

# Address by President Cyril Ramaphosa on the Response to the State Capture Commission Report, The Union Buildings, Tshwane (Kopie von der website der SA Presidency - [hier](#))

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23 October 2022 - 12:00am



My Fellow South Africans,

I am addressing you this evening on the fulfilment of a responsibility that was given to the President of the Republic nearly six years ago.

Yesterday, I submitted to Parliament Cabinet's response to the recommendations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector.

This evening, I wish to outline the critical actions that government is taking, and the work that has already been done, to give effect to the Commission's recommendations and forever bring an end to state capture in our country.

This was no ordinary commission of inquiry. It was a commission whose work will have a lasting impact on our democracy and our country.

Twenty-five years ago, our new democratic Constitution came into effect.

As we celebrated this fulfilment of the struggle of the South African people for democracy and peace, few could have imagined the depths to which our country would be dragged by greed, selfishness and the abuse of power.

Few could have imagined that from among the leadership of our public institutions, from within our business circles, from among our public representatives and public servants, would emerge a network of criminal intent.

Few could have imagined that this group of people would infiltrate key departments, state-owned companies, private companies, law enforcement bodies and security services to loot vast amounts of public funds; that they would weaken and destroy state institutions and thus undermine the capacity of the state.

The corruption that was perpetrated is a crime against the people of South Africa.

Corruption is a betrayal of our democracy and an assault on the institutions that we established together to advance the values of our Constitution and the interests of our people.

The money that was stolen robbed our people of resources that should have led to the development of our country and improved livelihoods.

Yet, even as state capture and corruption sought to compromise our democracy and destroy our institutions, our democracy remained resilient and the people of South Africa stood defiant and

resolute.

Despite our achievement at bringing state capture to an end, its effect remains.

The difficulties our country is facing today have many causes, but state capture made a substantial contribution to many of our challenges.

When we do not have enough locomotives to carry goods to our ports, when our power stations fail, when our national airline closes routes and cancels flights, when the employees of SOEs are not paid and when our security services are slow to respond to public unrest, we feel the hand and effects of state capture.

We see the effects of state capture in other areas, in our weakened institutions, in the substantial public debt of some of our institutions, in poor service delivery and in diminished public confidence in the State.

The Commission's report notes that state capture was facilitated by "a deliberate effort to subvert and weaken law enforcement and intelligence agencies so as to shield and sustain illicit activities, avoid accountability and to disempower opponents".

That is why even as the State Capture Commission was being appointed in 2018, this government was taking decisive steps to end state capture and rebuild our institutions.

Since the start of 2018:

- We have appointed new leadership at the Hawks, an institution that was targeted for weakening, which has, since then, secured 4,500 convictions for corruption and other priority crimes;
- The NPA was another institution that was deliberately weakened. We have appointed a new National Director of Public Prosecutions on the recommendations of an independent panel following a transparent public process.
- We established the NPA Investigating Directorate to prosecute state capture and other significant corruption cases. And now, to further strengthen existing anti-corruption capabilities, the Investigating Directorate will be established as a permanent entity within the NPA.
- We appointed the SIU Special Tribunal to expedite the recovery of stolen funds. Since its establishment, it has recovered over R8.6 billion.
- We undertook measures to end corruption and politicisation at the State Security Agency.
- We amended the State Capture Commission regulations to enable sharing of information and resources with NPA on state capture cases.
- We appointed new leadership at the South African Revenue Service and are rebuilding the institution in line with the recommendations of the Nugent Commission, which were endorsed by the State Capture Commission.

As a result of these efforts, several major state capture and other serious corruption cases have been brought to court.

Yesterday, I submitted to Parliament Cabinet's response to the findings and recommendations of the Commission of Inquiry into State Capture in fulfilment of an order by the Judiciary.

The submission of this response is a firm and clear indication of the primacy of the rule of law and a demonstration of our democratic system at work.

This response constitutes an ethical, moral and institutional departure from the abuses revealed by the State Capture Commission.

This response is intended as a platform to mobilise all sectors of our society against fraud, corruption and state capture now and into the future.

We are submitting this response to Parliament six years to the month since former Public Protector Adv Thuli Madonsela released her State of Capture report.

The Public Protector's State of Capture report related to an investigation into complaints of alleged improper and unethical conduct by several state functionaries and private individuals and companies.

Having witnessed the proceedings of the State Capture Commission for close on to four years, you, the people of South Africa, naturally seek restoration, redress and accountability. You expect your country's economy and its state to be ethical and free of corruption as it serves your needs and broader interests of all the people.

The actions we are taking and the implementation of the Commission's recommendations are designed to provide redress in respect of the events of the past and to advance the renewal of our society.

Through the implementation of the actions contained in this response, we can start a new chapter in our struggle against corruption.

We are indebted to the many courageous and brave whistle-blowers who brought various allegations of fraud and corruption to the attention of the Public Protector and those who gave evidence at the State Capture Commission.

We are indebted to the men and women who executed their functions tirelessly and honestly in our criminal justice institutions who, without fear or favour, worked to turn testimony presented to the Commission into evidence that can now be used in prosecutions.

We are indebted to the diligent public servants and public representatives, researchers, journalists, activists, workers and businesspeople who uncovered, spoke out against and resisted state capture.

Given the impact that fraud and corruption had in our country, the response to state capture must be a national effort.

During the course of its work, the Commission heard evidence from over 300 witnesses and held more than 400 days of hearings.

The report of the Commission, consisting of six parts, was handed to the President over a period of six months: the first part of the report was submitted on the 4th of January 2022 and the final part of the report on the 22nd of June 2022.

Each part of the damning report was made public as it was received.

The State Capture Commission report concluded that "there can be no doubt that state capture happened in South Africa".

In the main, Government accepts the findings of the Commission with respect to the existence, nature and extent of state capture in South Africa.

In terms of the Constitution, the factual findings and recommendations made by a commission of inquiry do not bind the President.

The President's response to the recommendations of the State Capture Commission may therefore include the implementation of a recommendation as set out in the report, the implementation of part of a recommendation or, where there is good reason, a decision not to implement a recommendation.

The Commission made over 350 recommendations.

Of these:

- 202 were for criminal or other investigations,

- 27 were recommendations for the recovery of assets,
- 15 were referrals to other state bodies for disciplinary offences, tax offences, delinquency of directors and other misconduct,
- 11 were referrals to professional and regulatory bodies for further investigation of individuals for alleged violation of professional codes,
- 5 recommendations proposed constitutional changes,
- 26 recommendations proposed legislative changes, and,
- there were 64 recommendations requiring operational or regulatory changes.

The Commission also proposed the establishment of two new institutions and a Commission of Inquiry.

The recommendations were directed at several institutions both within the state and more broadly in society.

The Presidency therefore sent copies of the report for consideration and action to the following bodies:

- African National Congress
- Airports Company South Africa
- Alexkor
- Auditor-General of South Africa
- Banking Association South Africa
- City of Johannesburg
- Denel
- Directorate for Priority Crime Investigation
- Eskom
- Financial Intelligence Centre
- Free State Provincial Government
- Independent Electoral Commission
- KwaZulu-Natal Provincial Government
- Legal Practice Council
- Magistrates Commission
- National Assembly
- National Council of Provinces
- National Prosecuting Authority
- North West Provincial Government
- Office of the Inspector-General of Intelligence
- Passenger Rail Agency of South Africa
- South African Airways
- South African Broadcasting Corporation
- South African Institute of Chartered Accountants
- South African Police Service
- South African Reserve Bank
- South African Revenue Service
- State Security Agency
- Transnet

The greatest number of recommendations were directed to the law enforcement agencies for investigation and possible prosecution and for the recovery of misappropriated funds.

While these agencies are within the Executive arm of the state, they are constitutionally and legislatively required and mandated to exercise their responsibilities independently without any fear, favour or prejudice.

Since the start of the work of the commission, significant resources have been made available to build and rebuild the capacity and capability of law enforcement agencies to respond effectively to

the findings and recommendations of the State Capture Commission.

As a result of this work, the Investigating Directorate that we established within the National Prosecuting Authority has to date enrolled 26 cases, declared 89 investigations and 165 accused persons have appeared in court for alleged state capture-related offences.

Our law enforcement agencies have, to date, been granted freezing or preservation orders to the value of R12.9 billion.

A total of R2.9 billion has been recovered and returned to the affected entities and SARS has collected R4.8 billion in unpaid taxes arising from the work of the Commission.

Consideration is being given to claims for civil damages against companies implicated in state capture and to ban them from doing business with the state.

In addition to the people and companies named in the Commission's report, analysis by the Financial Intelligence Centre has identified a further 595 individuals and 1,044 entities that may be implicated in the flow of funds from state capture.

Relevant information has been compiled into reports to various law enforcement agencies, other bodies like the State Security Agency, South African Reserve Bank, Public Protector, Independent Police Investigative Directorate and the Financial Sector Conduct Authority, and a number of law enforcement agencies in other countries.

In addition to recommending actions against the perpetrators of state capture, the Commission made 95 recommendations that would require constitutional, legislative, regulatory or operational changes.

It also made recommendations on the establishment of new institutions.

I would like to outline here some of the key reforms that government is taking in response to the Commission's recommendations.

The Commission made detailed recommendations about the establishment of an independent Public Procurement Anti-Corruption Agency.

It also recommended the establishment of a Permanent Anti-Corruption Commission that would have oversight over both Parliament and the Executive.

The Commission's recommendations underline the need for a coherent and integrated approach to combating corruption, fraud and maladministration.

It is therefore appropriate that these recommendations form part of a fundamental redesign and review of the country's anti-corruption architecture.

Based on the advice of the recently appointed National Anti-Corruption Advisory Council and the outcomes of a review of our anti-corruption architecture by the Department of Justice, a comprehensive proposal on an effective and integrated anti-corruption institutional framework will be produced for public consultation, finalisation and implementation.

To address concerns about the independence of the NPA, legislative amendments will introduce greater transparency and consultation in the selection and appointment of the National Director of Public Prosecutions.

This will draw on the process that we adopted for the selection of the current NDPP.

The State Capture Commission made several detailed recommendations with respect to procurement reform, which we support and accept, and are working to put into effect.

Abuse of the procurement system was one of the main ways that taxpayer funds were illicitly diverted to private interests instead of providing value to the public.

The Public Procurement Bill, which is expected to be finalised and submitted to Parliament by March 2023, will address many of the Commission's recommendations.

These recommendations include the introduction of a Code of Conduct setting out the ethical standards for procurement; protecting Accounting Officers from criminal or civil liability for acting in good faith; harmonisation of public procurement legislation; making procurement more transparent; and establishing a professional body for public procurement officials.

As recommended by the Commission, lifestyle audits for the President, Deputy President, Ministers and Deputy Ministers is being managed by the Director-General in the Presidency and undertaken by an independent external service provider.

The Commission found that the appointment and removal of board members and senior executives in state-owned enterprises was one of the key causes of state capture.

The lack of compliance, transparency and accountability in the appointment of board members not only enabled the capture of these companies, but also contributed to a decline in their operational and financial performance.

That is why government accepts the Commission's recommendations on the need for a process for the appointment of boards of state-owned enterprises that is not open to manipulation.

This would include the involvement of independent panels with appropriate technical expertise to recommend suitable candidates to the relevant Minister.

No board member will be allowed to be involved in procurement processes beyond playing an oversight role.

Ministers will be prohibited from playing any role in procurement within state-owned enterprises or departments.

The State Capture Commission recommended the establishment of a commission of inquiry into the Passenger Rail Agency of South Africa – PRASA – because, the Commission said, it has an “uneasy perception that there is much about the ills at PRASA that has not yet been uncovered”.

Our view is that the establishment of a further commission of inquiry into PRASA must be considered against existing initiatives that are probing the collapse of PRASA.

There are currently investigations into PRASA by the Hawks and a wide-ranging probe by the Special Investigating Unit, including investigating governance and maladministration.

We will await the outcome of those investigations before deciding on the establishment of a commission of inquiry.

The State Capture Commission also exposes the central role that private sector actors played in state capture, both through direct involvement in procurement corruption, fraud and money laundering, but also in weakening institutions that stood in the way of state capture.

These perpetrators included management consultants, advisors, accountants, auditors, lawyers, bankers, as well as providers of goods and services, including large multinational firms.

To address some of the abuses by private companies, amendments will be made to laws currently under review to, among other things, criminalise donations to political parties in expectation of state contracts, to bar suppliers who have engaged in dishonest or corrupt behaviour, and to make failure to prevent bribery an offence.

The Commission investigated various allegations of illegal activities and abuse of state resources at the State Security Agency.

The Commission found that weaknesses in our intelligence services' regulatory framework made

them particularly vulnerable to abuse for political and personal gain.

We will implement all of the Commission's extensive recommendations on the intelligence services, together with the recommendations of the High-Level Review Panel on the SSA chaired by Dr Sydney Mufamadi.

A new General Intelligence Laws Amendment Bill will implement many of the Commission's recommendations, including establishing separate domestic and foreign intelligence services, improving oversight of intelligence agencies and giving practical effect to the principle that no member of the Executive responsible for intelligence may be involved in the operational matters of the SSA.

The Commission identified whistle-blowing as an essential weapon in the fight against corruption. The actions of whistle-blowers have played a vital role in exposing many of the activities that were part of state capture.

Whistle-blowers need to be encouraged to report instances of fraud and corruption and need to be protected from victimisation, prejudice or harm.

The Department of Justice is reviewing the Protected Disclosures Act and Witness Protection Act to give effect to the Commission's recommendations on the protection of whistle-blowers.

This will ensure, among other things, that whistle-blowers receive the protections afforded by the UN Convention Against Corruption and that whistle-blowers have immunity from criminal or civil action arising from honest disclosures.

The Commission made recommendations for the consideration of far-reaching reforms to the country's electoral system.

These reforms include the direct election of the President and the adoption of a constituency-based – but still proportionally representative – electoral system.

These proposals are meant to address weaknesses in the ability of Parliament and its elected officials to provide sufficient oversight to prevent state capture.

Due to the far-reaching consequences of the recommendations on electoral reform, and the fact that they would require constitutional amendments, it is appropriate that they are considered by the political parties represented in Parliament and form part of an extensive process of consultation that involves the whole of society.

These consultations should take account of the broad-based engagements that took place across the country in the drafting of our Constitution.

The State Capture Commission made certain observations with respect to the responsibility of the President and Premiers for the actions and failures of Ministers and MECs respectively.

The Commission made the fundamental point that persons who occupy positions in government must be people of integrity who conduct themselves ethically and in compliance with the law.

Therefore, in exercising my powers with respect to Members of the Executive, I am required to consider the Commission's findings, recommendations and observations about particular individuals.

In this regard, I am attending to the Commission's recommendations on Members of the Executive against whom adverse findings were made.

The Commission found that in several instances Parliament had not been effective in holding the Executive to account.

It made several recommendations to remedy the shortcomings it identified.

Some of these recommendations had to do with Parliament's internal arrangements, such as the chairing of portfolio committees, while others related to Parliament's interface with the Executive and how to ensure that Ministers account to Parliament fully and regularly.

In giving consideration to these recommendations, we are mindful of the separation of powers and the right of Parliament to determine its own rules and arrangements within the provisions of the

Constitution.

In this regard, Deputy President David Mabuza, who is the Leader of Government Business, will interact with Parliament's Presiding Officers on the Commission's recommendations on the interface between Parliament and the Executive.

To ensure that Parliament is sufficiently resourced to hold the Executive to account, the National Treasury will engage with Parliament to determine the most appropriate way to give effect to the Commission's recommendations on the funding of Parliament.

If we are to successfully end state capture and turn the tide on corruption, the actions set out in my response to the State Capture Commission will require dedicated coordination and effective implementation.

Progress will be closely monitored and regularly communicated.

All sections of society will be engaged and involved in the implementation of the actions to give effect to the recommendations of the Commission.

In conclusion, let me express, on behalf of the nation, our profound gratitude for the dedication and wisdom with which Chief Justice Raymond Zondo led this Commission.

We once again extend our gratitude to the Secretary of the Commission, the heads of the investigation and legal teams, the evidence leaders, the researchers and the other Commission staff.

We recognise the contribution of the former Public Protector, Adv Thuli Madonsela, whose initial investigation into allegations of state capture laid the foundation for the establishment of the State Capture Commission.

The submission of this response to Parliament gives full effect to the remedial actions contained in the Public Protector's report of November 2016.

While it marks the end of a chapter in our country's history, the hard work to restore our country, repair our institutions and rebuild our trust in each other still lies ahead.

This government is firmly committed to undertake this task, to combat corruption in all its forms, in every part of government and in every sphere of the state.

Where corruption has occurred, for example in the procurement of COVID-related goods, we have acted swiftly to prosecute those responsible and recover stolen funds.

This has been made possible in large part due to our efforts to strengthen the South African Police Service, the Hawks, the National Prosecuting Authority, the South African Revenue Service, the Financial Intelligence Centre, the Special Investigating Unit and other important agencies.

This stands in stark contrast to the period of state capture, where perpetrators were able to act with impunity, confident that they would not face the consequences of their actions.

That is no longer the case.

The people of South Africa are tired of corruption and want it to end.

Those who are involved in corruption, or who are even thinking about engaging in criminal conduct, must know that all the instruments of the state will be used to bring them to book.

There will be no place for corrupt people, for criminal networks, for perpetrators of state capture to hide.

Now that our response to the State Capture Commission has been submitted to Parliament, we look forward to the deliberations and suggestions of Members of Parliament and from across society as we take forward the recommendations of this Commission.

As a country, we are emerging from a dark and difficult period.

Together, we have chosen a path of rebuilding, a path of renewal, a path of transparency and accountability, a path of justice and the rule of law.

I have every confidence that, no matter the challenges, we will walk this path together and we will prevail.

I thank you.