



**CORRUPTION, STATE CAPTURE AND THE BETRAYAL OF  
SOUTH AFRICA'S VULNERABLE**

INAUGURAL LECTURE

by

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## **ABSTRACT OF LECTURE**

It is generally accepted that corruption in South Africa has become endemic. The report of the Public Protector entitled *State of Capture* of 2016 sets out the way in which former President Jacob Zuma and senior government officials colluded with the Gupta family in the appointment and dismissal of cabinet ministers and directors of SOE's, which led to the improper and corrupt awarding of state contracts. The revelations by witnesses at the Judicial Commission of Inquiry into Allegations of State Capture made it clear that South Africa entered a phase of state capture under the presidency of former president Jacob Zuma and is still in a state of capture.

The state has a legal duty to address social inequalities and to oversee a fair and equitable distribution of state resources to all members of society. In terms of the Constitution the state is compelled to respect, protect, promote and fulfil a broad range of socio-economic rights. Our courts have recognized these positive obligations of the state and issued orders compelling the state to give effect to its obligations.

More than 60% of children in South Africa are multidimensionally poor. Nearly half of the adult population live in poverty and women are generally more vulnerable to poverty. When the Covid-19 pandemic hit South Africa, emergency measures were put in place to address the pandemic. Relief packages introduced to assist the poor led to corruption on a grand scale. The looting of state resources designated for the poor involved politicians, government officials and corrupt operators in the private sector.

With reference to Fineman's vulnerability theory, it is argued that government failed to protect the poor in terms of its constitutional duties. It also did not act in a way that is responsive to the vulnerability of its citizens. Our government institutions have become captured and corrupted and failed to ensure that state resources are allocated for the common benefit of all and not just for a select few.

South Africa has a large arsenal of anticorruption instruments, which criminalises corrupt behaviour, targets the proceeds of corrupt activities and provides for severe criminal sanctions to be imposed on perpetrators. It is submitted that what is called

for now, is the institution of criminal prosecutions against public officials, corrupt operators in the private sector and politicians involved in corrupt activities. In this lecture practical suggestions and recommendations for the conduct of such prosecutions will be explored and advanced.

**Keywords:** Corruption, state capture, state duties regarding socio-economic rights, distribution of government resources, poverty and vulnerability, governmental responsiveness to vulnerability, criminal prosecution of corruption