

# **The Dismantling of Institutional Safeguards in Post-Apartheid South Africa: A Research Paper**

## **Introduction**

This research paper examines the systematic dismantling of institutional safeguards for public funds in South Africa since the end of apartheid in 1994. It analyzes how political leadership, particularly during the presidencies of Thabo Mbeki and Jacob Zuma, contributed to a culture of corruption and institutional decay. The paper also investigates the role of the media and civil society in exposing and challenging these failures, and provides practical advice for ordinary citizens and community organizations to hold government accountable and rectify the current state of affairs.

This research is a direct response to the user's request to build upon the previous analysis of the Mossel Bay municipality and to conduct a deep dive into the broader historical and political context of governance failures in South Africa. The paper will draw on a wide range of sources, including academic research, media reports, government documents, and speeches by political leaders, to provide a comprehensive and nuanced analysis of this critical issue.

## **Part 1: Institutional Safeguards Pre- and Post-1994**

### **1.1 Apartheid-Era Institutional Structures**

Despite the morally bankrupt and repressive nature of the apartheid regime, it maintained a set of centralized institutional controls over public finances. The apartheid government operated through hierarchical structures designed to enforce fiscal discipline and prevent unauthorized spending, primarily to serve the interests of the white minority and sustain its policies. These mechanisms included a centralized Treasury with significant oversight powers, formal auditing requirements for government expenditure, and a civil service governed by strict regulations and hierarchical controls. State-owned enterprises were subject to financial reporting requirements, and the central bank maintained control over monetary policy. While these institutions were instruments of a discriminatory and unjust system, they provided a structural framework that limited large-scale financial misappropriation by individual officials, maintaining a form of institutional discipline through fear, centralization, and hierarchical accountability.

### **1.2 Post-1994 Institutional Changes and Emerging Vulnerabilities**

The transition to democracy in 1994 brought about profound and necessary institutional changes. However, this rapid transformation also created new vulnerabilities to corruption. The new ANC government implemented a policy of decentralization, transferring power from the central government to newly established provincial and municipal structures. While this was essential for democratic governance, it also created opportunities for financial mismanagement at local levels, where oversight mechanisms were often weak and institutional capacity was limited.

A significant transformation of the civil service was undertaken to create a public service that was representative of the country's demographics. This process, while crucial for redressing the injustices of apartheid, sometimes prioritized political loyalty and racial representation over institutional expertise and professional standards, leading to a loss of institutional memory and a weakening of professional norms. The new democratic government also established a framework of oversight institutions, including a strengthened Parliament, an independent Auditor-General's office, and a Public Protector with investigative powers. However, these bodies faced significant challenges in their early years, including resource constraints and a lack of experienced personnel. Furthermore, the ANC's overwhelming parliamentary majority, which grew from 66% in 1994 to nearly 70% in 1999, limited the effectiveness of parliamentary oversight due to strong party discipline.

### **1.3 The Critical Transition Period (1994–1999)**

The first five years of democracy under President Nelson Mandela's leadership saw the establishment of new institutional frameworks, but also the emergence of vulnerabilities that would later be exploited. Mandela's moral authority and the presence of experienced administrators, such as Finance Minister Trevor Manuel, helped maintain a degree of institutional discipline. Key institutional developments during this period, including the adoption of the 1996 Constitution and the enactment of the Public Finance Management Act (PFMA) in 1999, laid the groundwork for sound financial management.

However, the rapid pace of institutional transformation meant that many new structures lacked the experience and capacity to function effectively. Political considerations began to override institutional procedures, and the dominance of the ANC in Parliament created an environment where robust oversight was difficult to achieve. The transformation of the civil service, while necessary, created gaps in expertise that would prove costly in the years to come.

## **Part 2: The Arms Deal (1998-1999) - A Defining Moment of Institutional Failure**

### **2.1 Background and Context**

The Strategic Defence Package, popularly known as the Arms Deal, represents the first major test of post-apartheid South Africa's institutional safeguards and, ultimately, their first catastrophic failure. In 1998, the Cabinet approved a Defence Review Report that called for a large-scale re-equipping of the South African National Defence Force. In December 1999, the government signed contracts with several European arms suppliers for corvettes, submarines, helicopters, and fighter and trainer aircraft, at an initial cost of R30 billion. Due to financing arrangements and exchange rate fluctuations, the final cost, which was only paid off in October 2020, is estimated to be significantly higher, though the government has never disclosed the total expenditure.

The deal was championed by then-Deputy President Thabo Mbeki, who supported Defence Minister Joe Modise in pushing the procurement forward despite concerns from other cabinet members, including Finance Minister Trevor Manuel, about its scale and cost. The procurement process, which was supposed to be guided by technical, financial, and industrial participation evaluations, was systematically subverted, paving the way for widespread corruption.

### **2.2 Corruption Allegations and Systemic Institutional Failures**

The Arms Deal quickly became mired in allegations of large-scale corruption, implicating senior ANC politicians and government officials. Allegations of fraud, bribery, racketeering, and money laundering surfaced in relation to all five major programs within the package. At least three former cabinet ministers—Joe Modise, Sipiwe Nyanda, and Stella Sigcau—and two former presidents, Thabo Mbeki and Jacob Zuma, were accused of improperly benefiting from the deal.

The institutional failures that allowed this corruption to flourish were numerous and systemic:

- Parliamentary Oversight Bypassed:** The final R30 billion package was merely "presented" to Parliament in December 1999, not formally approved as was required. This act demonstrated a flagrant disregard for parliamentary procedure and exposed the weakness of legislative oversight in the face of a dominant executive and ruling party.
- Compromised Cabinet Approval:** The Cabinet approved the procurement recommendations without adequate scrutiny of the process or the emerging allegations of corruption. The executive's internal checks and balances failed, undermined by party discipline and the influence of powerful pro-deal advocates.
- Failure of Defence Department Oversight:** The multiple evaluation committees within the Department of Defence, which were designed to ensure a fair and transparent procurement process, failed to prevent or detect corruption. Evidence suggests that preferred suppliers were selected based on criteria other than merit and value for money.

•Inadequate Auditing and Investigation: The Auditor-General's office lacked the capacity and resources to conduct a thorough investigation into the complex procurement process, and early audits failed to uncover the extent of the irregularities. Furthermore, law enforcement agencies, including the police and prosecutorial authorities, were largely ineffective in investigating the allegations, leading to very few convictions despite the widespread evidence of corruption .

## **2.3 Media Coverage and the Contradictions of Political Rhetoric**

South African media outlets, particularly the Mail & Guardian, played a crucial role in exposing the Arms Deal corruption. Investigative journalists persistently reported on the escalating costs, procedural irregularities, and specific allegations of bribery, often in the face of political pressure and attempts by the government to control the narrative.

Thabo Mbeki's public statements on governance and corruption during this period stand in stark contrast to his role in championing the Arms Deal. In his 2000 State of the Nation Address, Mbeki declared, "We have a continuing responsibility to root out corruption from the public sector. This is a critical factor in our struggle to achieve the goal of good governance" . He emphasized the need for "improving management, financial accountability and service delivery" and "combating corruption and the abuse of public resources" . However, despite this strong anti-corruption rhetoric, Mbeki's government resisted calls for a full-scale, independent investigation into the Arms Deal. Years later, when testifying before the Seriti Commission of Inquiry in 2013, Mbeki maintained that the deal was "above board" . This fundamental contradiction between public pronouncements and political actions demonstrated that the newly established institutional safeguards were inadequate to prevent corruption when faced with a lack of political will from the highest levels of government.

## **2.4 The Institutional Lessons of the Arms Deal**

The Arms Deal exposed critical weaknesses in South Africa's post-apartheid institutional framework. It revealed that parliamentary oversight could be easily circumvented, that Cabinet's internal checks and balances were fragile, and that the auditing and law enforcement agencies lacked the independence and capacity to hold the executive accountable. The scandal demonstrated that without a genuine commitment to transparency and accountability from the political leadership, even a constitutionally robust set of institutions could fail. The Arms Deal set a dangerous precedent, signaling that corruption at the highest levels of government could go unpunished and paving the way for the more systematic institutional dismantling that would characterize the era of state capture.

# **Part 3: State Capture Under Jacob Zuma (2009–2018)**

## **3.1 The Escalation of Institutional Decay**

If the Arms Deal represented the first major institutional failure of the post-apartheid era, the presidency of Jacob Zuma (2009–2018) witnessed the systematic dismantling of the state's remaining institutional safeguards. Zuma's tenure was characterized by a concerted effort to weaken law enforcement agencies, compromise the judiciary, control the media, and repurpose state resources for private enrichment. The administration appointed individuals based on political loyalty rather than competence to key positions in law enforcement, the judiciary, and state-owned enterprises (SOEs), effectively neutralizing their ability to function as checks on executive power.

Central to this era of "state capture" was the relationship between President Zuma and the Gupta family, three Indian-born brothers who had built a sprawling business empire in South Africa. The Guptas' companies secured lucrative contracts with government departments and SOEs, and several of Zuma's family members, including his son Duduzane, were employed in senior positions within the Gupta business network .

## **3.2 The Mechanics of State Capture**

State capture is a form of systemic corruption that goes far beyond individual acts of bribery or embezzlement. It occurs when private interests, in collusion with political actors, systematically influence a country's decision-making processes to advance their own interests. Crucially, this involves not only biasing public policy but also "strategically weakening that part of the state's law enforcement mechanism that might crack down on corruption" .

As Abby Innes of the London School of Economics explains, in a situation of full-on state capture, "the whole policy-making structure of the state becomes commodified - something that politicians are willing to sell" . Rather than simply paying to get away with breaking the law, those engaged in state capture pay to make the law work for them.

## **3.3 How State Capture Operated in South Africa**

The relationship between the Zuma family and the Gupta family—often referred to as the "Zuptas"—provides a clear illustration of how state capture operated in South Africa. The Guptas leveraged their close ties to the president to exert influence over a vast network of public bodies, including the ministries of finance, natural resources, and public enterprise, as well as government agencies responsible for tax collection and communications. Key state-owned enterprises, such as the national broadcaster SABC, South African Airways, the rail-freight operator Transnet, and the energy giant Eskom, were also "captured" . Testimony from numerous public officials at the subsequent Zondo Commission of Inquiry into Allegations of State Capture revealed that they were directly instructed by the Guptas to make decisions that would benefit the brothers' business interests. Compliance was rewarded with financial incentives and promotions, while defiance was met with dismissal .

The key to the success of this systemic corruption was President Zuma's power of appointment. As president, Zuma had the authority to appoint ministers, the boards of directors of SOEs, and, most critically, the heads of law enforcement agencies. As David Lewis, the executive director of the anti-corruption NGO Corruption Watch, observed, Zuma could act with impunity "as long as he ensured who was appointed the head of the police, and the head of the anti-corruption agency of the police" . This represented the ultimate dismantling of institutional safeguards, as the very institutions designed to check executive power were compromised through political appointments and direct interference.

## **3.4 The Devastating Impact of State Capture**

The consequences of state capture for South Africa have been catastrophic. The systematic looting of public funds has left a massive hole in the country's finances, costing the economy tens of billions of dollars. The scandal has also severely damaged the reputation of the ANC, the party that has governed South Africa since the end of apartheid, with many of its senior members implicated in the corruption.

Beyond the financial costs, state capture has eroded public trust in government and hollowed out the country's democratic institutions. The reputations of several international firms that did business with the Guptas, including KPMG, McKinsey, and SAP, were also tarnished by their involvement in the scandal . The ultimate victim, however, has been the South African political system itself, which was corrupted and repurposed to serve the interests of a politically connected elite.

# **Part 4: Media Coverage and Civil Society Response**

## **4.1 The Role of Independent Media**

Despite the sustained assault on South Africa's institutional safeguards, the country's independent media played a vital role in exposing corruption and holding power to account. The 2017 Taco Kuiper Award for Investigative Journalism, for example, was awarded to a collaborative effort by News24, the Daily

Maverick, and the amaBhungane Centre for Investigative Journalism for their extensive investigation into the Gupta family's influence on the government .

These and other media outlets conducted exhaustive investigations into state capture, meticulously documenting the mechanisms of corruption, the scale of the looting, and the individuals involved. Their work was often iterative with the investigations of the Public Protector, with media reports helping to trigger official inquiries and build public pressure for accountability. The media's role was critical in several respects:

- Informing the Public: Media coverage brought the complex and often secretive dealings of state capture into the public domain, raising awareness of the extent of the crisis.
- Galvanizing Civil Society: The revelations published in the media helped to mobilize a broad cross-section of civil society, including churches, trade unions, and grassroots movements.
- Supporting Strategic Litigation: Media reports provided crucial evidence and public support for the legal challenges brought by civil society organizations against the Zuma administration.
- Holding Institutions Accountable: Investigative journalism exposed the failures of law enforcement agencies and other institutions to act against corruption, increasing the pressure on them to do so.

## **4.2 Civil Society Mobilization and the Public Protector**

South Africa's vibrant civil society was a formidable force in the fight against state capture. Organizations such as Corruption Watch and grassroots movements like Save South Africa conducted their own investigations, organized public campaigns, and used strategic litigation to challenge the government and demand accountability.

A key institution in this regard was the Office of the Public Protector. Despite being a state institution, the Public Protector's office, under the leadership of Thuli Madonsela, functioned as an independent and fearless investigator of corruption. The Public Protector's two groundbreaking reports—"Secure in Comfort," which investigated the misuse of public funds for upgrades to Zuma's private residence at Nkandla, and "State of Capture," which detailed the systematic seizure of state institutions by private interests—were pivotal moments in the fight against corruption .

These reports, which were legally binding, set in motion a series of legal and constitutional processes that ultimately led to Zuma's removal from office and his subsequent imprisonment. The work of the Public Protector demonstrated that even as other institutional safeguards were being systematically dismantled, a single, independent institution could still play a decisive role in upholding the rule of law.

## **4.3 The Role of the Judiciary**

Civil society organizations made effective use of the courts to hold the government accountable, filing numerous cases in the High Courts and the Constitutional Court to challenge government actions and demand accountability. The judiciary, and particularly the Constitutional Court, demonstrated a remarkable degree of independence, frequently ruling against the government and providing a crucial check on executive power at a time when other institutional safeguards had been severely compromised.

# **Part 5: Practical Advice for Citizens and Ratepayer Associations**

## **5.1 Understanding the Current State of Affairs**

For ordinary, hard-working, tax-paying community members to rectify the current state of affairs, the first step is to understand that while South Africa's institutional safeguards have been severely weakened, they have not been entirely destroyed. The courts, particularly the Constitutional Court, have consistently demonstrated their independence. The office of the Public Protector, despite facing political pressure, remains a powerful tool for investigation. Parliament, though dominated by the ruling party, still provides a platform for opposition parties to raise concerns and demand accountability. And a free and robust media, though facing its own challenges, continues to expose corruption.

However, these institutions have their limitations. The courts can only act on cases brought before them, the Public Protector has limited resources, and parliamentary oversight is often constrained by party politics. Therefore, citizens and civil society organizations must recognize that institutional safeguards are necessary but not sufficient. Active citizen engagement is required to supplement the work of these institutions and hold them to account.

## 5.2 Mechanisms for Citizen Action

Citizens and ratepayer associations have several powerful mechanisms at their disposal to hold government accountable:

- Engagement with the Public Protector:** Any citizen or organization can file a complaint with the Public Protector regarding municipal mismanagement, corruption, or ethical violations. The Public Protector's findings are legally binding, and a report that finds against a municipality can force it to take corrective action. For example, ratepayer associations in Mossel Bay could file a complaint regarding the excessive rates increases and lack of transparency.
- Strategic Litigation:** Civil society organizations can, and have, successfully used the courts to challenge government actions. Ratepayer associations can file legal challenges against municipalities for rates increases that violate constitutional or statutory limits, for irregular procurement processes, or for a failure to provide adequate services. The courts have shown a willingness to rule against the government in such cases.
- Parliamentary Engagement:** Citizens can engage with Parliament by submitting petitions, attending committee meetings, and providing testimony on issues of concern. Engaging with opposition parties can also be an effective way to raise issues at a national level and request parliamentary investigations into municipal affairs.
- Media Engagement:** The media is a powerful ally in the fight for accountability. Citizens and community organizations can provide information to investigative journalists, organize media events to publicize their concerns, and use social media and other platforms to raise awareness.
- Grassroots Mobilization:** Organizing community meetings, public awareness campaigns, and peaceful protests can create significant political pressure on municipal officials to respond to citizen concerns.
- Formation of Ratepayer Associations:** By forming and supporting ratepayer associations, citizens can pool their resources, conduct research into municipal finances, and collectively advocate for their interests. Organizations like the Mossel Bay Property Owners Association (MPOA) and MossRates are prime examples of how collective action can empower communities to challenge municipal governance.

## 5.3 Specific Strategies for Ratepayer Associations

For ratepayer associations seeking to challenge excessive rates increases and a lack of transparency, a multi-pronged strategy is most effective:

- 1.**Conduct Thorough Research:** Document historical rates increases and compare them with inflation. Analyze municipal budgets and expenditure patterns. Scrutinize audit reports from the Auditor-General. This evidence-based approach is essential for building a strong case.
- 2.**Engage with Oversight Bodies:** File formal complaints with the Public Protector and request special audits from the Auditor-General. These actions can trigger formal investigations and generate official findings that can be used in legal challenges.
- 3.**Engage Directly with Municipal Officials:** Request meetings with municipal officials to present research findings and demand explanations. This direct engagement can sometimes lead to negotiated solutions and demonstrates a commitment to resolving issues through dialogue.
- 4.**Leverage the Media:** Work with journalists to publicize research findings and expose maladministration. Media coverage can galvanize public support and increase the pressure on officials to act.
- 5.**Organize the Community:** Mobilize the community through public meetings, awareness campaigns, and peaceful protests. A strong and united community voice is difficult for officials to ignore.

6. Pursue Strategic Litigation: As a last resort, or in parallel with other strategies, pursue legal action to challenge unlawful rates increases or other municipal actions. This can establish important legal precedents and force municipalities to comply with the law.

## Conclusion

The trajectory of institutional decay in post-apartheid South Africa, from the initial failings of the Arms Deal to the systemic corruption of the state capture era, provides a sobering case study in how quickly democratic institutions can be undermined. The research demonstrates that the dismantling of safeguards for public funds was not an accidental process but a deliberate one, driven by a political leadership that prioritized personal enrichment and political power over good governance and the rule of law.

However, the South African experience also offers a powerful lesson in the resilience of democratic institutions and the critical role of an active and engaged citizenry. The persistent and courageous work of investigative journalists, civil society organizations, and an independent judiciary ultimately exposed the extent of the corruption and held those responsible to account. This research paper has sought to not only document the failures of governance but also to provide a practical roadmap for how ordinary citizens can rectify the current state of affairs.

For the hard-working, tax-paying community members of South Africa, the path forward lies in a renewed commitment to active citizenship. By understanding the mechanisms of accountability that still exist, and by working collectively through ratepayer associations and other civil society formations, citizens can challenge corruption, demand transparency, and reclaim the promise of a democratic and accountable government. The fight is far from over, but the South African story demonstrates that with courage, persistence, and a commitment to the rule of law, it is a fight that can be won.

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