Ramaphosa wants to make it ‘easier to do business’, but who will benefit?

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The 2019 South African national election has resulted in an inevitable focus on the battle for power within the ruling African National Congress (ANC) and efforts by President Cyril Ramaphosa to consolidate his hold on the party, and thus the country. This in turn results in an inescapable focus on corruption and state capture and ongoing attempts to hold those implicated to account.

There is no doubt that these issues should be at the centre of the national conversation. The evidence in the public domain shows that shadowy private networks, many dating to the secretive apartheid state[1], have criminalised state institutions to make a profit. This long tale of criminality has come at the expense of South Africans, as billions in public funds have been looted while the capacity and independence of democratic institutions of accountability have been weakened by the powerful. This makes the struggle to hold corrupt public and private actors to account and rebuild the capacity and independence of the justice system of utmost importance.

Yet this cannot be the beginning and end of the national conversation. Focusing solely on state capture risks excluding equally essential discussions on economic policy. If indeed Jacob Zuma’s presidency can be described as “a lost decade”, as Ramaphosa told global elites at the World Economic Forum in Davos in January[2], what must be done now? Beyond the ‘battle for the soul of the ANC’ (whatever that may mean), we must ask what a strengthened Ramaphosa would mean for the direction of the country, particularly in terms of economic policy. At the moment, the answer seems to be simple: attract investment by making it ‘easier to do business’. But what does this actually mean, and who benefits from this approach?

AN UNJUST STATUS QUO

The question could not be more urgent. Official unemployment rates rose from 21% to over 27% between 2008 and 2018, and today more than six million South Africans are officially counted as unemployed.[3] Millions more have given up searching for work. This is an important contributing factor to poverty. Statistics South Africa suggests that in 2015, more than 30 million people (around half the population) lived under the ‘upper band poverty line’ which is a measly R1000 per month. Nearly 14 million people get less than R441 per month, meaning they are unable to afford enough food.[4] These numbers are stark, and therefore constructing an inclusive and fair economy is imperative.

Yet there is another aspect to this injustice. Vast inequality was an inevitable outcome of apartheid’s oppression and forced dispossession, and the nature of the post-apartheid economy has only served to entrench it. Recent data suggests that 10% of South

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Africans own between 90-95% of wealth, while 80% of people own no wealth at all.[5] This is even more dramatic than income inequality which itself remains one of the highest in the world. A 2014 study found that for companies listed on the Johannesburg Stock Exchange, the average ratio of the wage of the chief executive to the average wage was 73:1.[6] Both measures of inequality, unsurprisingly, reflect racial divides with white South Africans enjoying higher incomes and a much greater proportion of the country's wealth.

The manner in which wealth has been, and continues to be, accumulated goes to the heart of the problem that South Africa faces, namely that South Africa is a society characterised by both vast wealth and poverty.[7] One cannot explain these patterns of accumulation without examining the role of powerful corporations that have extracted profit at the expense of South African people. Whether it was the Dutch East India Company, Anglo-American and De Beers, or Lonmin, the rules of the game have always been set to enable extraction and profit-taking that has entrenched gross inequality.

This is why Ramaphosa's appeal to global capital investment as a cure-all must be critically examined. It is particularly important when the path to 'investor confidence' suggests a move towards cutting regulations intended to protect workers and ensure that companies pay their fair share.

MAKING IT 'EASY TO DO BUSINESS'

While the noise of electioneering may have been difficult to cut through, Ramaphosa's state of the nation address in February 2019 was unambiguous in how the government would be appealing to big investors. A key promise in that speech, widely welcomed by big business[8], was the assurance of a business-friendly environment to support his ongoing investment drive. Amongst other promises of reform and the need to root out corruption, the appeal to the private sector was centered around the goal of moving into the top 50 in the annual World Bank 'ease of doing business report'. South Africa currently sits in 82nd spot (and has fallen precipitously in the last decade), but in the President's words; "we will get there". But where would we be going if we moved up this list and what would the real consequences be?

One cannot help but feel that the name of the World Bank's 'ease of doing business' score is deliberately vague. It certainly seems unthreatening: why would we not want it to be easier to do business in a country with low investment, high unemployment and widespread poverty? And it is true that there are some recommendations contained in the report that are uncontroversial. For example, creating better online systems and providing clearer information to businesses, as well as reducing inefficiencies in tax payment and business registration would be positives, particularly for smaller businesses. However, the devil is in the detail. The first parties to welcome Ramaphosa's goal of moving up these rankings were South Africa's largest corporations. A closer look at the report helps explain this eagerness: the easiest way to move up these rankings is to aggressively deregulate the private sector and leave it free to reap greater profits while limiting social responsibility.[9] As will be shown below, however, what is needed is not simply attracting corporations to invest, but ensuring they conduct themselves responsibly and accountably when doing so.

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The World Bank's index seems to assume that the elimination of regulation and checks and balances on corporations can only be positive for a country. This is unsurprising given that, while it has the World Bank's name on it, it is largely drawn from the work of just two economists. One of them is free market and deregulation ideologue Simeon Djankov who oversaw a radical austerity programme in Bulgaria following the financial crisis in 2009. By 2013, Bulgarian living standards had fallen so radically that widespread protests had toppled the government. The other is Andrei Shleifer, a Harvard economist found guilty of defrauding the US government in 2004 after using his position advising Russia on its liberalisation policies to profit from his own investments in the early 1990s.[10] Both are the sort of economists that are quick to recommend the slashing of budgets for social spending so as to reduce taxes on corporations and the wealthy.

The ideas behind the report are reflected in the indicators that the index is based on. This is what should be of concern to South Africans wondering what the government can do to move South Africa up the index. Broadly, countries are rewarded for radically cutting regulation to the benefit of corporations. So the more a government cuts corporate income tax, reduces mandatory payments to labour and social funds, removes licensing requirements, or cuts any other taxes on corporations – the better a country scores.[11] Further, making it quicker to clear customs by drastically reducing control mechanisms to check goods and documents at borders also moves the country up the rankings. A country also scores better if it makes it easier to buy up land easily and cheaply.[12]

Put simply, the index assumes that eliminating regulations and making it easier to maximise profit will be good for 'doing business' and thus good for the country. In doing so, it reduces the policy goals of the state to what is good for corporations and makes invisible the interests of the workforce, the environment or broader society. In addition, the index is crude and tends to push countries towards extreme policies. For example, if an additional tax that employers must pay is considered cumbersome and expensive to the corporation, the logic of the index rewards countries that simply eliminate that tax. What that tax is spent on, what it means for creating a fair society, and what the human consequences of reduced revenue will be are not considered important variables.

If this sounds familiar, it should. In *The Divide*, LSE academic Jason Hickel reflects on what the World Bank index represents. He suggests that in many ways it should be seen as structural adjustment repackaged – a powerful tool from the global north to force deregulation onto poor and middle-income countries in order to open up markets for profit-taking from global corporations.[13] It works too: many policy reforms today appear to be direct responses to the 'Doing Business' index. South Africa, via Ramaphosa's promise, is just the latest example.

South Africans need no reminder that maximised profit is often not linked to greater reinvestment or more widespread prosperity. South Africa is a prime example that a country can be set on a path that generates vast wealth and crippling poverty at the same time. There is another cautionary tale here. If this is indeed structural adjustment repackaged, we would do well to remember why such policies had to be rebranded in the first place: their consequences for human well-being, social security, poverty and inequality were so catastrophic for so many of the places where they were enforced that it is politically difficult (even for their designers at the IMF) to support. The only winners from structural adjustment and ballooning debt have been global banks and other global corporations that have benefited in the regulatory vacuum left behind.

So, if moving up this index is not the answer, what is? I would argue that it starts with an honest assessment of where the problems of poverty, inequality and joblessness come from. To do this we would do well to examine the conduct of those corporations who are already invested in South Africa. Doing so reveals patterns that speak to an unaccountable private sector that engages in wealth extraction at the expense of ordinary South Africans and the fiscus. In this context it becomes increasingly obvious that instead of rapid deregulation, we need to hold corporations more accountable, starting with demanding that they pay both fairer wages and their fair share in tax. It also requires pushing back against a global financial sector wedded to secrecy and that facilitates the siphoning of wealth out of countries like South Africa.

INVESTMENT OR EXTRACTION?

The absurdity of the purported goals of the 'ease of doing business' index are best revealed by simply examining how large corporations are conducting themselves today, both in South Africa and around the globe. We have ample evidence that the mere decision to invest and operate in a certain country does not mean that benefits will accrue there, or even that profits will remain.

New research authored by academic Ludwig Wier and released in December 2018 points to a concerning trend of large multinational corporations operating in South Africa shifting cash offshore to avoid up to R7 billion per year in taxes.[14] The study suggests that South African authorities have been consistently underestimating these losses. It also shows that while South Africa is increasingly exposed to foreign-owned firms, about 20% of these firms have a parent company in a tax haven where they can shift their profits.[15] Of course, as activists at the Alternative Development Information Centre (AIDC) convincingly argue, focusing on the R7 billion in lost taxes is only part of the story. Beyond the tax lost, there is inevitably a much greater amount (around four times as much) that now sits in a tax haven instead of being paid as better wages or reinvested in South Africa.[16] Corporate tax dodging thus occurs at the expense of workers, not just the fiscus.

Corporations avoid and evade tax by taking advantage of complex ownership structures and a multitude of shell companies usually registered in secrecy jurisdictions. While many large corporations now have hundreds of subsidiaries, it is commonplace that their only physical presence is a letterbox and their directors are nominees used to obscure the beneficial owner of the company.[17] These structures, set up by armies of lawyers, bankers and accountants, are often established for the sole purpose of enriching corporations and their shareholders at the expense of the places in which they operate. In the middle, the financial hubs like the City of London and Luxembourg, make a killing by taking a cut from every transaction they facilitate.[18] As Nicholas Shaxson reminds us, 'tax haven' is in many ways an outdated term. These jurisdictions offer secrecy for the purposes of total escape – escape from any laws, rules and taxes that they do not like.[19]

Yet the story of profit shifting is just one way in which large corporations are denying South Africa vital resources. The broader issue of 'illicit financial flows' constitutes a far larger cost. One aspect of this is 'trade misinvoicing', a term that is dry enough to not get the attention that the issue warrants. It essentially involves corporations manipulating import and export invoices in order to minimise duties, get undue rebates, or simply shift cash offshore again. Think-tank Global Financial Integrity estimates that the South African fiscus might have lost up to R80 billion per year from 2010 to 2014 due to this practice – amounting to R400 billion over that period.[20] That could pay for South Africa's current health budget nearly twice over. It is these kinds of costs that the World Bank's report on making it easier to do business ignores.

Even if corporations are taking vast amounts of profit from South Africa and spiriting it out of the country, the argument for investment is also based on the idea that it will bring about employment and infrastructure, both sorely needed. Unfortunately, the evidence does not back up this claim either. For example, in 2018 Action Aid conducted social audits in eight mining communities across seven provinces, and asked community members about their experience of interacting with the mining companies. A total of 79% of respondents living in those communities indicated that they had received no benefits from the onset of mining activities, with many citing the negative impacts of increased violence in communities and detrimental environmental effects.[21]

The evidence thus suggests that many corporate investors continue to find South Africa profitable but that they are not paying their fair share to the fiscus, nor ensuring that benefit accrues to the communities that work for them or are affected by their activities. In this context, slashing taxes, customs controls and other regulations at the behest of moving up a World Bank index seems at best counter-productive. At worst it invites more short-termism and the triumph of profit over all other considerations. ››

What all of this goes to show is that South Africa's problem does not appear to lie with corporations' ability to make profit, nor that it is not 'easy' enough for them to 'do business'. For centuries, global corporations have extracted vast wealth from this country without the benefits being shared equitably. In that context, we don't need to make it easier to do business here, rather we should be demanding that business is accountable, and that any investment that is secured will not only benefit the few.

In April 2018, Cyril Ramaphosa set an ambitious target of attracting $100 billion in new foreign investment within five years. When he next speaks of his progress, the key questions South Africans should ask are: what kind of investment, on what terms, and at what cost?

CONCLUSION – ACCOUNTABILITY AFTER ALL

At the start of this article, I suggested that questions of accountability for state capture and corruption should not occur at the expense of discussions of economic policy and the building of a more just and inclusive economy. This might risk obscuring the fact that the mechanisms of extraction for the state capture elite overlap heavily with those used by mega corporations. If one looks at the manner in which an entity like Transnet was looted, it was done through a complex network of front companies and bank accounts in a range of secrecy jurisdictions around the world.[22] Yet it is precisely these types of structures and mechanisms that facilitate the type of widespread corporate looting described in the previous section.[23]

But it is not in the means of accumulation of profit that the similarities end. We should also consider that we rely on the same multi-agency law enforcement framework to investigate prosecute both the crimes of state capture and corporate malfeasance. Yet these institutions, including the Hawks, the South African Revenue Service (SARS) and the National Prosecuting Authority (NPA), have been systematically undermined and their capacity eroded due to political interference.[24] This interference has been used to settle political scores, or simply to secure impunity for those involved in economic crimes. Regardless, it has crippled these institutions' capacity to properly investigate complex financial crimes and corruption.[25] In this context, those engaged in these crimes whether it relates to corrupt tenders or the looting of private entities like VBS and Steinhof are not held to account and their conduct continues unchecked.

In this context, as the country grapples with impunity and an accountability gap that has seen private and public actors loot South Africa for private gain, it would be crippling to simultaneously erode the rules that aim to keep corporations in check. This is the kind of path that we risk going down if we prioritise the 'ease of doing business' above all else. While we urgently seek to rebuild the capacity of the institutions of accountability we rely on to check government and corporate power, we should strengthen and reinforce the regulatory framework that we ask them to uphold – we shouldn't gut it.

ENDNOTES

1 See for example the findings of the panel for the People's Tribunal on Economic Crime in 2018. The panel, chaired by former Constitutional Court justice Zak Yacoob, held that "We would also emphasise that state capture is to some extent also a result of the corrupt activities that had gone before it. Absent the violation of United Nations sanctions [during apartheid], and the corrupt Arms Procurement Package [the Arms Deal of 1999], the kind of state capture described in the evidence would probably not have occurred. The examples of state capture mentioned here are the tip of the ice-berg." [Available at https://corruptiontribunal.org.za/findings/].

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19 Ibid.

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