacing. Mti distributes cash to:

- **Nomgcobo Jiba** - R100k
- **Lawrence Mrwebi** - R10k
- **Jackie Lepinka** - R20k

SIU atypically agrees to:

- delay search
- limit engagement with individuals at BOSASA.

SIU completes DCS investigation. The report includes damning details about DCS contracts awarded to BOSASA, and rewards gained by 'Richmond' Linda Mti & Patrick Gillingham.

SIU report sent to NPA, which turns case over to the Serious Economic Offences Unit of the South African Police Services for further investigation.

Feb - HAWKS lay formal charges against:

- Angelo Agrizzi
- Andries van Tonder
- Patrick Gillingham
- 'Richmond' Linda Mti

After Zuma's NDP, Shaun Abrahams is replaced by Shamila Batohi, Agrizzi testifies and NPA finally takes BOSASA case to court - **a decade later**.

Dudu Myeni: Chairs the Jacob Zuma Foundation, which supposedly receives R300k a month from BOSASA.

Dudu arranges for Agrizzi and Watson to view the police docket in a private room at the Sheraton Hotel.

Jacob Zuma: Watson is secretly recorded boasting that he would lobby president Zuma to appoint a National Director of Public Prosecutions who would 'protect' high-level NPA officials.

Cyril Ramaphosa: Watson uses shell company to contribute R500k to his 'CR17' ANC National Election campaign.

As can be seen from the above, having the ‘right people’ at the top plays an important role in determining the extent to which a company or group can have sway over government. In the case of Bosasa, this point was made clear when, during Agrizzi’s testimony, an audio recording was played of Gavin Watson explaining how he planned to approach then President Zuma and discuss the crucial appointment of the National Director of Public Prosecutions. From the recording of the hearing and the transcripts, Gavin Watson in preparing for his visit with the Zuma, stated the following:

Now Mr President we need to get this thing closed down. We need the right people in the right place. [Ntlamenza] is the right guy at that place doing what he can. Now we need to get the right person at NPA. Either we get [Chauke] or Jiba or the woman down in Natal ... Now Jiba’s been buggered up and [Mcwebi] also been buggered up. Ok. In the press. So how are you going to protect them Mr President? By putting the right person in there. I do not know who is advising you Mr President, but you need to make the right decisions now, you have not got much time left. (Agrizzi, 2019b; SABC Digital News, 2019c; Zondo Commission, 2019c)

10.2.4 Parties for the Politically Powerful

Law enforcement is not the only method by which those in power are meant to be held to account. Parliament is the institution that is meant to be the representative voice of the people in government through political party representation. Part of that function is having oversight of the executive branch to ensure that every department fulfils its constitutional mandate in service of the people. Bosasa’s sphere of influence within the ANC also managed to infiltrate this branch of government. When it became known through the media that Bosasa was being investigated by the SIU, the Portfolio Committee for Correctional Services (PCCS) began to ask tough questions of the DCS officials (Agrizzi, 2019a; Bloem, 2019). Dennis Bloem was an ANC MP and Chair of the PCCS at the time reports on Bosasa were surfacing. He left the ANC and parliament after the 2009 elections when Zuma became president and joined an opposition party, the Congress of the People (COPE). In his testimony to the Zondo Commission, he noted the responses he received from his ANC comrades for raising tough questions.

I was reprimanded and said that this what you are doing this is an ANC Government. You cannot do this, because you are putting the ANC in a bad light outside ... I was being labelled as an opposition in the ANC, because I was asking these questions and doing my work. (Zondo Commission, 2019f, pp. 30 & 32)

The questions facing DCS officials did not end with Bloem’s departure and as such it was necessary to find a way to minimise the extent to which PCCS probed the Bosasa contracts. Agrizzi alleges that there were at least three MPs on PCCS that were

receiving monthly payments to “ensure at the parliamentary committee meetings, that the negative media coverage against Bosasa would not prevent future contracts being awarded to Bosasa” (Agrizzi, 2019a, p. 43). These MPs were Vincent Smith (R45 000), Winnie Ngwenya (R20 000) and Magagula (R30 000) (no first name indicated by Agrizzi) (Agrizzi, 2019a). In his supplementary affidavit to the commission, Agrizzi further implicated Cedrick Frolick (the National Assembly House Chairman at the time) as also being on the payroll, allegedly receiving R40 000 per month along with other Bosasa benefits. Agrizzi indicated that Frolick was instrumental in getting Smith on Bosasa's side (Agrizzi, 2019c). In response to these allegations, Frolick has requested to give evidence at the Commission, however, this had not occurred at the time of writing (Zulu, 2020).

Since its inception, Bosasa has been deeply entwined with the ANC. Initially the company, called Dyambu Holdings, was formed by a group of prominent ANC women leaders, namely: Nosiviwe Mapisa-Nqakula; Nomvula Mokonyane; Hilda Ndude and Baleka Mbete, amongst others. It was Ronnie Watson, Gavin's brother, that recommended Gavin be brought in to run the business on their behalf. Gavin established Dyambu Operations as a subsidiary and later bought the ANC women's shares, assuming control of the company, shortly thereafter it was renamed Bosasa (Basson, 2019). Agrizzi recounted that as far back as 2002 Bosasa was providing all manner of favours to politically connected and powerful members within the ANC. Figure 10.4 (pp. 204 and 205) illustrates a timeline of the Bosasa scandal, highlighting the key political and business players that colluded in this state capture case. It would seem, based on the testimony of most of the Bosasa whistle-blowers, that Nomvula Mokonyane was one of the main political beneficiaries. In his testimony, Frans Vorster stated the following in relation to Mokonyane:

I often questioned Gavin, Angelo and 20 [of] the other directors why I had to drop everything to attend to the minister and the family and it became apparent over the years that she was the key person and link and had huge political contacts even to the previous president of South Africa and I had to do what I was instructed to do. (Zondo Commission, 2019e, p. 156)

Mokonyane was not alone in receiving benefits from Bosasa, according to Agrizzi R300 000 a month was being paid to the Jacob Zuma Foundation, via its Chair Dudu Myeni. The ANC itself as an organisation also benefited immensely from Bosasa's success. Agrizzi alluded to payments to the top six of the ANC in the millions (one estimate was R10/12m, but could not state definitively) (Zondo Commission, 2019g). Evidence has emerged, however, in the form of a letter sent from ANC treasurer Dr Zweli Mkizi, thanking Bosasa for a R3m donation to the organisation (Basson & Cowan, 2019). During the 2014 national election, Bosasa also set up and maintained

an ANC election ‘war room’ (a command centre for ANC volunteers), all at Bosasa’s expense (Cowan, 2019; Vorster, 2019). According to Agrizzi:

Gavin Watson became completely infatuated with his relationship with various ANC officials. He openly supported the ANC. At times we had to warn him he was flouting human resources rules, as he would publicly instruct staff to vote only ANC or else they needed to find alternative employment. (Agrizzi, 2019c, p. 16)

This blurring of the lines between business, politics and government was a hallmark practice of state capture, which was on full display when Zuma, addressing international and local guests attending the ANC’s Progressive Business Forum gala dinner at Gallagher Estate on 8 October 2015, stated:

I always say to business people that if you invest in the ANC, you are wise. If you don’t invest in the ANC, your business is in danger. The TG [ANC treasurer general] is a nice and a handsome young man. When he knocks, open the doors. If he says we need something he will ask one thing only. If he says support the ANC, just write a blank cheque with the instruction that it should be six digits ... This organisation does not make profit, but we create a conducive environment to those who make profit. Once you make profit, you know what to do (Zuma quoted by Letsoala & Hunter, 2015).

President Ramaphosa has also been embroiled in the Bosasa scandal, when it emerged that Gavin Watson had made a R500 000 donation, via one of his front companies, to the CR17 ANC national election campaign. Ramaphosa was confronted by a question, from the opposition, about the donation during a Question and Answer session in Parliament. He incorrectly responded that the donation was a payment to his son, Andile Ramaphosa, for work done with Bosasa. When he was made aware that this was not the case and his campaign had indeed received the donation, he sent a correction to the Speaker. The Public Protector Busisiwe Mkhwebane investigated the matter and issued a report that found the president’s actions were found wanting in that he had mislead parliament and should have declared all donations to parliament (Public Protector, 2019). The report was successfully taken on review and overturned by the Gauteng High Court (Cowan, 2020b).

10.3 RACKETS OF RACE, RELIGION AND RIGHTEOUS STRUGGLES

The Introduction chapter to this book introduces us to the concept of rackets, defined as “a pattern of behaviour that enables the racketeer to enrol others into acting out a fundamental untruth that is often masked by a seemingly credible story”. Ultimately, rackets are about leveraging ‘coercive feelings’ to enable abuses of power and to mask illegitimate actions. There are numerous rackets entangled in the case of Bosasa, but

perhaps the most profound are those pertaining to race, religion and the entitlement assumed from a legacy of struggle against apartheid.

Perhaps the most divisive and destructive rackets that have emerged in response to the exposed antics of the state capture project, entails the expropriation and exploitation of South Africa's very real legacy of racial inequality and injustice. Most of those caught in the dubious dealings of the state capture project have argued that state capture is a racist concept, that 'only focuses' on and drives a narrative that black people are corrupt. The Watsons and their cohorts, being predominantly white, undermine this narrative.

The issue of race is intrinsically underpinned in the Bosasa story. The role the Watsons played during apartheid cannot and should not go unrecognised. The family were openly defiant of the apartheid regime's racist laws of segregation and deprivation of human dignity for the non-white majority of the population. At some point in the 1970s, Gavin and his three brothers – Valence, Ronnie, and Daniel (Cheeky) Watson – became actively involved in the fight against apartheid. They attracted significant media attention, even internationally, for their refusal to play rugby according to the regime's racist rules (racially segregated) and the drama that emanated from the arson charges that were brought against them in the 1980s (Sparks, 1986; Parks, 1987; Basson, 2019; James-Brent Styan & Paul Vecchiatto, 2019; Xabanisa, 2019). At Gavin's funeral, Zuma highlighted the important role the Watson brothers also played in the anti-apartheid struggle particularly as an intelligence unit for the underground, at one stage reporting to Zuma. Reflecting on their familial closeness, Zuma declared that "[t]hey are like my brothers" (SABC Digital News, 2019a).

Praise for the Watsons' role in our struggle history is not without merit, however, there is a need to reflect on the race dynamics in post-apartheid South Africa that have buttressed the Bosasa story. In a visibly painful and shameful exchange, that deeply impacted Judge Zondo, Agrizzi can be heard using explicit, derogatory and racist language in regard to Bosasa's black directors (Zondo Commission, 2019d). The recording was made by one of the Watson children present at a late-night discussion at Agrizzi's home. Angelo Agrizzi has pleaded guilty to racism in a case bought forward by the South African Human Rights Commission and has paid a fine of R200 000, donated "to a charitable organisation that promotes social cohesion, non-racism, social justice and reconciliation in Alexandra, which organisation shall be the Barney Mokgatle Foundation" (Equality Court, 2019, p. 3). Agrizzi tried to highlight his friendship with persons of colour and apologised to the nation at the Zondo Commission for his racial slurs. Jared Watson's 'evidence' provides other instances of Agrizzi undermining and being derogatory towards black people (Hogg, 2019d).

There are also considerable flaws in the narrative portraying Gavin Watson as anti-racist and as an agent of transformation. At no point during the recorded exchange was there any attempt by the Watson children to dress down or disparage Agrizzi from using such vile and despicable language. Watson also saw no issue in the lack of transformation within the other business they chose to partner with (examples are the majority white partners in the fencing contracts collusion), nor did they see the need for transformation within their own organisation. The fact that most of the senior executive positions of the organisation (namely the CFO, COO, CEO, the company accountants and lawyers) were all filled by white men, some known for having racist tendencies, needs to be noted. Then there are reports of the BEE partnerships and joint ventures that had been deliberately undermined and subverted to benefit the Watsons, as well as the allegations of Bosasa manipulating their BEE scoring (Naidu, 2009; Staff Writer, 2013; Agrizzi, 2019a; Zulu, 2019).

To be clear, this is not to insinuate or suggest that the Watsons are in anyway racist. Rather, it seems that racial tensions and inequalities were not viewed as issues of social justice that needed to be addressed, but rather used as a tool to enrol others in their rackets. As Mark Gevisser has observed:

... according to the testimony before the state capture commission, Watson played race two ways. He offered his black collaborators a quicker route to self-enrichment than might otherwise be available to them, and his white ones a solution from the impoverishment they imagined might befall them, now that black South Africans were in the ascendant. (Gevisser, 2019)

Testifying at the Zondo Commission, Agrizzi, Voster and the other ‘whistle-blowers’ testified as to how Gavin Watson would often ‘remind’ them that “[they] were white males and that [they] will not find a job anywhere out there” (Zondo Commission, 2019b, p. 84). It is just one of the rackets that these self-confessed collaborators knowingly and wilfully became enrolled in, to justify their criminal conduct.

A second racket which Agrizzi outlined to the Commission was that the acts of corruption were somehow mitigated through the various acts of charity that Bosasa and he personally performed over the years. This racket is multi-layered in that it alludes to a sense of self-assigned moral authority and legitimacy connected to the group’s religious beliefs and values. Agrizzi, Van Tonder and others have testified that one of the main reasons that they either joined and continued to work at Bosasa was because they appreciated the religious views and practices of the organisation (Zondo Commission, 2019a, 2019d).

At Watson’s memorial service, Nomvula Mokonyane went into great detail about his charitable acts saying: “... thank you for looking after the comrades (putting children through school and buying houses), thank you for looking after the vulnerable”

(SABC Digital News, 2019b). The question that must be asked, however, is what happens when these acts of charity come at the expense of others or through ill-gotten means? Is it not the role of government to ensure that the most vulnerable in our society are looked after? And what happens when the cost of charity comes at the expense of good governance? This is how the cycle of systemic corruption continues and becomes embedded within society. It is a logic that signifies predatory, systemic neo-patrimonialism, where the informal systems of 'selective charity' (distributed for political support) undermines the formal policies of universal protection, enshrined in the constitution. Ultimately it is the most vulnerable, particularly those that do not form part of selected beneficiaries or fall between the cracks of broken bureaucratic systems, which suffer the most. Those not prepared to pay bribes or support a political power elite are excluded from the benefits of government's preferential procurement, undermining the objective of the policy itself.

These types of contradictions expose the underlying racket. Another example was when Mokonyane insisted that Gavin Watson was "not a capitalist" (SABC Digital News, 2019b). How this statement reconciles with the business model of Bosasa, in particular the operations at the Lindela Repatriation Centre, is incomprehensible. The centre was one of the first major contracts Bosasa entered into with government. It continued to be a major source of income, up until the company went into business rescue. In his statement to the Zondo Commission, Voster detailed how they would go out, aided by police reinforcements, to round up illegal immigrants (mostly from Zimbabwe, Mozambique, and other African countries) and transfer them to the facility. This was done at the instruction of Watson, who wanted to "make sure [Voster] got the numbers up as he needed the money" (Vorster, 2019, p. 4). At that stage, the company was getting paid on a per person basis. As outlined in a report by the organisation Doctors Without Borders, the facility was overcrowded, inmates slept on mattresses on the floor, it was easy for diseases to spread and there have been several reports on the poor conditions and acts of violence that unfolded over the years (Bornman, 2019).⁴ Bosasa literally profited from the exploitation of black African bodies.

The last racket which needs to be noted draws from the legacy of apartheid and is still currently deployed by those not wanting to account for their actions. It is the legacy of operating as clandestine networks in an environment of paranoia and fear that was part of the struggle against the apartheid regime. The narrative is that Bosasa (or the Guptas or anyone that has been implicated in state capture) are targeted victims of some grand conspiracy by mysterious "third forces" because of their convictions

4 It was the negative publicity of the operations at Lindela that triggered the ANC women to give up their state in Dyambu Holdings (Basson, 2019).

to enact radical economic transformation. Often accompanying these narratives are veiled threats that “perhaps the time has come for some truths to come out” or that those exposing state capture will regret it as “all of us there have our own *smallanyana skeletons*” (SABC Digital News, 2016). This is nothing short of holding the country hostage, shackled to the atrocities of our past, with the continued threat that there is an enemy that remains ever present.

Who are these enemies? If they are known, why not expose them? Why, when in government, were they not brought to account? What, or rather whose benefit is served by withholding this information from the public? To date there has been no evidence put forward to support these claims, and no actions taken to investigate or address these ‘third forces’. Ultimately, this racket provides perpetrators with a sense of immunity from the consequences of their misdeeds, based on their struggle credentials. It is an entitlement to positions of power based on past heroics, without accountability in the present.

These conspiracies are helpful in creating an alternative to the evidence presented. Valence Watson has stated in the press that they do not intend appearing before the Commission (Gevisser, 2019). In so doing, the Watsons and their cohorts have refused the opportunity to repair their reputations.

It could be argued that Bosasa represents a potential case of developmental corruption. The various programmes, charities and initiatives adopted by the company are laudable. The challenge, however, lies in the contradictions that are imbedded in the types of corruption and business practises of the company and the greater impact they have had, not only in terms of draining much need resources from the state, but also the ultimate cost to employees, competitors and the broader objectives of transformation and development. The Watsons, like all anti-apartheid veterans, should be acknowledged for the role they played in the struggle. That acknowledgement should, however, not be equated with a sense of entitlement, particularly when that entitlement comes at the cost of citizens.

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APPENDIX

Case Study in State Capture	Status	Summary Description	Investigation Body / Source of Evidence	Government Entity Implicated
Scandals Connected to Jacob Zuma, Guptas, Other Key Networks and ANC Politics				
The <i>State of Capture</i> report – focuses on Guptas' relationship with Jacob Zuma and their alleged influence on the affairs of state	First complaint was received in March 2016 and the report was released in November 2016.	Investigation into complaints of alleged improper and unethical conduct by the President and other State Functionaries, relating to alleged improper relationships and involvement of the Gupta Family in the removal and appointment of Ministers and Directors of State-Owned Enterprises (SOEs), resulting in improper and possibly corrupt award of State Contracts and Benefits to the Gupta Family's Businesses. The report details numerous allegations of the Guptas' involvement in affairs of the state and their irregular activities that enable rent extraction. The findings were not conclusive and the remedial action was to establish a commission of inquiry into state capture (to be appointed by the President, but with a judge selected by the Chief Justice). Litigation endeavoured to delay or prohibit the report's release and implementation of remedial actions, but failed, and the commission was established in 2018.	<ul style="list-style-type: none"> Public Protector, followed by litigation 	<ul style="list-style-type: none"> GCIS (<i>The New Age</i>) Eskom (Optimum) Transnet (Regiments/Trillian) Denel SAA (<i>The New Age</i>) SABC (<i>The New Age</i>) Department of Finance Transport (SAA) Communications (SABC & GCIS)
Zondo Commission	Established in 2018, with anticipated conclusion being the end of 2021.	Formally titled the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State, the Commission was promulgated by then President Zuma in response to the remedial actions as outlined in the Public Protector's <i>State of Capture</i> report. As of June 2021, the Commission that started in August 2018 has held more than 418 days of hearings of over 330 testimonies (generating over 71 000 pages of transcript). The inquiry's terms of reference were expansive and, as such, the scope of investigations went beyond merely looking into the Gupta-related cases, covering other networks (e.g., Bosasa) as well as other government institutions (e.g., role of Parliament).	<ul style="list-style-type: none"> Zondo Commission 	<p>Various work-streams covering <i>inter alia</i>:</p> <ul style="list-style-type: none"> SOEs (Eskom, Transnet, Denel, SAA) Free State Provincial Government Bosasa SARS Law enforcement State Security Agency (SSA) <i>The New Age</i> & ANN7 Role of Parliament and ANC

Case Study in State Capture	Status	Summary Description	Investigation Body / Source of Evidence	Government Entity Implicated
Scandals Connected to Jacob Zuma, Guptas, Other Key Networks and ANC Politics				
Bosasa	Dating back to a 2009 SIU report. Investigations and various litigations are ongoing.	In 2019, former Bosasa COO, Anglo Agrizzi, testified at the Zondo Commission, detailing the acts and long history of corruption between various Bosasa companies predominantly owned by Gavin Watson, and numerous government entities/departments. The testimony of Agrizzi (and other former Bosasa employees) corroborated the findings of a 2009 SIU investigation that alleged corruption in several contracts Bosasa had with the Department of Correctional Services. Criminal court proceedings have been initiated based on the 2009 SIU investigation, along with new investigations initiated by SARS and other law enforcement entities.	<ul style="list-style-type: none"> Special Investigation Unit (SIU) Zondo Commission 	<ul style="list-style-type: none"> Department of Correctional Services Department of Justice Department of Home Affairs Department of Transport Various SOEs (e.g., SAPO, ACSA) National Prosecuting Authority (NPA) Members of Parliament
Arms Deal	Various investigations and sources, dating back to 1990s. Most significant source being through Seriti Commission. Corruption case against Zuma is ongoing.	Commission of Inquiry into allegations of fraud, corruption, impropriety, or irregularity in the Strategic Defence Procurement Packages (SDPP). Various court cases related to allegations of corruption against Jacob Zuma. On Monday, 24 October 2011, the President announced the Commission chaired by Judge Seriti. The findings of the Commission were that there was "no evidence" of corruption, but this is seen by many to have been a whitewash. The report was taken on review and set aside in August 2019. The corruption case against Zuma is ongoing before the courts.	<ul style="list-style-type: none"> Seriti Commission Various court cases 	<p>Initially:</p> <ul style="list-style-type: none"> South African National Defence Force Members of Parliament <p>Allegations also involve:</p> <ul style="list-style-type: none"> NPA SSA
Nkandla Security Upgrades	Investigation started in November 2012. Report on investigation was released in March 2014.	Report on security upgrades to President Zuma's homestead in Nkandla. The investigation found that the President unduly benefited from the upgrades and as part of remedial actions the President was required to pay back a portion of the costs of the upgrades. Zuma instructed that SAPS undertake their own investigation, which sought to rationalise the expenses (fire-pool report). Parliament accepted this alternative report, but major court cases followed, ultimately declaring that the Public Protector's remedial actions are binding. President and Parliament failed to uphold the Constitution. President ordered to "pay back the money".	<ul style="list-style-type: none"> Public Protector's <i>Secured in Comfort</i> report, followed by litigation 	<ul style="list-style-type: none"> Department of Public Works South African Police Service

Case Study in State Capture	Status	Summary Description	Investigation Body / Source of Evidence	Government Entity Implicated
Scandals Connected to Jacob Zuma, Guptas, Other Key Networks and ANC Politics				
Private Aircraft Landing at Waterkloof Airforce Base and Gupta Sun City Wedding	May 2013.	In 2013, justice, crime prevention, and security cluster (JCPS) – a cabinet structure composed of various ministries – undertook an investigation into the Landing of a Commercial aircraft at Air Force Base Waterkloof (report titled the same). The investigation revealed that the Guptas initially tried to organise a special landing at OR Tambo International Airport, but was turned down. They then approached the Indian High Commission who re-designated the wedding entourage as an official delegation to secure a landing at the Waterkloof base. The wedding held at Sun City was attended by a number of high-profile ANC politicians and was paid for in part by moneys looted from the Vrede Dairy Farm project.	<ul style="list-style-type: none"> ▪ Report by JCPS ▪ Zondo Commission 	<ul style="list-style-type: none"> ▪ Department of International Relations and Cooperation (DIRCO) ▪ Department of Defence ▪ Department of Transport
Free State Provincial Capture, includes Vrede Dairy Farm and Asbestos Contracts	Ongoing.	The Vrede Dairy Farm project was initiated by the Free State Provincial Government as a development project, however, in partnering with a Gupta-linked company Estina, government funds were looted. In 2018, the Public Protector released a report on their 2018 investigation, but it was taken on review and set aside by the courts. The second part of the investigation is yet to be finalised. The NPA laid criminal charges against Gupta associates and implicated government officials. Court proceedings are ongoing. Significant testimony and evidence have been presented at the Zondo Commission regarding the Vrede Farm case, as well as the asbestos inspection project (criminal proceedings are also underway). Both projects implicate high-profile politicians and senior officials manipulating government process.	<ul style="list-style-type: none"> ▪ Public Protector reports ▪ Zondo Commission ▪ Various court cases 	<ul style="list-style-type: none"> ▪ Free State Provincial Government
Irregular removal of National Director of Public Prosecutions (NDPP), Mxolisi Nxasana	Inquiry instituted in February 2015, but was cancelled in May 2015. This triggers the Constitutional Court cases that followed.	Inquiry into the fitness of Mxolisi Nxasana to hold office as NDPP. The Inquiry was cancelled after Zuma “agreed to let Nxasana resign”. He was paid R17m – the balance of his ten-year contract. Court cases followed detailing the abuse of the presidency powers by Zuma. Ultimately, Nxasana was ordered to repay R17m and Zuma’s appointed replacement, Shawn Abrahams, was ordered to vacate office. Constitutional Court found Zuma’s actions to be an abuse of power and in breach of his constitutional obligations.	<ul style="list-style-type: none"> ▪ Cassim Inquiry into fitness of Mxolisi Nxasana to hold office of NDPP initiated by Zuma, followed by litigation 	<ul style="list-style-type: none"> ▪ National Prosecution Authority
Political killings in KZN	Established in October 2016. The report was released in May 2018.	On 28 October 2016, the Premier of the Province of KwaZulu-Natal established a Commission of Enquiry into the Underlying Causes of the Murder of Politicians in KwaZulu-Natal (KZN).	<ul style="list-style-type: none"> ▪ Moerane Commission of Enquiry 	<ul style="list-style-type: none"> ▪ KZN Provincial Government ▪ KZN Local Governments

Case Study in State Capture	Status	Summary Description	Investigation Body / Source of Evidence	Government Entity Implicated
Scandals Connected to Jacob Zuma, Guptas, Other Key Networks and ANC Politics				
State Capture of State-Owned Enterprises and Government Departments				
Interference in operations at the SABC	The Ad Hoc Committee was established in November 2016 and final report was tabled on 24 February 2017.	Parliamentary Ad Hoc Committee on the SABC Board Inquiry into mismanagement and interference in SABC operations. Findings include evidence of Minister Faith Muthambi's interference in the organisation and editorial interference, in the firing of SABC 8 who protested censorship of the national broadcaster (on instruction from COO Hlaudi Motsoeneng). It should be noted that the inquiry was preceded by an investigation by the Public Protector. Details are contained in the 2014 report titled <i>When Governance and Ethics Fail</i> .	<ul style="list-style-type: none"> Parliamentary Inquiry Preceded by an investigation by the Public Protector 	<ul style="list-style-type: none"> SABC (Department of Communication)
Passenger Rail Agency of South Africa (PRASA)	Complaints were lodged in 2012 and the report was released in August 2015.	Several cases of "mismanagement and irregularities" regarding various contracts. Lucky Montana was CEO at the time. One of the remedial actions stipulated that National Treasury was to investigate all PRASA contracts from 2012 onwards with a value of R10 million or more. National Treasury implemented the remedial action which resulted in several investigations, the details of which were leaked to the public.	<ul style="list-style-type: none"> Public Protector's <i>Derailed</i> report on PRASA Numerous investigations 	<ul style="list-style-type: none"> PRASA Department of Transport
	In June 2017, Parliament directed 4 committees to investigate state capture. Committee hearings were not completed.	In terms of the parliamentary directive, the Portfolio Committee on Transport was requested to establish an Inquiry into State Capture at PRASA. However, the Portfolio Committee noted that PRASA was not mentioned in the Public Protector's <i>State of Capture</i> report and decided they would focus on the various investigation reports produced for National Treasury (as recommended in <i>Derailed</i> report).	<ul style="list-style-type: none"> Portfolio Committee on Transport 	<ul style="list-style-type: none"> PRASA Department of Transport
Eskom Inquiry into State Capture	In June 2017, Parliament directed 4 committees to investigate state capture. Public Enterprises Committee report on Eskom was released in November 2018.	Extensive hearings were held by the Committee detailing much of the evidence presented in the Public Protector's report. The Committee presented recommendations and compiled a final report detailing their findings. These included findings that Ministers Lynne Brown and Malusi Gigaba were negligent and had to be held accountable. Also recommended that criminal investigations be undertaken against the relevant Eskom executives.	<ul style="list-style-type: none"> Parliamentary Inquiry 	<ul style="list-style-type: none"> Eskom Department of Public Enterprises
Nugent Commission – SARS Inquiry	The Inquiry was constituted on 24 May 2018 and the final report was released in December 2018.	Commission of Inquiry into tax administration and governance by South African Revenue Service (SARS). Tom Moyane was fired based on the interim report released in September 2018. The inquiry found that Moyane, with the help of consultancy company Bain, had implemented restructuring of the organisation, resulting in gross mismanagement and erosion of SARS. Moyane motivated the restructuring based on the "rogue unit" narrative that has been the subject of several other debunked investigations and the subject of much litigation.	<ul style="list-style-type: none"> Judicial Commission of Inquiry Court cases around the "rogue unit" narrative 	<ul style="list-style-type: none"> SARS (National Treasury)

Case Study in State Capture	Status	Summary Description	Investigation Body / Source of Evidence	Government Entity Implicated
Scandals Connected to Jacob Zuma, Guptas, Other Key Networks and ANC Politics				
State Capture of State-Owned Enterprises and Government Departments				
Commission of Inquiry into Public Investment Corporation (PIC)	In October 2018, the Commission was constituted, and the final report was released in March 2020.	Commission of Inquiry into allegations of impropriety regarding Public Investment Corporation (PIC). There were extensive hearings on various 'dodgy' deals the PIC entered into and details of political and executive interference in the operations and decision-making processes of the investment agency.	<ul style="list-style-type: none"> Judicial Commission of Inquiry 	<ul style="list-style-type: none"> PIC (National Treasury)
South African Social Security Agency (SASSA)	Various Constitutional Court cases from 2011 to 2018 resulted in removal of CPS as service provider to SASSA.	In 2014, South African Social Security Agency's (SASSA) 2012 contract with CPS was found to be irregular and invalid, however, due to the importance of ensuring beneficiaries received grants, CPS continued to be the service providers until 2018. Following a March 2017 ruling, the Constitutional Court instituted a Section 38 Inquiry into Minister Bathabile Dlamini's personal liability for the narrowly averted grant payment crisis.	Primary sources: <ul style="list-style-type: none"> AllPay court case Black Sash court case 	<ul style="list-style-type: none"> SASSA
South African Airways (SAA) and SAA Technical	Court case to have Dudu Myeni declared a delinquent director was launched in 2017.	Court case was launched in 2017 by Outa and the SAA Pilots' Association (SAAPA) to declare Myeni a delinquent director in terms of the Companies Act, based on her actions while she was chairperson of the SAA Board. In 2020, the High Court declared Myeni a delinquent director for life. A significant amount of new evidence also emerged through the Zondo Commission, outlining how the operations at SAA were undermined and how Myeni and others abused their positions of authority.	<ul style="list-style-type: none"> Court papers Zondo Commission 	<ul style="list-style-type: none"> SAA SAA Technical
Gupta Family Naturalisation	In June 2017, Parliament directed 4 committees to investigate state capture. Final report was tabled 14 March 2019.	Portfolio Committee on Home Affairs Inquiry into the Gupta Family Naturalisation was established in terms of the Parliamentary directive. Hearings formally started on 12 September 2018. Final report was tabled on 14 March 2019. Questions were raised around contracts with Visa Facilitation Services. This matter is ongoing as of December 2020.	<ul style="list-style-type: none"> Portfolio Committee on Home Affairs 	<ul style="list-style-type: none"> Department of Home Affairs
Inquiry into State Capture related to Gupta-owned mines	In June 2017, Parliament directed 4 committees to investigate state capture.	Though the Committee drafted a term of reference for the Inquiry, the activities of holding hearings and consolidating the evidence never materialised beyond questions being put to then Minister Zwane.	<ul style="list-style-type: none"> Portfolio Committee on Mineral Resources 	<ul style="list-style-type: none"> Department of Mineral Resources

Case Study in State Capture	Status	Summary Description	Investigation Body / Source of Evidence	Government Entity Implicated
Scandals Connected to Jacob Zuma, Guptas, Other Key Networks and ANC Politics				
State Capture of State-Owned Enterprises and Government Departments				
Various investigations relating to State Capture at Eskom	2015	In 2015, Dentons produced an interim report on their investigations into Status of Business and Challenges at Eskom. Their investigation was halted.	▪ Eskom	▪ Eskom
	2017	In 2017, PricewaterhouseCoopers (PwC) was appointed by National Treasury to investigate Eskom's Coal Procurement Processes. Damning findings were made in relation to Gupta-owned Tegeta mine contracts and poor coal quality.	▪ Eskom	▪ Eskom
		G9 was contracted by Eskom to investigate the Trillian/McKinsey contracts. Interim report presented to Board of Eskom in August 2017. The investigation remained incomplete, and no report is available in the public domain. Evidence from the investigation was presented in the Parliamentary Inquiry into Eskom State Capture.	▪ National Treasury	▪ Eskom
National Treasury Fundudzi reports, related to Eskom and Transnet (x3)	Final reports compiled in November 2018 and released to the public shortly thereafter.	Investigations requested by National Treasury of alleged corruption at Transnet and Eskom. The three reports focused on Eskom (general), the contracts related to Trillian/McKinsey and Transnet Locomotives.	▪ National Treasury Fundudzi	▪ Eskom ▪ Transnet
Transnet Locomotive Contracts	Investigations commenced in December 2017 and reports on findings submitted during 2018.	Werksmans Attorneys was appointed in December 2017 to undertake an investigation into the 1 064 Transnet Locomotives procurement process, however, the investigation was halted. No report in the public domain.	▪ Werksmans	▪ Transnet
		Mncedisi Ndlovu & Sedumedi (MNS) Attorneys was then appointed to investigate 1 064 locomotives procurement process. The report is not in the public domain, but media indicates that recommendations mirror the Werksmans' findings and recommends that Molefe face criminal charges.	▪ Mncedisi Ndlovu & Sedumedi	▪ Transnet
Inquiry into State Capture at Transnet and Denel	In June 2017, Parliament directed 4 committees to investigate state capture. Committee hearings were not completed.	A detailed information booklet was prepared in relation to Transnet, however, hearings were not held before the end of term of Parliament. Following National elections in 2019, it was decided that outstanding Inquiries into state capture be postponed indefinitely until conclusion of the Zondo Commission.	▪ Portfolio Committee on Public Enterprises	▪ Transnet ▪ Denel

Case Study in State Capture	Status	Summary Description	Investigation Body / Source of Evidence	Government Entity Implicated
Scandals Connected to Jacob Zuma, Gupta, Other Key Networks and ANC Politics				
Law Enforcement and the Security Cluster				
Enquiry into Jiba and Mrwebi's fitness to hold office at NPA	Established in November 2018. Report was issued in April 2019.	Presidential Enquiry into the fitness to hold office of suspended NPA senior advocates Nomgcobo Jiba and Lawrence Mrwebi. NPA's deputy head Jiba, and Mrwebi, the head of the Specialised Commercial Crimes Unit, were suspended in October 2018 by President Cyril Ramaphosa. The Inquiry was headed by retired Constitutional Court Justice Yvonne Mokgoro. Jiba and Mrwebi were accused of improper conduct in their handling of cases involving former crime intelligence head Richard Mdluli, as well as former KwaZulu-Natal Hawks boss Johan Booysen.	<ul style="list-style-type: none"> ▪ Mokgoro Enquiry 	<ul style="list-style-type: none"> ▪ National Prosecuting Authority
High-Level Review Panel on the State Security Agency (SSA)	Established in June 2018 and final report was sent to the President in December 2018.	The High-Level Review Panel into the SSA was established by President Ramaphosa in June 2018. The key finding was a serious politicisation and factionalisation of the intelligence community over the past decade or more. This resulted in "an almost complete disregard for the Constitution, policy, legislation and other prescripts, and [turned] our civilian intelligence community into a private resource to serve the political and personal interests of particular individuals" (High-Level Review Panel on the SSA, 2018, p.ii).	<ul style="list-style-type: none"> ▪ Review Panel established by President Ramaphosa 	<ul style="list-style-type: none"> ▪ SSA
Various court cases against persons within law enforcement	Ongoing.	Though testimony and evidence have been presented at the Zondo Commission, it is understood that no definitive findings will be made regarding the capture of law enforcement under the Zuma administration. Since 2012 onwards, there were several court cases that were pursued against individuals in law enforcement, all of which have been either dismissed or withdrawn. Most noteworthy are the cases involved, amongst others: Anwa Dramat and Shadrack Sibiya of the Hawks (and Robert McBride from Independent Police Investigative Directorate [IPID]) for allegations related to the "Zimbabwean rendition" matter; Johan Booysen for alleged racketeering as part of "Cato Manor hit squad"; and the various senior officials accused of being part of the "rogue" intelligence unit at SARS. Other court cases that have provided significant evidence indicating the capture of law enforcement relate to the irregular appointed allies of the Shadow State capture network or the irrational removal of potential opponents holding senior positions in law enforcement. Example is the irregular removal of Mxolisi Nxasana as National Director of Public Prosecutions (NDPP).	<ul style="list-style-type: none"> ▪ Various court cases, proceedings in Parliament ▪ Zondo Commission 	<ul style="list-style-type: none"> ▪ NPA ▪ SAPS ▪ Hawks ▪ IPID

Case Study in State Capture	Status	Summary Description	Investigation Body / Source of Evidence	Government Entity Implicated
Scandals Connected to Jacob Zuma, Guptas, Other Key Networks and ANC Politics				
Investigations concerning Private Sector				
Budlender report on Trillian	Released in June 2017.	Trillian Holdings Board appointed Geoff Budlender SC to undertake investigations into State Capture allegations at Trillian Capital. Detailed accounts from whistle-blowers highlighted how information was withheld by senior management at Trillian.	<ul style="list-style-type: none"> ▪ Trillion 	<ul style="list-style-type: none"> ▪ Eskom
Collapse of VBS Mutual Bank	Investigation launched in April 2018 and the report was released in October 2018.	Minister of Finance placed VBS under curatorship with effect from 11 March 2018. In April 2018, the Deputy Governor of the South African Reserve Bank instituted an investigation into VBS. The outcomes of the investigation showed blatant fraud and corruption by senior executives/Board and how they extracted money from the bank. Municipal funds were illegally deposited with VBS (senior ANC and EFF politicians have been implicated).	<ul style="list-style-type: none"> ▪ SARB investigation report <i>VBS Mutual Bank – The Great Bank Heist</i> 	<ul style="list-style-type: none"> ▪ Several Provincial and Municipal Officials (Limpopo Government) ▪ SOEs (particularly PRASA)
SA Institute of Chartered Accountants' (SAICA) investigation into KPMG	Final report was handed to SAICA in December 2018.	SA Institute of Chartered Accountants (SAICA) established an Inquiry to investigate state capture related allegations of misconduct of its members who worked for KPMG. The Inquiry chaired by advocate Dumisa Ntsebeza held public hearings and handed its final report to SAICA in December 2018. Indications are that the final report will not be made public until all investigations and disciplinary hearings have been finalised.	<ul style="list-style-type: none"> ▪ SAICA 	<ul style="list-style-type: none"> ▪ Guptas
Bell Pottinger	2017 investigation by PRCA.	In 2016, the Guptas appointed British PR company, Bell Pottinger, who developed and promoted a campaign that underpinned the RET and WMC narratives. In 2017, there was an independent law firm review by Herbert Smith Freehills resulting in Bell Pottinger's expulsion from the Public Relations and Communications Association (PRCA).	<ul style="list-style-type: none"> ▪ PRCA ▪ GuptaLeaks ▪ Ongoing research on disinformation 	<ul style="list-style-type: none"> ▪ Guptas