

# SOE Failure: a Symptom?

*Last year was particularly dreadful for South African state owned enterprises (SOE). Documents leaked to the press revealed that South African Airways (SAA) was insolvent. In July 2015, Barry Parsons resigned as chief strategy officer; he blamed a “dysfunctional” and “compromised board of directors” in whom he had “lost all confidence in... to lead and progress the business.”<sup>1</sup> We are to believe that the chairperson, Dudu Myeni, has demonstrated a singular talent for driving the national carrier further and further into inescapable debt through irresponsible and possibly corrupt management.*



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The South African Broadcasting Corporation (SABC) was also in the spotlight for all the wrong reasons; it should bring us the news, not be the news! Hlaudi Motsoeneng, the man who for all intents and purposes runs the state broadcaster, was shown to lack a Matric qualification and – more worryingly – be willing to lie about it. Despite this being proved, and despite a report from Public Protector Thuli Madonsela, recommending his dismissal, Motsoeneng remains COO – though with a R0.9 million pay hike. Editorial independence continues to be restricted, and journalists who refuse to be censored continue to be dismissed. The board of directors has been purged of all independently minded persons, replaced by those with unquestioning loyalty to broader partisan objectives.<sup>2</sup>

Eskom suffered an R11.7 billion loss. The parastatal blames this on a “lower demand for electricity”.<sup>3</sup> Little mention was made of the fact that the state owned energy company has seen more CEO’s than most football teams see managers. Moreover, almost all were hired on an acting basis, which is surprising given the sheer amount of work needed to pull the parastatal out of such dire straits. We can only hope that Phil Molefe stays on long enough to steady the ship.

Petro SA, the state oil company, recorded a record loss of R14.5 billion – the biggest by a state-owned company. The CEO, Nosizwe Nokew-Macamo, and CFO, Lindiwe Mthimunye-Bakoro, were put on ‘gardening leave’ in anticipation of the losses, yet allowed for some inexplicable reason to remain on the board.<sup>4</sup>

And the South African Post Office (SAPO) was forced to halt operations in August, as it had run out of money for fuel.<sup>5</sup> Indeed SAPO employees have largely given up on delivering the post in recent years, focussing instead on exercising their constitutional right to strike. We wish Mark Barnes the best in cleaning out these stables, even as another strike looms at the time of writing.

Last, and certainly not least, the Passenger Rail Agency of South Africa (Prasa) bought new trains to a tune of R600 million from a Spanish company. These unfortunately turned out to sit about 30cm higher on the tracks than the national limit allows.<sup>6</sup> Former CEO, Lucky Montana, tried in vain to assure concerned citizens that this would not be an issue. He seemed not to realise that the national limit corresponds to the height of bridges and other infrastructure, rather than being some arbitrary number. This could have had something to do with the fact that the former chief



There's a Spanish train that runs between Johannesburg and old Cape Town



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engineer, Daniel Mthimkhulu, had lied about being an engineer.<sup>7</sup> But, then again, maybe it was simply another case of lost in translation.

Yet the ANC continues to deny that SOE’s are in crisis. Following the NEC lekgotla in August 2015, the Secretary General of the ANC, Gwede Mantashe, told reporters “when we see a problem in Eskom, we say state-owned companies are in crisis, but many are doing very well as drivers of the economy”.<sup>8</sup> He further contended that the purpose of SOE’s was not to turn a profit but rather provide a public service. He also denied that the troubles of any SOE could be attributed to any of the men or women managing them. “State-owned companies are not individuals,” he declared; “rather let us deal with the real problems”.<sup>9</sup>

### Mantashe’s Mantle

Unfortunately, Mantashe chose neither to expand nor expound on what any of these real problems may be. It is heartening that he at least recognises that real problems exist. But without a clear understanding of the ailment, no effective remedy can be given. In this article, I mean to take up Mantashe’s mantle. What then ails our SOE’s?

- Firstly, given that the ANC recognises the importance of SOE to the success of the economy – especially considered that the ANC officially pursues a developmental state agenda – why is it willing to appoint men and women to senior management or board positions who are unqualified, incompetent, or even corrupt?
- Second, when this trade off causes huge losses to the public purse, why is the ANC’s response to deny the existence of a problem and protect those who have caused it?

- Third, if the political status quo remains as it is, what is the fate of SOE in South Africa?

In order to address these questions, it is necessary to consider certain sets of assumptions. At Polokwane, pursuit of the National Democratic Revolution (NDR) through non-racial African Nationalism and social democratic thinking was given a vote of no-confidence, along with its patron: Thabo Mbeki. In its place, a faction guided by Marxist-Leninist ideology and relying heavily on emotive struggle rhetoric came to the ascendancy.

This meeting of ideology and psychology – the authoritarianism implicit to communism and the beliefs and values implicit to a revolutionary liberation movement – produces a specific set of assumptions which currently guide the ANC.

I propose that these assumptions work together to engender an informal political structure that operates within the framework of the modern, legal-rational state. I argue that this informal political structure is characterised by the existence of certain norms and behaviours that are used to legitimise authority, but which undermine the legal-formal institutions of a modern democracy. Through this, the perfect enabling environment for neopatrimonialism is provided. From here, the step to SOE failure is all too close. Their straddled position between the public and private spheres makes SOE's the obvious targets for corruption, rent-seeking and graft.

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To be sure, this article is concerned with South African SOE's. But empirical it is not. Rather, I reflect on the current ANC's treatment of SOE's to illustrate the basic, underlying factors influencing its thought and action. And whilst the conclusions I reach on our SOE's are narrow, the conceptual framework I use to reach them – I believe – is both broad and transferable.

## The Right to Rule

The successful overthrow of the apartheid regime represented the political expression of the people's will. The ANC undoubtedly played a pivotal role. Indeed, many would argue that it played the pivotal role. But the role it perceives itself to have played has been increasingly misconstrued, internalised and used in recent years to warrant the assumption that it – and it alone – has the right and moral pedigree to govern the people.

Central to this belief is an inability or refusal to acknowledge that the dawn of democracy in 1994 heralded a new day and a new era – one in which the ANC might not always hold power or even feature prominently. Given the sacrifices made and the toil and tears that so many poured into the struggle, a naturally resistant response is understandable.

Yet the skills needed to fight for freedom are vastly different to those needed for competence and integrity in government. Mamphela Ramphele, a staunch critic of the ANC's insistence on perpetuating struggle politics, remarks that “even Britain knew better than to expect Sir Winston Churchill to lead the reconstruction after he had led the nation to victory in World War II. They voted him out and replaced him

with a civilian leadership”.<sup>10</sup> Liberation struggle and good governance are two very different beasts, and thus need two very different kinds of tamers. ‘Revolution is war’ Lenin quipped in his account of the October uprising in Petrograd in 1917,<sup>11</sup> whereas democracy is in many ways a sustained attempt at conflict management.

Unfortunately, the party’s consistent and unassailable hold on a majority of the electorate has only exacerbated this sense of political entitlement. It shores up the conviction shared by certain members in the ANC’s dominant factions of their right to rule – at least until Jesus returns. It assures them of their being the vanguard of justice, equality, dignity and freedom. It acts as an intoxicating form of confirmation bias, for such sweet reward is not easy to surrender.

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The ANC is not alone. Sadly this phenomenon has been repeatedly played out in post-colonial Africa. As Ramphela notes, “most former liberation movements have failed to make the transition to credible democratic governance machines framed by the pursuit of the ideals of social justice that inspired the very struggles for freedom they committed to.”<sup>12</sup> This, perhaps, revolves around the second major assumption naturally intrinsic to a liberation movement.

## Binary Conception of Human Affairs

The ANC assumes a totally binary conception of human affairs. This black-and-white way of thinking can be most immediately seen in the movement’s intolerance of opposition; whether that be found in the form of external criticism or internal dissent. This is why the ‘counter-revolutionary’ appellation is used so liberally, particularly to damn party dissidents; it’s cold outside the ANC, as former President Motlanthe has most recently found out.<sup>13</sup> It’s also why civil society is considered an adversary and not a partner.

Ultimately, the values intrinsic to a democracy are fundamentally incompatible with those of a revolutionary liberation movement. Democratic thinking holds the principles of freedom of choice, freedom of expression and freedom of association to be sacrosanct. It both tolerates and appreciates the many differences in opinion and belief that are natural to the human condition. It seeks to overcome the resultant tensions with understanding, reasoned debate and compromise.

Conversely, every liberation movement must have that or them which it fights to overcome. There must always be an other – an enemy – to whom the party is defined by and consolidated against. Those who oppose it are considered obstacles to be removed. Equally, dissension in the ranks is stamped out. Total, unquestioning loyalty becomes paramount. Most significantly, this remains the case “even in the face of evidence that comrades broke the law or undermined accountability”.<sup>14</sup>

So whilst democracy is geared toward reaching greater harmony within the polity, struggle politics predominantly works only to prevent discord and dissent within the movement. And whilst the former celebrates the human freedom and diversity that generates political disagreement, the latter tends to persecute it. If only the ANC would take to heart the scathing criticism that Rosa Luxemburg meted out to Lenin – “freedom is always the freedom of dissenters.”<sup>15</sup>

When loyalty to the party trumps duty to the people, when differences in opinion are subjected to force and not treated with reason, when politics becomes a war, democracy



is in danger of being rendered meaningless. Instead, a parallel informal political structure is engendered that truly moves the levers of power.

### Authority, Legitimacy and Formality

The modern, democratic state is one in which the legitimacy of the government's authority rests on rational grounds and objective law. Max Weber terms this 'legal-rational authority'. It is characterised by the existence of certain formal institutions. These take the shape of, for example: documents, such as a Constitution, and laws and regulations; events, such as caucuses, council meetings and elections; and structures, such as government ministries, legislatures and judiciaries.<sup>16</sup>

We owe our compliance to the policies and interdicts of the government as its authority is both derived from principles of order and justice, and legitimised by society's shared belief and tacit endorsement in the rational basis and "inherent legality of the enacted rules".<sup>17</sup> So defined, our submission to the political exercise of power by a ruling party is demanded by the legal framework itself that we, by virtue of our being members of society, have agreed to live by and within. Thus our social contract – concretised in the Constitution – obliges us to respect the *office*, if not the *man*.

But this equally means that those in power are subject to the same laws as the rest of us. Success in election may have elevated them to the highest rung of authority in our society, but they do not transcend law altogether. So, as far as this is true, they must direct and orientate their exercise of authority in line with, and out of respect for: the

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rule of law; their duty to the people; and the totality of constitutionally mandated and legislatively and judicially created rules and regulations.

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Yet the current ANC increasingly lacks appropriate respect for the legal-formal institutions in modern South Africa. It appears, more and more, neither to recognise the impersonal, objective value of these institutions, nor to appreciate the role that they play in the proper functioning of society. Moreover, it seems not to realise – or indeed care – that the legitimacy of political authority in a modern, constitutional democracy such as ours depends on the proper functioning of these institutions.

The assumption of a right to rule naturally belies the sanctity of democracy and, by extension, its constitutive legal-formal institutions. True democracy demands the government recognise the people as its sovereign. But a party that believes itself entitled to power is prevented from even recognising the existence of such a duty. The ANC sees its authority as beyond question, almost absolute – derived from a mythologised past and a Leninist conception of itself as an extension of the people and manifestation of their will.

This reliance on historical prestige and tradition for political legitimacy is shored up by the charisma and personality of its leaders: those that Weber saw as recipients of an “extraordinary and personal gift from grace”.<sup>18</sup> But both traditional and charismatic authorities demand legitimacy on the basis of their rulers, not rules. In other words, you only respect the office by virtue of the man or woman that occupies it.

The political structure therefore becomes personalised. Power becomes heavily centralised. With such extensive power put in the hands of so few, the political climate becomes highly volatile. The dismissal of Finance Minister Nene late last year is, perhaps, the most recent example of such volatility and the extent to the damage it can inflict. It also demonstrates the extent to the volatility created within the party itself. No one’s station is safe. For self-protection and political assurance, dyadic patron-client relations naturally form.

The security and advancement of an individual’s station becomes inextricably bound to the favour of the patron. The patron ensures loyalty and political backing in return for providing public services and resources to clients. But equally, the security and advancement of the patron’s station becomes just as dependent on the continued support of the clients. Gradually, an interconnected, intra-reliant and highly complex patronage network establishes itself at all levels of the organisation. Each individual’s self-interest becomes vested in maintaining the status quo.

Within the patronage network, vertical ties become all important whilst horizontal ties become negligible. That is, hierarchical relations between non-equals, such as those that manifest between members of a tribe or religion, supersede those between equals that cut across hierarchical lines, such as class, income bracket or age group. This undermines social cohesion and results in a jostling and often cutthroat environment of unchecked power and sycophantism.

These informal norms, and the behaviours they encourage, when taken together (personalism, patronage, and the primacy of vertical ties) lend themselves to a

particular logic shared amongst members of the party: Formal institutions are a façade behind which true party objectives are pursued, and political support is a commodity to be bought and sold to the highest bidder.

A total blurring of the public and private spheres follows. To ensure that personal power and political legitimisation is retained, the private demands of clients must be satisfied. The best, easiest and most cost effective way to do this is by appropriating public resources. After all, to the victor belong the spoils.

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## Neopatrimonialism

Neopatrimonialism is, in essence, traditional patrimonial practices (nepotism, patronage, rent seeking etc.) operating within the contextual framework of the modern, legal-rational state. The term is wide, and encompasses many forms of rule – from multi-party democracies to dictatorships or military oligarchies. This is because, at heart, it has less to do with which legal-formal institutions are in place in a given state, and more to do with the relationship that they have with the informal that exists alongside them.

All modern states involve elements of informality at play within their political architectures. The reality that British prime ministers will generally take personal loyalty into consideration when exercising their discretionary power to choose who sits in their cabinet is one example. The reality that a Democratic President of the United States will generally nominate a left-leaning Supreme Court Judge over a right-leaning one, if called on to do so, is another.

Informal institutions are a fundamental and, moreover, essential part of any human society: they are the norms, rules, customs and traditions that influence behaviour and regulate interaction between rational agents in an informal context. The modern, legal-rational state is just a society in which the majority of institutions have been formalised. Regardless of this, however, the modern state will necessarily retain some degree of institutional hybridity. What distinguishes a neopatrimonial state is the primacy of informal institutions and the prevalence and acceptance of patrimonial norms within them.

In some cases the co-existence of certain formal and informal institutions proves incompatible. An effective, constitutionally mandated and independent anti-corruption agency inherently conflicts with an informal culture of regime-sponsored rent seeking, for example. In essence, the formal and informal rules at play here are contradictory, and thus one must go. In a modern state the rent seeking practice is gradually phased out. In a neopatrimonial state the agency is disbanded and a deliberately compromised and ineffective successor agency installed.

For the most part, however, the informal cannot only coexist with the formal in a modern state; it can thrive. Formal institutions, in a state where informality reigns unfettered and supreme, present a readily available and highly effective opportunity for patrimonial practice to be legitimised. The best example of this, and the one most relevant to why SOE finds itself in such crisis, is cadre deployment.

## Cadre Deployment

Cadre deployment has been an official ANC policy since its adoption in 1997 at the

Mafikeng national conference. Inspired by Leninist practice, it involves the systematic placement of ANC loyalists to formal institutions so as to transform the machinery of state and give the party control “over all centres of power”.<sup>19</sup>

In reality however, this formal policy has become a guise for the informal customary distribution of important positions in government for patronage purposes. Indeed, party loyalty has become secondary to personal loyalty. This starts at the very top; for in this way, President Zuma shields his position from internal opposition, and those in the front line of his defence are awarded power, prestige and large government salaries. But once such a precedent is set, it naturally establishes itself as part and parcel of the way politics is done.

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Yet not all allies wish to pursue careers in government. Perhaps out of personal expediency they shy away from the spotlight. Further, not all allies are fit for government. Perhaps their relationship to the President is one of such a deeply private nature that, again, expediency makes certain demands. Where better to turn than to the board and senior management positions of SOE's?

As owners, full discretion lies with the government as to who gets appointed where. Due to political realities, there's really only one owner, and full discretion actually lies with him. As a Leninist inspired party, business concerns are thrown to the wind and profit margins

count for naught. And as a liberation movement, allies are protected and defended as far as possible – even from the law – as loyalty to leadership is all that truly matters.

This is why Myeni, despite being a former primary school teacher with neither business experience nor apparent acumen, is the current Chairperson of SAA. This is why Nosizwe Nokew-Macamo and Lindiwe Mthimunye-Bakoro, despite being in charge of Petro SA when it registered a record loss of R14.5 billion last year, continue to sit on its board. And this is why Hlaudi Motsoeneng, despite being proven to have lied about his matric qualification, remains in charge of SABC.

It is also why Mantashe insists that our SOE's are not in crisis, and that the problems that they face have nothing to do with individuals in management positions. The ideological and psychological underpinnings of the ANC simply push such a recognition, let alone admission, out of reach.

## Concluding Remarks

When a government is pervaded by neopatrimonialism, it will use the legal-formal institutions afforded it by the modern democratic state to pursue patrimonial ends. Due to their straddled position between the public and private sector, the first institutions to fall victim will be SOE's. If senior management prioritise private interest over the best interests of the institution, the institution fails. This is currently widespread amongst South Africa's SOE's.

In order to prevent this, government must begin to appoint on merit. Personal or party loyalty cannot be allowed to trump ability and integrity – the stakes are simply too high, particularly when considering who, for example, is to manage the state electricity provider. Those who prove incompetent or corrupt cannot be protected. They must be removed from office and, if necessary, prosecuted.





But truly enacting these changes rests on a more fundamental shift in the party's political and ideological assumptions. And this, in turn, can only be achieved by ensuring the following. First, the ANC must rid itself entirely of the Leninism that those dominant within it subscribe to. For too long has it misdirected the thinking and policies of the party. Second, the ANC must temper its struggle rhetoric with an acknowledgement that it is, first and foremost, a democratically elected government bound by the legal-rational framework of our modern state.

Relying on charisma and tradition for political legitimacy is outdated and hinders progress. Moreover, it gives patrimonialism the air it needs to breathe, thrive and multiply. The challenge is not simply to make the SOE's viable – though this will be difficult enough. Rather, the greater challenge is to ensure that those running the country recognise the importance of, and value inherent to, all the legal-formal institutions of our constitutional democracy. A ruling party that disregards democracy in favour of patrimonial practice and private enrichment disregards rationality and the rule of law. Such arrogance and stupidity threatens the foundations of the state itself.

## NOTES

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