SOUTH AFRICAN
CHAMBER OF COMMERCE

Business Ethics Series

Never Again

Lessons for Business and Others from their Complicity in State Capture

15 February 2023 at 17:00
GIBS Auditorium, GIBS University, 26 Melville Road, Sandton 2198

Crime and corruption continue unabated in government, State-Owned Enterprises, and many businesses in South Africa, albeit in different forms from the Zuma/Gupta decade.

Peace, stability, the rule of law is the foundation of prosperity for all. But it does not come cheap. South Africa will not emerge from its past and current morass of corruption, dysfunctional public services, cronyism, crime, poverty, low to negative economic growth and unemployment, unless we all stand up to be counted to demand: *'Never Again'*

Business to demand: 'Never Again' and insist that the country is set back on a path towards a society of equal opportunity for all, with business, politicians, and all civil society institutions mobilising together in support of a program of empowerment, transformation, development and integrity in accordance with the constitution and the rule of law.

Join the SA Chamber of Commerce, in partnership with GIBS,

who have invited Lord Peter Hain, Prof Bonang Mohale, Rabbi Gideon Pogrund,

Wessel Badenhorst and Claudelle von Eck

for a hard-hitting, yet enlightening evening discussion

on how businesses can ensure we are never again held to ransom.

Gordon Institute of Business Science
University of Pretoria

State Capture History

1. Implementation of the Zondo Commission's 2022 report is the task not only of the President and his Cabinet, of Parliament and law enforcement agencies, but also South Africa's business community.

Zondo's recommendations are many and varied, principally:

a. Independent Public Procurement Anti-Corruption Agency;

b. Permanent Anti-State Capture and Corruption Commission;

c. Improved and extended whistleblower protection;

d. Enhanced and improved parliamentary oversight;

e. Amendments to the electoral system.

f. An end to "cadre deployment".

2. Significantly, the reforms proposed are institutionalised and managed outside executive government and are independent of it: they would establish a constitutionally based, countervailing force against state corruption at all levels. But whether these reforms will be fully implemented remains to be seen.

3. Meanwhile crime and corruption continue unabated, albeit in different forms to the infamous Zuma/Gupta decade. Examples of South Africa degenerating into a 'Mafia State' include:
   a. Illegal mining
   b. Sabotage at, amongst others, Eskom and Transnet
   c. Continued assassinations
   d. Organised criminal activity in the public and private sectors
   e. Extensive procurement corruption, including at Ministerial level
   f. Organised disruption in the transport industry
   g. Insurrectionary outbreaks and threats
   h. Attacks on the constitution by leading politicians.

4. Whilst the government of the day and state institutions bear primary responsibility for the restoration of a corruption-free and functioning state, that is not sufficient.

5. The committed and energetic involvement of the private sector is essential, both to acknowledge its complicity in state capture and prevent any recurrences or new outbreaks.

6. The private sector, including the professions, played a material role in state capture in diverse ways:
   a. Professional actors, including auditors, lawyers and management consultants, assisted and enabled state capture
   b. Business, both local and international, bribed directly, paid "facilitation fees" in vast amounts and were otherwise involved in corrupt procurement
   c. Whistleblowers were not encouraged or protected, indeed hounded
   d. Cooperation with law enforcement agencies was largely absent
   e. Banks failed abysmally in their duty to prevent, detect and report financial irregularities and suspected financial crime, including money laundering on a vast scale that saw billions of looted Rand flow through their digital pipelines to their international branches.

7. It is no exaggeration to say that South Africa, including the private sector, even where it was not directly involved in state capture, slept through those years – and in some cases is still doing so.

South African Business Ethics

More than passive obedience to the law is now required of the private sector if the continuing decline of the state is to be reversed. A positive program of measures is necessary.

The program measures should include, at a minimum:

a. A universal and uncompromising refusal to pay backhanders for public procurement contracts. If every tendering business refuses, politicians and state officials will also have to behave ethically.

b. Education within businesses and related institutions as to what constitutes corruption, how to identify corruption and what steps to take if it is encountered.

c. Dedicated executives or divisions within entities to ensure lawful and ethical compliance in all dealings.

d. Encouragement and protection of whistleblowers.

e. An active alertness to new patterns of crime and corruption and the concomitant cooperation with investigation and law enforcement agencies.

f. An end to silence where the state is failing or threatening to fail, including calling state functionaries to account where appropriate.

g. Relentless action by professional bodies to ensure lawful and ethical practice.

h. The necessity for Business Leadership SA, Business Unity SA, the JSE, SA Institute of Chartered Accounts, other Business Institutes, Educational bodies, Chambers, relevant Business and Trade Bodies, to be pro-active in endorsing this statement, and issuing:

    i. Red lines that must not be crossed
    ii. Providing training courses
    iii. Endorsing corruption prosecutions
    iv. Issuing a code to protect anti-corruption whistle blowers.

i. The importance of privately owned companies that are not service providers, nor State Owned Enterprises, also owning this agenda to ensure that South Africa's business reputation, which was consistently ranked in the world's top five, is restored.

Business & Economic Benefit

1. Good business ethics are essential to re-establish international investor confidence which was a high priority under the Mandela and Mbeki regimes.

2. Foreign Direct Investment is so vital to the country's future economic success, growth and prosperity, as well as eradicating poverty and unemployment. FDI is currently way below the minimum level required for economic recovery. Good business ethics will support positive international investment.

3. A conscious and detailed strategy to restore legal and ethical practice in the South African economy, with the business sector providing a strong lead will turn the tide towards economic growth.

Forum Panel

Business panel, who walk the talk of ethical leadership and ethical business are:

Prof Bonang Mohale, Chair of Business Unity SA, Chancellor of UFS, Professor at JBS, Chairman of Bidvest and SBV Services and member of Community of Chairmen in the WEF

Highly respected businessman, who is known as much for his patriotism and his active role in seeking to advance the country's interests. Author, and in his second book, Behold the Turtle, he discusses ethically principled leadership – the turtle can only progress when it sticks its neck out.

Lord Peter Hain, former anti-apartheid activist and UK Cabinet Minister

Lord Hain has campaigned against State Capture and corruption in SA, bringing to account many international businesses. He is a prolific author of 27 books having recently turned his hand to novels, his latest being The Elephant Conspiracy, which has followed The Rhino Conspiracy.

Rabbi Gideon Pogrund, founding director of the GIBS Centre for Business Ethics

The CfBE's purpose is to explore and influence how South African business can respond more ethically to the country's challenges, facilitating open conversations that build trust and helping to secure a more successful, sustainable future both for the business community and the country.

Wessel Badenhorst, partner at Hogan Lovells, Johannesburg

Office Manager (Managing Partner) for three years to end December 2022, his practice focusing on commercial and operational challenges in the mining sector, offering a thorough understanding of relevant legislation and sound working knowledge of mining operational practices and principles.

Dr Claudelle von Eck, former CEO of the Institute of Internal Auditors SA and recently appointed Eskom board member

An organisational development and change manager and the former CEO of the Institute of Internal Auditors of SA. Oversight bodies she serves on include the department of international relations and co-operation's audit committee. She was appointed to the Eskom board in September 2022.

Forum Chair

Sharon Constançon, Chairman of the South African Chamber of Commerce UK and CEO of Genius Boards and Valufin

In addition to her Chamber role, Sharon runs her own consultancy, Genius Boards, delivers Board Evaluations and Board development to address effective Board Dynamics. She runs Valufin and Constançon Currencies, two foreign exchange risk management companies in the UK and SA.