LECTURE
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STATE FORMATION AND STATE CAPTURE*

INTRODUCTION

This presentation is on state formation and state capture in the South African setting. In this regard, it would be crucial to start off by restating fundamental issues of principle.

The strategic perspective of the National Democratic Revolution (NDR) is the creation of a society that is an anti-thesis to the basic antagonisms that rendered the liberation struggle necessary in the first place: race-based colonial social relations that manifested in political oppression, class super-exploitation and gender oppression. Positively formulated, the aim is to construct a society that reflects consistent equality across race and gender, and one that is democratic and prosperous.

As articulated in the 1942 African Claims and the 1955 Freedom Charter, this requires a state that derives its authority from the will of the people through regular elections and popular participation, a state in which the people enjoy human rights, and a state which has checks and balances necessary in a law-governed society.

The national democratic society that the liberation movement seeks to create is meant to reflect the best attributes of a developmental state and social democracy.

STATE FORMATION

What is the place and role of the state in all this: why is it such a crucial factor in the discourse on liberation and social transformation?

The state, in the words of Friedrich Engels is

… is a product of society at a certain stage of development; it is the admission that this society has become entangled in an insoluble contradiction with itself, that it has split into irreconcilable antagonisms which it is powerless to dispel. But in order that these antagonisms, these classes with conflicting economic interests, might not consume themselves and society in fruitless struggle, it became necessary to have a power, seemingly standing above society, that would alleviate the conflict and keep it within the bounds of 'order'; and this power, arisen out of society but placing itself above it, and alienating itself more and more from it, is the state" (The Origin of the Family, Private Property and the State, pp 157-158)

Engels uses the phrase, "seemingly standing above society" deliberately; because the state is in fact an expression of class dynamics in society. It expresses rule by a class or classes that have attained power and control the means of production. In the South African situation, it can be argued that, because the predominant social system is capitalist, the capitalist class is by definition the ruling class. But the attainment of liberation, reflected in the transfer of power from the colonial ruling group to the multiclass formation that is the liberation movement, lends the post-colonial state the unique attribute of reflecting the coalition of classes and strata that constitute the liberation front:

primarily, the indigenous bourgeoisie, the working class, the peasantry, and the middle strata which includes the intelligentsia perched among these classes and strata.

But should we infer one-directional causality between the level of development of economic organisation and industry, on the one hand, and instruments of social organisation, on the other? As many would argue, forms of social organisation can evolve and assume autonomous identities. Indeed, Engels himself makes this qualification in his *Letter to Bloch*:

"The economic situation is the basis, but the various elements of the superstructure — … political, juristic, philosophical theories, religious views and their further development into systems of dogmas — also exercise their influence upon the course of the historical struggles and in many cases preponderate in determining their form." (Friedrich Engels, Letter to J. Bloch in Königsberg, http://www.marxists.org/... 1890/letters...)

Now, the coalition of liberation forces sets out to transform the inherited state to represent their interests. But these forces do have their own internal contradictions, as their interests – beyond the act of liberation – do not always coincide. In that sense, the state in post-colonial societies is a heavily contested terrain. It is the arena of endless wrestling, and it may oscillate from one extreme to another in terms of what liberation actually means.

One of the first tasks of the liberation movement as it ascends to political office is the transformation of the state to serve the objectives of thoroughgoing change. In this context, in the past ten years, the notion of a developmental state has started to feature prominently in public policy discourse.

DEVELOPMENTAL STATE

What is so alluring about the notion of a developmental state; and does its theorisation matter?

Some scholars have argued that all states are developmental: it is all about the path they choose to achieve their objectives, and the instruments they use to this end. In reality, though, the concept of a developmental state has been theorised *post facto* by economists and political economists to explain the riddles of growth and development trends of such magnitude and consistency, that countries have climbed from one rung of industrial and socio-economic development to another within one generation – qualitatively bridging the gap between themselves and the most developed countries.

The speed with which developmental states have built their economies and improved the social conditions of large populations, justifiably had to generate new categories in the science of social development. The practice of development had unearthed a new narrative regarding the relationship between the state, the citizen and the market.

A developmental state plays a leading role, particularly in directing economic development. In a society such as ours with deep social fissures, the state should have the strategic capacity not only to define the vision and course of social development but also, where necessary, to make the tough choices and ensure their implementation.

Of course, for the state to be able to intervene in this manner, it should enjoy popular legitimacy. Society should accept that the state genuinely represents the national interest. This cannot be decreed. Legitimacy and authority have to be earned. They derive, in our situation, from popular democracy – a state that represents the will of the people. While many instances of developmental states may have had elements of authoritarianism in the early years, in South Africa there is consensus that the state we seek to create should be a democratic developmental state.

Further, the state's visionary acumen and legitimacy have to be backed up by organisational and technical capacity.

The South African democratic movement inherited a state that it had to transform over time; at the same time as it used the same state to start implementing policies of change. Attached to this process was the danger of locking-in inherited bad habits, and tentativeness in reconfiguring the state to play a leadership role in directing economic development.

At another level, we still have to find the appropriate balance between embeddedness and autonomy – insulation and connectedness – which are critical attributes of developmental states. Because of the fault-lines of our history, the state bureaucracy has tended towards suspicion and insulation in its attitude towards the private sector. Further, the state and the liberation movement have not been able to inject strategic visioning within civil society, including the trade union movement. The ructions within working class organisations are in fact one of the greatest tragedies in the South African polity over the fifty years.

THE ROOTS OF TOXIC CONDUCT

Progress or otherwise in the transformation of the state and society at large is impacted upon by weaknesses that the ANC has characterised as 'sins of incumbency'. How do liberation movements lose the sense of idealism that included a preparedness to pay the ultimate price? How insidious can sins of incumbency become?

A few of the factors deserve mention.

The first element relates to legacy. The colonial state maintains its rule and seeks to impose legitimacy among the oppressed through force and subterfuge. It therefore develops networks of patronage on a grand scale, in relation to its collaborators and whole sections of the population. It purchases the obsequiousness of its constituency through privilege and favouritism. Especially towards the end of its days, the apartheid state in South Africa had become deeply corrupt, including through sanctions-busting activities and the extra-judicial space it had accorded its security agencies. This broadly is what the liberation movement inherited; and in situations where transitions include the integration of old-order political and bureaucratic functionaries, the problem is multiplied many-fold.

The second and related element pertains to the manner in which power is exercised and public service is rendered. This in part has to do with legacy; but it is also a matter of individual attitudes. When systems to provide services are unjust and/or unwieldy, the population develops ingenuous ways to circumvent these; and the providers of the services themselves are wont to seek underhand benefits. At the psychological level, if the power wielded has massive implications for the citizen –

individual or corporate – and state remuneration does not approximate the extent of that power, all manner of temptation is injected into the system, with 'weak' personalities easily tempted.

Thirdly, the act of liberation also entails efforts to raise a section of the liberation elite into the status of ruling class. It involves the rise of previously marginalised elites into business activities and positions within the state, which catapults them into 'middle and upper class' lifestyles. This is a necessary part of social transformation. But it has got its unintended consequences. For many, the rise into middle class lifestyles is tenuous, dependent on party selection processes and continued employment in state institutions. In the South African situation, the very nature of middle class lifestyles is distorted by the presence of a large white community, social trend-setters whose position was earned through racial privilege. In trying to mimic white lifestyles, the emergent elite overextends itself and individuals are then tempted to sustain newly-acquired tastes through corrupt means.

The fourth dimension relates to personal fidelity to ideal and principle. Cadres of the liberation movement who have limited capacity for self-restraint, do get entangled in venality hook, line and sinker. But there are also extremes, reflected by personalities who either do not have any, or lose all, sense of compunction and shame. The liberation movement may therefore also find itself dealing with syndromes that are essentially psychopathic – where the meaning of words is lost as individuals seek to rationalise bad conduct. Where corruptors and benefactors are criminally creative, blackmail – including through down-payments that leave the beneficiary hopelessly entangled – also becomes the stock-in-trade.

The fifth dimension is about party funding. It is par for the course that party establishments and activities require material resources. The practice of returning favours for donations infects virtually all democracies, and it is not unique to post-colonial societies. This does add toxicity to party-state relations. To win a state tender, unscrupulous businesspeople would promise donations to the party first, even before assembling the capacity to meet bid requirements; and party leaders then intervene to undermine state processes, whether in government departments or state-owned enterprises.

The more brazen among corrupt benefactors and beneficiaries will actually seek to capture whole institutions and turn them into their cookie jar. Thus is born institutional capture, of which state capture is but an important part.

DEBATING STATE CAPTURE

The notion of state capture gained currency largely in discourse around institutional changes in post-socialist Eastern Europe. However, it is acknowledged by objective analysts that it is a phenomenon prevalent in many other regions, including established democracies such as the United States of America.

State capture is defined in some literature as

"…the efforts of firms to shape the laws, policies, and regulations of the state to their own advantage by providing illicit private gains to public officials…

…firms seek to shape decisions taken by the state to gain specific advantages, often through the imposition of anticompetitive barriers that generate highly concentrated gains to selected powerful firms at a significant social cost. Because such firms use their influence to block any policy reforms that might eliminate these advantages, state capture has become not merely a symptom but also a fundamental cause of poor governance. In this view, the capture economy is trapped in a vicious circle in which the policy and institutional reforms necessary to improve governance are undermined by collusion between powerful firms and state officials who reap substantial private gains from the continuation of weak governance. [Joel Hellman and Daniel Kaufman: Confronting the Challenges of Sate Capture in Transition Economies, in Finance & Development: A quarterly Magazine of the IMF, September 2001, Volume 38, Number 3]

Others characterise it as

 "…a type of systemic political corruption in which private interests significantly influence a state's decision-making processes to their own advantage through unobvious channels, that may not be illegal. …[U]nlike regulatory capture, the influence is never overt.

 "Another distinguishing factor from corruption is while in case of corruption the outcome (of policy or regulatory decision) is not certain, in case of captured state the outcome of the decision is known and is to very high probability to be beneficial for captors of the state. Also in case of corruption (even rampant) there is plurality and competition of 'corruptors' to influence the outcome of the policy or distribution of resources. In case of captured state, those deciding are usually more in a position of agents to the principals (captors) who function either in monopolistic or oligopolistic (non-competitive) fashion. [Wikipedia]

Transparency International goes further to assert:

State capture can also arise from the more subtle close alignment of interests between specific business and political elites through family ties, friendship and the intertwined ownership of economic assets.

The main risk of state capture is that decisions no longer take into consideration the public interest but instead favour a specific group. [Maíra Martini, Transparency International, tihelpdesk@transparency.org: March 2014]

From these descriptions, it is quite clear that state capture cannot be conflated with various manifestations of relations that the state may have with a specific social sector or entity – legal or illegal, ethical or corrupt. In recent South African debates on state capture, there have been attempts at rationalising some of these practices.

It's in the very nature of the system because capitalists are the ruling class: There may be an element of truth in the assertion about the system and the ruling class. But, as argued earlier, the current state is one in transition, with the classes and strata that brought about liberation gradually wresting control to pursue a national democratic society. Among these, of course, are the black bourgeoisie; and the established capitalist group who are the owners of most of the country's capital have much sway over the direction of economic policy. This cannot be conflated with "unobvious channels" through which state capture takes place and alignment of interests "between business and political elites through family ties" and other links. Further, what the definitions of state capture

may not have taken into account is that this can also be exercised by other sectors in society, as reflected in the recent report on capture of some education departments (national and provincial) by teachers' union(s).

Complaints against state capture are a matter of sour grapes as a black-owned company outstrips the old establishment: Many black companies have been on the rise in various sectors of the economy. Most of them have benefited from policies of Black Economic Empowerment including preferential procurement and financial support from development finance institutions. This is a transparent generic policy that applies to all who qualify. There may even be instances of corruption in the execution of the policy; but even then, there would be "plurality and competition of 'corruptors'", as distinct from activities that favour captors of state institutions.

All capitalists do seek to influence policy decisions: Of course all classes and strata as well as interest groups try all the time to influence state decisions in their own interest. They lobby, cajole and also campaign to influence public opinion. There is much policy contestation abroad, and business will always seek to assert its interests and use leverages it commands to attain its own objectives. So do other social actors, including the working class; and some may even try corruptly to purchase their way into favour, influence appointments and so on. This is par for the course; and it is definitely different from any of these players being the decision-makers as such.

The state has to work with business: Indeed, it is in the nature of the developmental state that it should continually interact with all social role-players and mobilise them behind a vision and strategy for growth and development. The state should indeed be embedded among business (and other sectors); but it should remain autonomous in terms of the content and processes of decision-making. Working with business should not translate into state actors working for, and at the instruction of, a particular business entity.

All leaders have skeletons and should therefore curl up and shut up: There indeed may be skeletons in many cupboards and, as the saying goes, for every 'corruptee' there is a 'corruptor'. Those who are aware of such skeletons should lead the law-enforcement agencies to the burial sites rather than seeking to blackmail the party and society into silence.

For state capture to happen all arms of the state should have been captured: It is quite true that, for the captors to act "in a monopolistic or oligopolistic… fashion", these principals would need to have captured critical pillars of the state. But this does not necessarily mean that they should exercise control over each and every arm of the state. State capture can exist at a micro-level, as in the case of the allegations about trade union(s) and departments of education; or in various institutions at provincial and local levels. At a macro-level, it may relate to some or all arms of the state. And it is a matter of simple logic that state capture at a macro-level can include capture of the nerve centre or critical organ of the state colossus. Where such capture relates to the very centre of government, there would be few other perfect examples of state capture.

Therefore, state capture is about state decision-makers being "agents to the principals (captors)". An interesting allegory for this is the strange parasite, the tongue-eating louse or isopod. The parasite severs the veins of a fish's tongue until the tongue falls off. It then attaches itself to the stub operating as if it was the fish's tongue; and it survives by feeding on the fish's blood or mucus. Unlike other parasites, the isopod does not kill its host; and similarly it would not be in the fish's interest for

the isopod to leave or to die, as the fish no longer has its natural tongue…. organ and organism capture par excellence!

Can state capture be sustained without another form of institutional capture: in this case, political party capture? Where the captured straddle the party, the government and the state, direction and sequence of the capture can be either way. Clearly, state capture is bound to be faster and more effective if the party is on-side, or if the captured exercise authority and leverage across both entities. Where the relationship between party and state is not managed as demanded by constitutional and legal prescripts, capture of either the state or the party easily transmutes into capture of the other. Some leaders, once ensconced in state offices and once captured, can simply ignore or defy the party – creating a conundrum difficult to address.

CONJUNCTURE AND CONSEQUENCES OF TOXIC CONDUCT

To conclude, let us briefly reflect on the current conjuncture and the consequences of toxic conduct.

The South African polity is essentially a stable one, with the Constitution accepted across the board as the broad framework for the regulation of socio-political relations.

There has been progress in addressing poverty and providing water, electricity, sanitation as well as educational and health facilities

If there is a weakness in this area, it is that access to basic services is not combined with quality of these services. Combined with this are the high levels of social inequality; and young people and women bear the brunt of marginalisation.

The reality is that, since 1994, SA has been in a delicate balancing act of preventing the flammable social tinder from catching fire. Besides social delivery and the base effects of movement of many Blacks into middle strata, hope was the stock-in-trade.

Poor performance and corruption are destroying that hope. We may end up with a dangerous situation in which the state as a whole starts progressively to lose the confidence of the people. The hope that prevents South Africa's social tinder from catching fire can thus dissipate. State security agencies then become the first and last line of defence.

It can be argued though that the local government elections have demonstrated that there is a democratic outlet; a legitimate, legal and orderly instrument through which society can express its disappointment and impatience. We are all familiar with the outcome of the municipal elections and the consequences. After losing Cape Town a few years ago, the ANC now has to occupy the opposition benches in the major metropolitan areas of Nelson Mandela Bay, Tshwane and JHB (to boot, with a Speaker named Vasco da Gama in the JHB).

Besides this, the voting trends tell an interesting story; and among a few strategic issues for further interrogation are the following:
- Party performance: The ANC is in steep decline (PR: 65.7% in 2006 to 62.9% in 2011 and 54.5% in 2016); the DA's steep rise has slowed (16.3%; 24% and 27%); the EFF is not galloping either (6.35% in 2014 and 8.25% in 2016). The ANC decline is partly captured by these two opponents; but it reflects more of a stay-away vote – which itself sends an important message.
- Race largely still accounts for electoral choices, with the overwhelming majority of African people voting for the ANC and other parties that have a 'liberation struggle background'.

- The three largest parties have a national footprint. Significantly, KwaZulu-Natal, which historically reflected significant support for ethnic-based parties, has now even surpassed national averages in terms of ANC support among Africans.
- The aggregation of political choices in accordance with self-declared socio-economic policies does present an interesting picture. This is that Left of Centre parties (ANC, UDM and COPE) had 74% of the vote in 2009, which came down to 64% in 2014. Right of Centre parties (DA, IFP, NFP, UCDP, ACDP and FF+) attained 24% in 2009 and 28% in 2014. The aggregate self-declared Far Left (PAC, APC, AZAPO and EFF) had not performed much beyond 1% since 1994: in fact, it attained 0.4% in 2009; but went up to 6.6% in 2014.
- It should also be noted that the forces of the United Front, which some had characterised as a presaging a possible tectonic shift in South African politics performed as some of us had expected (even in the strong base of NUMSA in Nelson Mandela Bay: the singular lesson here being that to be adept at factory-floor organisation does not necessarily translate into mass political organisation).

What is the relevance of these electoral trends in relation to social transformation and the balance of forces? Besides matters already canvassed above, including the shift in political control in some of the metros and towns, the first major issue is that the sentiment for social transformation remains strong; but some of the motive forces no longer consider the ANC as the representative of such change. Secondly, there is patent impatience with the pace of change – and this expresses itself among the poorest in society as well as some African professionals and youth. Thirdly, while white multi-class support for the DA has remained solid, a section of the Black middle strata (Coloureds, Indians and a small segment of Africans) now view this party as being representative of their interests. Fourthly, the choices and/or levels of participation also reflect the rising primacy of current issues such as manifestations of corruption and Gauteng's eTolls in voting decisions – introducing an interesting (though still moderate) fickleness to South African politics, especially among the middle strata.

CONCLUSION

Arising out of all these observations about the character of the state, and the dynamics of state capture are the questions: *Quo Vadis South Africa and where will the turnaround come from!*

At the broader societal level, a turnaround in South Africa's fortunes will depend on the levels of activism on the part of the citizenry – pursuing that which is to the benefit of society and challenging that which undermines the cause of social transformation. The question has been posed, at a theoretical level, whether, in the context of developmentalism, if the state is weak, the other sectors cannot forge a social compact to pursue the national vision and, in the instance, force at least some of the leadership in the state to fall in line. In other words, civil society does not have to throw up its hands in despair, simply because there is weak state leadership.

At the party political level, a turnaround will depend in part on the ability of the ANC to rectify its internal weaknesses. Self-interest especially among middle-level cadres – who face diminishing electoral returns if the weaknesses are not addressed – should help drive such self-correction; and this is starting to play itself out. The local government elections have shown that, if this does not happen – if the level of institutional capture is such that that strange parasite, the tongue-eating louse, wishes to suck as much as it can before the fish dies – other political forces will take the baton:

abstinence during the 2016 municipal elections would gradually translate into a growing vote against the ANC, and new permutations will then inform the South African body politic.

END

* This presentation is based on papers published by the author, including State of the South African State; SA: The Path towards a Developmental State; and Relationship between Party and State.